
The Voluntaryist

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"If one takes care of the means, the end will take care of itself."

December 1999

"The Illusion Is Liberty - The Reality Is Leviathan": A Voluntaryist Perspective on the Bill of Rights

By Carl Watner

Delegates to the Constitutional Convention in Philadelphia began their deliberations on May 25, 1787. During the hot summer months when their arguments seemed to extend interminably, Benjamin Franklin observed that life went on around them despite their debates. At one point, he "is said to have warned the delegates: 'Gentlemen, you see that in the anarchy in which we live society manages much as before. Take care, if our disputes last too long, that the people do not come to think they can very easily do without us'." (1) While this story may be apocryphal, James Iredell, another delegate, noted that if the confederation continued as it was, it might as well "resolve into total anarchy at once, of which indeed our present condition falls very little short." (2) These introductory remarks demonstrate that the federalist supporters of the Constitution were highly perceptive politicians and strategists. They realized that if they fumbled too long, their efforts at structuring a new government would fail and they would not attain the legitimacy which their new political enterprise required.

This article was sparked by an essay written by Forrest McDonald entitled "The Bill of Rights: Unnecessary and Pernicious," in which he presents the thesis (which he shares with some other historians) that the first ten amendments to the federal Constitution were essentially a legitimizing device used by those favoring a strong central government. In other words, many Americans who otherwise might not have supported the new central government were won over to it by the adoption of the Bill of Rights. Reading McDonald's article led me to review some of the history of the adoption of the Bill of Rights, of the conflict between the Federalists and their opponents, the Anti-Federalists, of the strategy adopted by the Federalists in urging the ratification of the Constitution, and to consider the ultimate significance of the Bill of Rights. Would we, as late 20th Century Americans, have been better or worse off had the Bill of Rights never been adopted? What would American constitutional history look like if there had been no Bill of Rights? The purpose of this

article is to examine these topics from a voluntaryist perspective, and to decide what position the committed voluntaryist would have taken during the struggle for the ratification of the Constitution and the adoption of the first ten amendments.

In order to understand the place of these amendments in American history, it is first necessary to comprehend the voluntaryist view of the Declaration of Independence and Revolutionary War. (3) Despite the seemingly libertarian nature of the revolution, even the Declaration of Independence was a statist document. For example, it concluded with the statement that the representatives of the United States of America do declare "That these United Colonies are, and of Right, ought to be Free and Independent States; ... and that as Free and Independent States, they have full power to levy War; conclude Peace, contract Alliances, establish commerce and to do all the other Acts and Things which independent States may of right do." In other words, the signers of the Declaration intended to create a new State to replace the one they were "throwing off." As Albert Jay Nock observed, there was great dissension about the form of the political institutions which came after the Americans won the war, "but [there] was none about its nature. ... Dissatisfaction was directed against administrators, not against the institution itself." Those who fought and led the rebellion against Great Britain meant to have a State of their own to control, not one under the control of a far away British Parliament and monarch. The bottom line, after all is said and done, is that colonial-era Americans, after having won the battle against Britain, simply swapped one State for another.

Nonetheless, the first American central government, The Articles of Confederation and Perpetual Union, was relatively weak because "most men of the Revolutionary period took it for granted that it was the nature of all governments to seek to acquire more power. ... [Their attitude was that] all power corrupts and all power tends to become absolute." (4) Hence, they were jealous of political power. Many on the frontier were independent and self-reliant to the point of being nearly ungovernable. They "were improvident and anti-social; they did not take kindly to any form of authority which inevitably to them meant order, limitations on freedom of action, mutual obligations, and, worst of all taxes. ... Generally speaking and aside from statesmen, merchants, and the veterans of the Revolution, the idea of a National Government had not [yet] penetrated the minds of the people. They

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Potpourri from the Editor's Desk

No. 1 "Everything Depends On A Change In Public Opinion"

"The size of government does not increase because of any objective causes over which ideas have no control, and certainly not because there is a demand for it. It grows because the ideas that prevail in public opinion of what is just and what is wrong have changed. What once was regarded by public opinion as an outrage, to be treated and dealt with as such, has become increasingly accepted as legitimate. ...

"[The tax-state] cannot be fought by simply boycotting it, as a private business could, because an institution devoted to the business of expropriating and exploiting does not respect the negative verdict revealed by boycotts. And it also cannot simply be fought by countering its aggression with defensive violence, because the state's aggression is supported by public opinion. Thus, everything depends on a change in public opinion. The private property ethic: the idea that private property is a just institution and the only means of creating economic prosperity, and of the state as an outcast institution that is destructive of wealth-formation, must be revived, and again inspire people's minds and hearts."

—Hans-Hermann Hoppe, *THE ECONOMICS AND ETHICS OF PRIVATE PROPERTY* (1993), pp. 46, 59-60.

No. 2 "The Organized Crime Plantation"

[Statesmen and politicians] will invariably intrigue, connive, dissemble and, like any caged rat, constantly fret over how to achieve unlimited wealth and power. This is the pathology of all mobsters of all history.

They can never be content with what they have. They want more—more of everything. They want more rackets. They want more turf. They want more power. They want, they want, they want. Does another mobster have a bigger castle? More square miles of dominion? A larger band of trained killers? More spies? More gold? Oh, really? Then there must

be a war to take it. But, how to get the "field slaves" to do the dying and killing is the trick. Why of course, the "house slaves" are called in to set it up. It has worked forever; why should it not work again?

And what do the "house slaves" do for their mob masters to get the field hands to risk life and limb for an "attaboy"? They tell lies. They say things like: "He is worse than Hitler." "Fight him now or fight him later when he has nukes." "Fight for democracy in Kuwait." "Fight for the American way of the mob plantation." "Fight for our top mobster to become the absolute Godfather of the global mob plantation."

Consent of the governed? The duping of the dumb and the gulling of the gullible.

You want to understand every U.S. Government war of the 20th century—hot or cold? Simple! Our mob masters took something from another mob or had to protect the global mob plantation system from revolutionary "field slaves" who have tried to get out of it. This is the sum and substance of all so-called "geopolitics," from the big stick to the twisted shrub. This is the so-called "national interest."...

—Ace R. Hayes, "Plantation Politics," *PORTLAND FREE PRESS*, Mid Spring 1991 and May/June 1998.

No. 3 "The Nightmare Is About To Begin!"

"The National Identification Card (NID) is already in the works. The law requires that all states begin issuing drivers licenses to carry Social Security numbers and other security features by October 1, 2000. ... [Having all licenses linked to Social Security numbers is only the first step toward the development of a national identification card. Others include:]

You will have to have a national identification card to get a job.

To obtain a passport you must have a NID.

To buy an airline ticket you must have a NID.

To obtain a Driver's License, you must have a NID.

All gun purchases will require an NID.

"Also authorized and under development is Federal Biometric Coding. It's proposed that a magnetic strip on the NID card will contain positive identification of the bearer by a digitized fingerprint, retina scan, voice print, or other Biometric identification.

"There is much more, but I think these highlights will give you some idea of what's coming.... Surely this brief outline of public information will convince even the most skeptical person of the Government's ultimate intentions—absolute, total and positive control of every person in the United States.... The next step in all this will be the requirement to have a NID to have a bank account, buy/sell real estate, write a check or have an account with a public utility....

"All the public comments supporting the new NID are about controlling illegal immigration, locating deadbeat dads, finding criminals, etc. This is a pure smoke and mirrors operation by 'Uncle.' Next they'll say this is to save the children, improve education and control drugs! This is all hot air to confuse the

fact that 'Uncle' wants a NID to totally control the lives of every person in the United States."

— Fred Rowe, "Privacy" in the House of Onyx, Inc. (Late Summer 1998), Box 261, Greenville KY 42345.

No. 4 "The Emphasis Should Be On Responsibility Not Liberty"

"As I see it, libertarianism is primarily about responsibility and only secondarily about liberty. As Edmund Burke has memorably pointed out, 'Society cannot exist unless a controlling power upon will and appetite be placed somewhere, and the less there is within, the more there must be without.' In other words, in proportion as we control our behavior and abstain from violating the rights of others, we are entitled to enjoy the fruits of liberty."

— Thomas Szasz in "Facing Up to Coercion," in *LIBERTY*, January 1999, p. 48.

No. 5 "An Old Bulgarian Anecdote"

"A businessman could not sleep and he visits the doctor. The doctor told him that his problem was psychologically based. 'You have to do something and you have not done it,' said the doctor. The businessman went to the Tax Office, paid \$60,000, and said that this was his tax liability for the previous year. Then he went to a church, lit a candle and said, 'God, if I am not able to sleep in a week I shall pay the rest as well.'"

— Gueorgui Smatrakev in Robert McGee (ed.), *THE ETHICS OF TAX EVASION* (South Orange: The Dumont Institute for Public Policy Research, 1998), p. 317.

No. 6 "The Sovereign Territorial State: [Its] Right to Genocide"

"The main thesis of this chapter is that the sovereign territorial state claims, as an integral part of its sovereignty, the right to commit genocide, or engage in genocidal massacres, against peoples under its rule, and that the United Nations, for all practical purposes, defends its right. To be sure, no state *explicitly* claims the right to commit genocide... but the right is exercised under other... acceptable rubrics, notably the duty to maintain order, or the seemingly sacred mission to preserve the territorial integrity of the state."

— Leo Kuper, *GENOCIDE* (1981), Chapter 9, p. 161.

The Illusion Is Liberty

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managed to tolerate State Governments, because they had always lived under some such thing; but a National Government was too far away and fearsome, too alien and forbidding for them to view it with friendliness or understanding." (5)

The Confederation, agreed upon by the Second Continental Congress on November 15, 1777 became effective in 1781. It was based upon an alliance of the thirteen newly independent states. The central government they created had no power to tax, field soldiers, regulate commerce, or even enforce its own laws. Whatever revenue it raised was done by assessing the legislatures of the individual states, who then, in whatever form they wished, levied upon their citizenry. It was an intolerable situation for any government, much less a national one. Consequently, American political leaders realized that they must assume control over the financial and military aspects of the country in order to truly govern. They required sufficient money and soldiers to protect the new nation from foreign aggressors, criminals, and recalcitrant states or taxpayers. In order to accomplish these goals, they crafted a new document, known as the Constitution of the United States, which was distributed to the various state governments for their approval in September 1787.

The Constitutional Convention was originally called to amend the Articles, not supersede or annul them. Under the Articles of Confederation, the states were pledged to a perpetual union, and no provision had been made for dissolving their association - except that any changes in the Confederation had to be done by the unanimous agreement of all the States. Thus, there are only two ways to view the Constitutional Convention. Either the individual States had the right to secede (without the agreement of the other States) or else the Founding Fathers instigated a revolution to change the governing institutions of the country. In the latter case, they "assumed constituent powers, ordained a new constitution, and demanded a plebiscite thereon over the head of all existing legally organized powers. Had Julius [Caesar] or Napoleon committed these acts, they would have been pronounced a coup d'etat." (6) The fact that the Articles of Confederation were still the fundamental law of the thirteen states was simply ignored by the members of the Constitutional Convention.

Although the States never seem to have formally withdrawn their consent to the Articles, in each State a special ratifying convention was held to approve or reject the Constitution. In Rhode Island, the first ratifying convention rejected the Constitution. It was during the struggle for the ratification (September 1787 to June 1788, when the new constitution actually went into effect in the first nine ratifying states) that the first political parties in America took shape. Despite the chasm between Federalists and Anti-Federalists, one very important point is usually overlooked. Both were supportive and approved of some sort of central statist authority over the thirteen states. All assumed that some sort of government was necessary to protect man's rights. As Herbert Storing in *THE COMPLETE ANTI-FEDERALIST* put it, "If the Federalists and Anti-Federalists were di-

vided among themselves, they were, at a deeper level, united with one another." They all "agreed that the purpose of government is the regulation and thereby the protection of individual rights and that the best instrument for this purpose is some form of limited republican government." (7) The Federalists and Anti-Federalists were not arguing about whether there should be a government to rule men - but rather what form that government should take.

Many historians have often seen the Anti-Federalists as libertarian opponents of the newly proposed federal Constitution. This, however, is a mistake. Alexander Hamilton pointed out that the Anti-Federalists were really trying hard to reconcile the contradiction of "limited government." (8) How could a coercive organization that retained a monopoly on the use of violence be kept in check? The Anti-Federalists recognized that such a monopoly carried with it the potential for unbounded tyranny. Many features of the new Constitution frightened them: A lifetime judiciary "removed from the people might 'enforce harsh and arbitrary laws'." In the combined role of the President as commander-in-chief and chief executive officer of the government they saw the powers of a military dictator. They were also skeptical about how a government might be kept limited if Congress could pass any laws "necessary and proper" to carry out its enumerated powers.

One commentator has claimed that the Anti-Federalists "thought the goal of the American Revolution was to end the ancient equation of power where arrogant, oppressive, and depraved rulers on one side produced subservience and a gradual erosion of self-respect, capacities, and virtue of the people on the other side. The result was an increasing corruption and degeneracy in both rulers and ruled. Unless this cycle could be broken, [the Anti-Federalists thought] independence would mean little more than the exchange of one tyranny for another. The intense Anti-Federalist suspicion of corruption, greed, and lust for power" was not without merit, but not one of them recognized the error of the Federalist claim that "the true principle of the American Revolution was not hostility to government, but hostility to tyrannical government." In fact, that was their error: they objected to tyrannical government, believing that some form of government might not be tyrannical. In this they were wrong. History has not only sustained the Anti-Federalists in their claims that "corruption and tyranny would be rampant ... when those who exercised power felt little connection with the people," but has also shown that all government, by its very nature, is tyrannical. (9)

The inconsistent and unprincipled attitude of most Anti-Federalists shows how they were manipulated into supporting the Constitution. At first, they argued that the Articles of Confederation were preferable to the newly proposed Constitution, but as more and more state ratifying conventions approved

the Constitution, they began to realize that they had better cut their losses. They began calling for amendments in order to safeguard and protect the rights of individual citizens, as well as to reserve the unenumerated powers of governing to the individual State governments. Furthermore, if the Anti-Federalists had a strategy for opposing the Constitution it was flawed from the beginning. Instead of objecting to the legal irregularities of the Philadelphia convention and boycotting the proceedings, some of the Anti-Federalists participated in the convention and had a direct role in creating the compromises incorporated into the new Constitution. By arguing against specific details of the Constitution, they gave it a legitimacy which it otherwise could not have obtained. If they were opposed on principle to the new Constitution, they should have stated their opposition to it and refused to debate the details. By participating in the debates over ratification in the States, the Anti-Federalists implied that they were willing to accept the decision of the special conventions called together in each State to decide whether or not that State would accept the Constitution. How could the Anti-Federalists reject the vote of the majority of delegates to special ratification conventions if they participated in the political campaigns that led to the selection of those delegates?

"Every man should have the right to make the wrong choice, and the responsibility to deal with the consequences."

—Stewart MacWilliam

Initially, the Federalists had a clear-cut goal. Their objective was to get the new Constitution ratified by the conventions in nine States as quickly as possible. Otherwise, they would be in danger of losing their new Constitution altogether. "The Federalists were determined that Americans not be diverted ... from the main task of providing themselves with effective government. ... The main political business of the American people ... was ... not to protect themselves against political power, but to accept the responsibility of governing themselves. The Federalists did not deny that government, once established, may need protecting against, but they tried to make" that a secondary consideration. (10) Thus in June 1788, when New Hampshire became the ninth state to ratify the Constitution, both the Federalists and Anti-Federalists underwent a sudden change of strategies. The Anti-Federalists began campaigning for a new constitutional convention, which was permissible under Article V of the newly adopted Constitution. They hoped that they would have the required political clout to change some of the objectionable features of the new Constitution. On the other hand, many of the Federalists who had hitherto resisted supporting a call for any constitutional amendments, changed their tune. James Madison became the

leader of those advocating the incorporation of a bill of rights into the new Constitution. In June 1789, he proposed twelve amendments to the Constitution, ten of which were adopted in 1791 and which later became known as the Bill of Rights.

Originally, most of the Federalists had been opposed to any bill of rights. Alexander Hamilton, for example, pointed out that there was no reason to limit the powers of the federal government in areas where it was not constitutionally granted any powers. Nevertheless, Madison believed, and rightfully so, that his suggested amendments would help keep the Constitution intact and protect it from destruction by the Anti-Federalists. His objective, as he said in his speech of June 8, 1789, was "to give satisfaction to the doubting part of our fellow-citizens." (11) His proposal for a bill of rights was designed to forestall a call for a new constitutional convention and to counter the efforts of the Anti-Federalists to revise the powers and basic structure of the new government. His hope was to save the constitution "by pushing forward a set of amendments that almost everyone could accept and that excluded all the Anti-Federalists' [radical and] fundamental proposals." (12) The most significant of these had been the suggestion from several of the States that direct taxes and excises not be collected in any State raising its own quota of money for the federal government.

Madison purposefully crafted his proposals to quickly help legitimize the new government. He avoided statements detailing perpetual standards or maxims "to which a people might rally" because he realized "that they tended to undermine stable and effective government." Since the new federal government needed (and in his opinion deserved) a presumption of legitimacy and permanency, it would have been foolish of him to include any reference to first principles that would have undermined that presumption. For this reason, Madison limited his proposals to "specific protections of traditional civil rights" rather than embrace a statement of first principles like those found in the Declaration of Independence or the Virginia Bill of Rights. Congress showed that it understood this need for legitimacy when on September 25, 1789 it submitted the completed constitutional amendments to the States and noted that "their acceptance would extend 'the ground of public confidence in the government'." (13)

Madison's amendments were simply window dressing for public consumption. First of all, they did not curtail any of the substantive powers of the central or state governments. Secondly, they had little legal or constitutional significance because many of the critical rights of Americans were already respected without a bill of rights. (14) A few like the prohibition on "ex post facto" laws had originally been included in the Constitution. (Indeed, some had questioned the propriety of the prohibition's inclusion there arguing that "there was no lawyer, no civilian

who would not say that 'ex post facto' laws were void in [and of] themselves. It cannot be necessary to prohibit them." (15) Others, like the presumption of innocence, were considered so basic and self-evident that they never required constitutional recognition. Under the English common law "basic, natural, and fundamental individual rights were protected whether enumerated specifically in the Constitution or not." (16) Consequently, the personal security of those living under the common law at that time did not "really depend upon or originate in any general proposition contained in any written document." The enactment of constitutions or bills of rights or parliamentary statutes were "records of the existence of a right" rather "than statutes which conferred it." Freedom for Americans at the time of the adoption of the Bill of Rights grew out of custom and tradition, not written law. (17).

"Just because we have the right to do something, doesn't mean we should do it."

As several observers have pointed out, it would be interesting to speculate how our constitutional liberties would have evolved without a Bill of Rights or what would have occurred had the amendments not been set off by themselves at the end of the Constitution. (Madison originally opted for their insertion at various places within the document.) Hadley Arkes, in his essay "On The Danger Of A Bill Of Rights" comments that justification for interference with personal liberties would still have to be made whether or not a particular liberty was embraced in the Bill Of Rights. (18) Herbert Storing wrote that "Without a Bill Of Rights our courts would probably have developed a kind of common law of individual rights to help test and limit governmental power." (19) What we do know, for sure, is that several violations of individual rights were and still are found right in the Bill of Rights. For example, according to the Third Amendment, soldiers may be quartered in private homes during war time without the homeowners consent. (As one commentator noted, the government has bypassed even this requirement "by simply removing the citizens from their houses and conscripting them into the army, navy, and air force.") (20) By the Fourth Amendment, the government may conduct searches and seizures so long as they are of a reasonable nature. The wording of the Fifth Amendment implies that people may be deprived of their property so long as such confiscation is countenanced by due process of law. Private property may be taken for public purposes so long as just compensation is paid by the government. The Seventh Amendment, which provides for jury trials in civil suits, also provides that "no fact tried by a jury, shall be otherwise reexamined by any Court of the United States, than according to the rules of the common law." "By implication, limiting the exemption to a reexamination of facts effectively confirmed the power of appellate

courts to overturn jury findings in matters of law.” (21) Thus it was that juries lost the final say in matters of law.

Forrest McDonald in his essay mentioned at the beginning of this article labeled the Bill of Rights as “Unnecessary and Pernicious.” They were unnecessary because most of them were already embraced by the common law. They were pernicious because they helped legitimize the Constitution in the minds of the American people. Furthermore, McDonald points out that “The Bill of Rights has never been an especially effective guarantor of rights.” (22) “One by one, the provisions ... [of the Constitution] have been eaten away, and nobody seems to have noticed or cared. The illusion is liberty. The reality is Leviathan.” (23) Whenever the government’s revenues have been threatened, whenever the nation has been gripped by some sort of national emergency, or by a major war, the Bill of Rights and other provisions of the Constitution have usually been laid aside. One need only mention Lincoln’s violation of civil liberties during the Civil War, the *Legal Tender* and *Gold Cases*, the *Red Scare* during World War I, the internment of Japanese-Americans during World War II, and the imprisonment of tax resisters during this century to see how little protection the Bill of Rights has offered Americans.

“It is easier to find a score of men wise enough to discover the truth than to find one intrepid enough, in the face of opposition, to stand up for it.”

— Brian Bex

Many nations have been brutally tyrannized by governments that ruled according to constitutions, but the question about government is not really whether it is tyrannical. The question is: Should there be a state, however weak or strong it might be? A man who is a slave asks: by what right is he enslaved, not whether he has a good or kind master. All governments and all slavemasters are unjust. The weakest or strongest of governments must necessarily make the same claims and both attempt to exercise a monopoly of power within their borders. They must both have exclusive possession of and control over the military and the police. They must both demand the right to declare war and peace, conscript life, and expropriate income and property, levy taxes, and regulate daily life. The main point is, as Robert Nisbet has so ably put it in his essay, “The State”: “With all respect to differences among types of government, there is not, in strict theory, any difference between the powers available to the democratic and the totalitarian State. We may pride ourselves in the democracies on Bills or other expressions of individual rights against the State, but in fact they are rights against a given government and can be obliterated or sharply diminished when it is deemed necessary.”

(24) Constitutions and bills of rights are legitimizing tools of the ruling elite. Both are badges of slavery not liberty, and should be rejected. It is only when people awaken to these facts that they will become free. ▢

Footnotes

1. Leonard Krimmerman and Lewis Perry (eds.), *PATTERNS OF ANARCHY* (Garden City: Anchor Books, 1966), p. xv.
2. Herbert Storing (ed.), Volume II, *THE COMPLETE ANTI-FEDERALIST* (Chicago: The University of Chicago Press) 1981, p. 14 (footnote 7).
3. Readers who are interested should consult my earlier discussions in *THE VOLUNTARYIST*. On the Revolutionary War see Issue 21, “A Plague on Both Your Houses,” and on the Declaration see Issue 60, “Would You Have Signed the Declaration of Independence?”
4. Hillman Metcalf Bishop, *WHY RHODE ISLAND OPPOSED THE FEDERAL CONSTITUTION* (Providence: The Roger Williams Press, 1950), p. 38. (Reprinted from *8 RHODE ISLAND HISTORY*, 1949).
5. William E. Nelson and Robert C. Palmer, *LIBERTY AND COMMUNITY: CONSTITUTION AND RIGHTS IN THE EARLY AMERICAN REPUBLIC* (New York: Oceana Publications, Inc., 1987) pp. 42-43.
6. Jerry Fresia, *TOWARD AN AMERICAN REVOLUTION* (Boston: South End Press, 1988), p. 50.
7. Storing, op. cit., Volume I, p. 5.
8. Storing, op. cit., Volume I, p. 6.
9. Ralph Ketcham, *THE ANTI-FEDERALIST PAPERS* (New York: New American Library, 1986), pp. 19-20; and Storing, op. cit., Volume I, p. 71.
10. Herbert Storing, “The Constitution and the Bill of Rights,” in Robert A. Goldwin and William A. Schambra (eds.) *HOW DOES THE CONSTITUTION SECURE RIGHTS* (Washington: American Enterprise Institute for Public Policy Research, 1985), p. 28.
11. *Ibid.*, p. 20.
12. *Ibid.*, p. 22.
13. George Anastalpo, *THE AMENDMENTS TO THE CONSTITUTION* (Baltimore: The Johns Hopkins University Press, 1995), p. 326.
14. *Ibid.* p. 45 and Bennett B. Patterson, *THE FORGOTTEN NINTH AMENDMENT* (Indianapolis: The Bobbs-Merrill Company, Inc., 1955), p. 7.
15. Hadley Arkes, *BEYOND THE CONSTITUTION* (Princeton: Princeton University Press, 1990), pp. 61 and 70. Chapter 4 of this book, from which these quotations are taken, is titled “On The Dangers of A Bill of Rights: Restating the Federalist Argument.”
16. Patterson, op. cit., p. 7.
17. See the discussion in Carl Watner, *YOUR DOCUMENT FOR THE USE OF SILENCE* (Boulder City: Neo Tech Research, 1984), p. 21 citing Bernard Schwartz, *THE GREAT RIGHTS OF MANKIND* (New York: Oxford University Press, 1977), p. 24.
18. Arkes, op. cit., pp. 69-70.
19. Storing, “The Constitution and the Bill of Rights,” p. 26.
20. Forrest McDonald, “The Bill of Rights: Unnecessary and Pernicious” in Ronald Hoffman and Peter Albert (eds.), *THE BILL OF RIGHTS: GOVERNMENT PROSCRIBED* (Charlottesville: The University Press of Virginia, 1997), p. 401.
21. *Ibid.*, p. 400.
22. *Ibid.*, p. 417.
23. *Ibid.*, p. 420.
24. Robert Nisbet, “The State,” in D. J. Enright (ed.), *FAIR OF SPEECH* (Oxford: Oxford University Press, 1985), p. 186.

“Freedom, in any proper sense of the inspiring word, is not the child of violence.”
—Beriah Green, 1861

No Conceivable Reform

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traits are not only essential for making a life worthwhile but they also provide resistance to political infection. I observe that all people still alive have some grasp on such traits so that an expectation that they will exercise them from time to time and to some extent is not too unrealistic, provided they are not deluded by false promises of protection without effort.

Clearly, some level of social life is continuing notwithstanding the insults and assaults of political government. Such continuity is attributable to a residuum of individual initiative and responsibility. Paradoxically, the state is depending on a continuation of the same thing.

Looking at the political disease from this perspective, I suppose the most virulent “public” infection is the state monopoly of “public education.” The compulsory, tax-supported institutions known mistakenly as “public schools” are where innocence, curiosity, critical thinking, and self-confidence are systematically stolen from the children in order to make them more docile subjects of the paternalistic system when and if they become adults. In the absence of educational alternatives that can effectively compete with the state’s compulsory regimen, the indoctrination and brainwashing inflicted thereby will continue resulting in a lasting intellectual injury for most children. From this viewpoint, gun-run schools are a better accouterment to the state than the armed forces, the police, or the prisons. The seemingly intractable problems of statecraft are readily understandable when the true mission of the “public schools” is comprehended. That mission is first and foremost the perpetuation of the state. Good citizenship (read obedience and loyalty to the nation, right or wrong) takes precedence over all mere learning. In this campaign, the teachers’ unions conspire with the bureaucrats to protect their exclusive franchise for the convenience of the state.

“When someone slings mud at you
Let it dry and it will fall off.”
—Pennsylvania Dutch Proverb

However, I am optimistic about the natural inclinations of people when they are sober, i.e., not intoxicated by illusion, delusion, bemusement, and confusion. I observe that in a strictly private and confidential encounter, most people who have no status in the system other than citizenship, will sober up for the duration of their seclusion. A few will remain so and live by the courage of their own convictions thereafter. How they may reconcile their intrinsic and indispensable selfhood as they grapple with their superstitions regarding citizenship is a curiosity for me and, no doubt, a concern for them.

It is well known that the banana that leaves the

bunch is generally skinned and eaten. But what of a bunch of undifferentiated individuals? Their lives are not their own, which is contrary to their natures. In such a collective, normal, innocent human life becomes furtive, perhaps even subversive. Submerged in the collective, the individual is a guaranteed victim no less at risk of free-lance criminality than he would be as a solitary human. Apart from the collective, the naked individual human has a chance of survival in the presence of some feral *Homo Sapiens*. His chances improve in proportion to his prudence, knowledge, and skill. State protection is an utter illusion. Ask any of the multitude of its victims.

I belong to no group other than my family and humanity as a whole. This “membership” I inherited. Thus, politics has no relevance to any of my legitimate concerns. Therefore, there is nothing for me to *Do* with or about politics but to understand its pathological consequences, which persuades me toward studious abstention. I try to avoid letting my nose be counted in any political poll whatever lest I inadvertently sanction a continuation of the political process that threatens my existence.

While there is no way to avoid exposure to political propaganda, I rejoice in not being compelled to participate in plebiscitary activities. Reclaiming the time I would have otherwise spent at the polls agonizing over ridiculous choices among false alternatives leaves me time to study more significant phenomena and practice more fruitful activities.

For example, when I discovered that over 80% of the mass media menu consists of political hash, I found I could readily live on a no-hash diet. By excluding political hash from my diet, I awakened to find I was saving myself a lot of time and anguish. Substantially relieved of these constraints and burdens, I was able to attend to matters more [central] to my life, which greatly improved my sense of well-being. More and more, I was able to ignore irrelevant “information” and concentrate on more significant (for me) but less “newsworthy” data. It was a great comfort to discover I could make such judgments on my own recognizance without the benefit of journalistic “assistance.”

In France, the media is known as the “Fourth Estate,” and it is becoming recognized in this country as the fourth branch of government. No wonder, then, that the media thrives on the status quo or threats to it. Actually, it is the status quo that is the enemy of the people. So in a real sense, the mass media is a big part of the “government” problem. This explains my delight in discovering the internet phenomenon growing as a competing source of information, served up by and accessible to individuals without obligations to sources or regimentations of interest.

Inform yourself and speak your own mind! You have nothing to lose but your chains. ▣

No Conceivable Reform

By Alvin Lowi

I am keenly aware of my personal identity, a cherished gift from my parents. I would boast of my individuality as though it was a privilege were it not for the fact that all other people are similarly endowed. Yet, we are all different and in my case, I may celebrate my individuality more often than most. Thus, I have become known as an incorrigible individualist and I rather enjoy the distinction.

From my perspective, I observe a lot of anguish is being suffered among those people newly disillusioned over "the system," its injustices and absurdities. To them I say beware of all public plans and policies! More specifically, be aware that the "public" is a fictional entity. The only real entities are individual persons. The "public" is merely an excuse for a gang of ambitious political adventurers and exploiters to ride herd over others. It is an illusion that figures into all "government" mischief. How such an illusion came to pass is a story no less clever than The Wizard of Oz and a lot more factual.

The history of politics and its notions of "government" leads me to the conclusion that all political government is naked conquest and politics is but a scheme to subvert self-government and monopolize all "government" in the hands of an elite few. Self-government consists of self-discipline, and politics simply takes its cues from this fact and constructs a

paternalistic Leviathan of regimentation over all in outrageous mimicry of the self-governing individual parent. This politics does as if it had the legitimate authority.

I set aside the word "government" here in quotes to indicate that the political version of government is irrelevant to if not destructive of real government. Real government is self-government else there is no government whatsoever. Without self-government, which is natural, government degenerates into a bunch of rackets. While rackets are natural, too, just like cancer, smallpox, syphilis, and AIDS, they tend to produce anarchy (no rule) resulting in social atrophy. Without a modicum of self-rule, society contracts and humanity declines inasmuch as the world can support few people without the benefactions of social processes such as exchange and specialization. Who cares? Certainly not the rulers who, come what may, expect to survive on the loot they can forage from whatever humanity is left.

Although the contest between the individual victim and the political state that is out to conquer him seems most poignant and grossly unfair, I resist the urge to engage in reform activity. I am a naturalist when it comes to humanity and society. Thus, I regard politics as an epidemic disease. As I see it, "public" health can be improved only as individual competence, initiative, and prudence are perfected, practiced and spread throughout the population. These

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