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[Review of the book: The Sovereign Citizen: Denaturalization and the Origins of the American Republic by Patrick Weil]

Jordan Barkalow

Bridgewater State University, jbarkalow@bridgew.edu

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to Alexander Stephens when he gave his “Cornerstone” speech in 1861, as Childers’s book makes abundantly clear.

John Burt, Brandeis University

Patrick Weil. *The Sovereign Citizen: Denaturalization and the Origins of the American Republic*. Philadelphia: University of Pennsylvania Press, 2013. Pp. vi+285. \$34.95 (paper).

Article I, Section 8 of the US Constitution grants Congress the power to “establish a uniform Rule of Naturalization.” What the Constitution does not specify here is twofold. First, what level of government has primary responsibility for implementing and executing the uniform rule? Second, what are the limits, if any, placed on this grant of power? These two considerations serve as the focus of Patrick Weil’s *The Sovereign Citizen: Denaturalization and the Origins of the American Republic*. Scholars working in American political development and constitutional law will find Weil’s argument valuable and persuasive, while students of American political thought will find that Weil raises more questions than he answers regarding the meaning of American citizenship.

The book is divided into three parts, with the first and second devoted to showing how the naturalization power went from being fundamentally a responsibility of the state courts to one placed exclusively in the hands of the national government. The key to this shift in authority is denaturalization, or the power to revoke the citizenship status of naturalized citizens (2). Focusing on denaturalization policy and cases in the twentieth century, Weil identifies the 1906 Naturalization Act as his benchmark. According to this act, denaturalization originally served as a tool employed by government to reduce naturalization fraud (4, 52), which was used by political machines to sway election outcomes by increasing the number of loyal voters on the eve of elections (15). Thus, in its original understanding, denaturalization was a means by which government could protect the dignity of the democratic process.

Almost immediately, Weil identifies a change in the objectives of denaturalization. The Expatriation Act of 1907 promotes the goal of “reducing the number of Americans who, in the eyes of the federal government, have compromised their status as citizens by maintaining or establishing foreign liaisons of a certain type” (55). Two years later, President Taft’s attorney general,

George Wickersham, issued a circular making denaturalization a tool for expelling individual American citizens who possess “un-American” characteristics (4). Couched in terms of national security, denaturalization would be used to detect and prevent “un-American” immigration and to exclude and deport those who managed to settle here (28–29, 55). With “un-American” constituting any opinion, act, or ethnicity held to be contrary to the dominant political ideology, this change in policy merged with the Americanization campaign to facilitate the eventual concentration of the naturalization power in the hands of the national government (52).

Weil’s account of this transformation constitutes the strength of his argument. In 1926, a series of amendments to the 1906 Naturalization Act effectively shifted naturalization responsibilities from the state courts to the national government (42–43). In 1926, state courts conducted 54% of civilian naturalizations; 5 years later, the same courts conducted only 34%. Any residual authority held by the state courts was effectively removed by the Nationality Act of 1940, which had the effect of bypassing the state courts with naturalization authority completely and placing this power exclusively in the hands of Immigration and Naturalization Service (INS) examiners (49). This shift in authority culminates in FDR’s decision, in response to congressional pressure, to transfer the INS exclusively to the Department of Justice (50). Prior to this, the INS was housed in the Departments of Justice and Labor, with the latter impeding the efforts of the former to initiate denaturalization proceedings by dragging its feet in the collection of evidence. The cumulative effect of these changes was to give the national government exclusive power to denaturalize American citizens, and the foundation of this grant was a conditional theory of American citizenship.

Conditional citizenship maintains that the body of rights and privileges that define citizenship are enjoyed only to the extent that individual citizens satisfy certain obligations (55). Justice Felix Frankfurter understood these obligations in terms of one’s attachment to the principles of the Constitution, and Chief Justice Harlan Stone would be more explicit in clarifying what these principles are: the protection of civil rights and life, liberty, and property; representative government; and the proposition that constitutional laws not be broken down by planned disobedience (115–16). The conditional understanding of American citizenship suffers from two problems. First, it entails that citizenship status can be revoked by engaging in acts or speech considered basic rights (56). This point is illuminated by Weil in a series of carefully chosen cases studies in the second part of the book, all showing how the US government initiated denaturalization proceedings against individuals for holding anarchist (chap. 4) and socialist (chap. 5) beliefs, being Asian (chap. 5), living abroad post-naturalization (chap. 6), and being a German immigrant

(chap. 7). Second, the conditional quality of citizenship violates the Fourteenth Amendment's citizenship clause, which views the status of native-born and naturalized citizens in equal terms. In addressing this second concern in a series of expatriation cases, the Supreme Court would articulate an "innovative" theory of citizenship that limits the ability of the US government to revoke the citizenship status of both natural-born and naturalized citizens (183).

Nishikawa v. Dulles (1958), *Perez v. Brownell* (1958), and *Trop v. Dulles* (1958) all deal with efforts to expatriate native-born Americans under the 1940 Nationality Act (146). In these three cases, the justices wrote 12 separate opinions, and Weil's account of these cases provides significant insight into the shifting coalitions on the bench and how these affect the court's decisions. Chief Justice Warren is ultimately able to write the majority opinions in *Nishikawa* and *Trop* as the expatriation of Perez was upheld on the grounds that voting in a foreign election constituted a renunciation of his American citizenship (160). In these two cases, Warren is able to limit the damage to citizenship posed by the power to expatriate by defining citizenship in terms of the right to have rights and locating sovereignty in citizenship instead of in the government. For Warren, the right to have rights was a necessary but insufficient condition of citizenship. As long as an individual has some citizenship status to fall back on, the government could be justified in stripping citizenship status as in *Perez* (159).

In defining citizenship in this way, Warren also changed how the court defined sovereignty. Previously, the court employed a Hobbesian understanding of sovereignty as the supreme power of the state on the individual within its jurisdiction (159). For Warren, sovereignty is understood as a shared quality attributed to citizens, with each benefitting from its character of inalienability and permanency (159). Thus, American citizens are themselves sovereign, and "their citizenship is not subject to the general powers of the government" (159). While stated in embryonic form in *Nishikawa* and *Trop*, the court would fully articulate this theory of citizenship in the 1967 case of *Afroyim v. Rusk*, in which Justice Black declares that Congress has "no express power to strip people of their citizenship, whether, in the exercises of the implied power to regulate foreign affairs or in the exercise of any specifically granted power" (173).

Weil's account of the centralization of the naturalization power and his analysis of relevant cases are the strengths of his book. When he ventures beyond his historical analysis and legal questions, however, Weil's argument is incomplete. While Weil traces the first component of Warren's theory of citizenship (the right to have rights) to Hannah Arendt, his analysis never moves beyond identifying Arendt as an important source. Similarly, Weil follows Warren in claiming that citizenship sovereignty is consistent with the vision of

the American founders (154). Weil does little more than assert this; actually showing this to be the case would strengthen this part of his argument. Moreover, Weil misses an opportunity to connect citizenship sovereignty to the literature on American national identity. Is the former consistent with the principles of universal nationalism, which posits that American national identity is understood in terms of rights and political structures that both secure and advance personal freedom and minority rights? Or, is it consistent with the principles of civic nationalism, where citizens shape their own national identity through the development of our civic capacities? Weil's account of citizenship sovereignty could be read as supporting either one of these accounts, and it is this lack of clarity and connection that political theorists will find wanting.

Not pursuing these connections also prevents Weil from clearly demonstrating the importance of his argument. Rogers Smith's *Civic Ideals* shows how America has failed to live up to the promise of its liberal principles by emphasizing the ascriptive characteristics of color, gender, and ethnicity in denying citizenship status. In calling one's attention to the overtly political reasons for denying and stripping citizenship status, Weil's argument complements Smith's. Making this connection clearer would move Weil's argument beyond the overly narrow concern with the legal dimension of American citizenship (5). If Weil is correct, the theory of citizenship sovereignty speaks to how we might begin to live up to the principles Smith identifies.

Jordan Barkalow, *Bridgewater State University*

John Dewey. *The Public and Its Problems: An Essay in Political Inquiry*. Ed. and introduction Melvin L. Rogers. University Park: Pennsylvania State University Press, 2012. Pp. xiv+190. \$69.95 (cloth); \$20.95 (paper).

In 1927, when *The Public and Its Problems* (hereafter *P&P*) was first published, John Dewey was in his late sixties and an established institution in American public life. His college textbook, *Ethics* (coauthored with James Tufts), was in continuous publication from 1908 through 1942; *Democracy and Education*, written in 1916, was published through 1953. When *Ethics* was first published, Dewey had already served as president of both the American Psychological Association (1899) and the American Philosophical Soci-