

# RAMPART INDIVIDUALIST

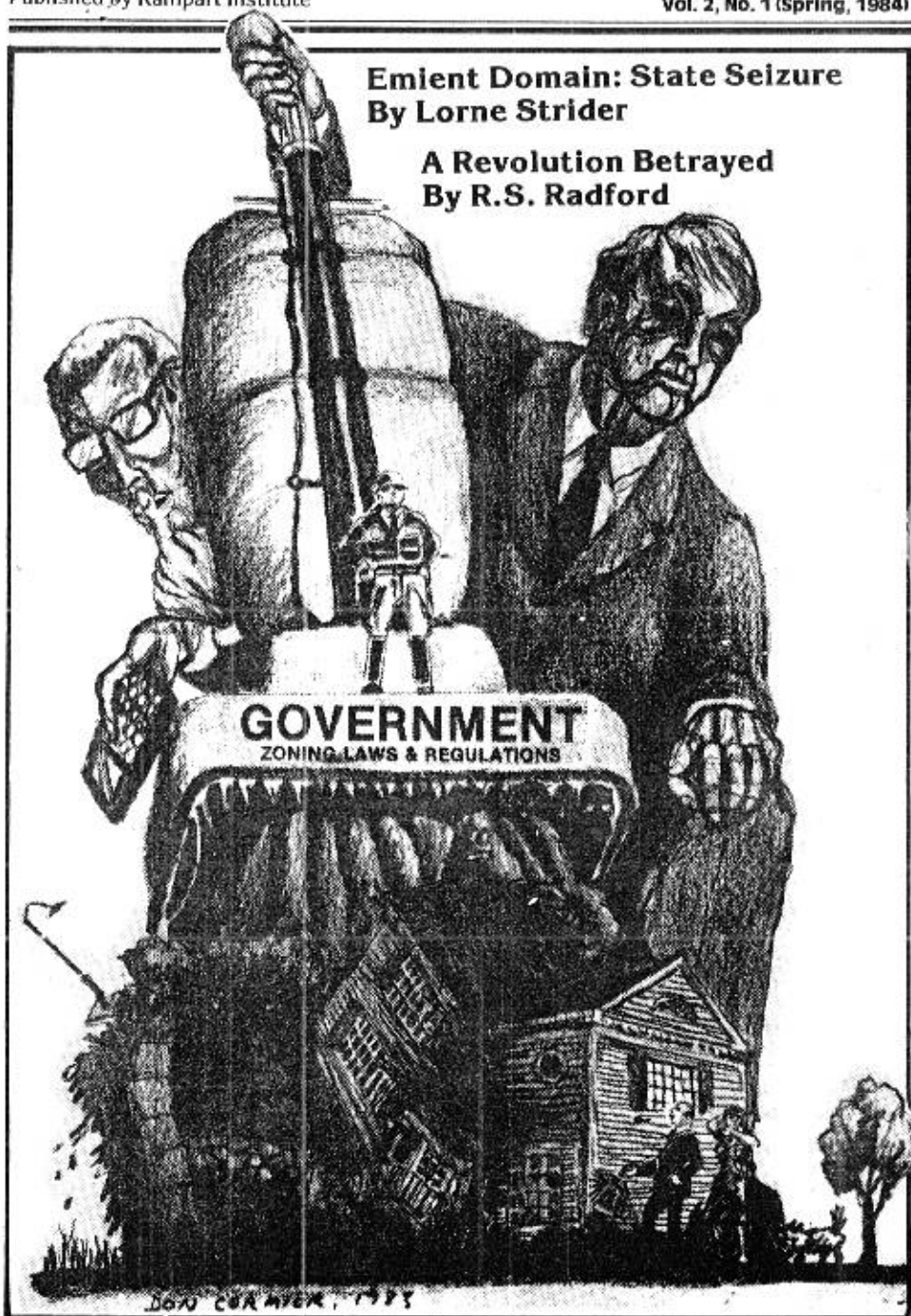
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## Emient Domain: State Seizure By Lorne Strider

## A Revolution Betrayed By R.S. Radford



**RAMPART  
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## **EMINENT DOMAIN: State Seizure**

**By Lorne Strider**

Most of us have at least heard of the eminent domain process whereby the local, county, state or federal government condemns land owned by private individuals for public purposes, such as schools, libraries and highways. If you've never been the object of this condemnation, you are probably lacking strong sentiments as to its justification and validity in a free society.

We've all been led to believe that the overriding public needs are more important than the "rights" of a single property owner who loses his land, and besides, we have heard that a landowner is often paid handsomely, even more than what the market would have paid. I would like to explore these and other points in some depth.

The power of eminent domain is the power of the state to take, by force, the land of an individual. Eminent domain is one of three general powers claimed by the state and exercised by government. The first is the power to tax, second is the police power and the third is eminent domain. In our American society, eminent domain is exercised within constitutional limits that it must be for a public purpose, that there must be just compensation, and that the taking must be in accordance with due process of law.

The police power is the right of the state to take action to protect the safety, health and morals of the community, and differs

from eminent domain in that no compensation is required.

The imprecision of the boundaries between eminent domain and the police power arose partly from the nature of these public powers and partly from their history. The police power derives essentially from the royal prerogative, but partly also, in Anglo-Saxon jurisdictions, from the principle that the fee simple (outright ownership) in land was not a freehold. The ultimate freeholder was the Crown, fortified by the principle established by William the Conqueror that all feudal allegiances were due directly to him.

Though eminent domain is widely accepted and tested by our courts, and even though the 5th and 14th amendments limit the conditions under which property may be seized, the concept is inconsistent with the philosophy of the Constitution and especially the Bill of Rights.

### JUST COMPENSATION

Since property seized is not purchased in the open market from a willing seller who voluntarily sells, the state attempts to pay "just compensation." I contend there is no such thing as just compensation when there is no willing seller. Consider a case where a community (its elders or councilmen) wants a parcel of land for a school, a hospital, or library. The owner will not sell for less than \$20,000, but the "fair market price" as determined by an independent appraiser on the basis of what a willing seller could sell to a willing buyer is \$10,000. Appraisals are based upon what willing buyers and sellers have been doing in the area. The community takes the land for \$10,000 as "just compensation" and claims that the land cost of the school, library, or road is \$10,000. This is incorrect. The true cost is \$20,000, paid in the form of \$10,000 by the whole community by taxes, and the other \$10,000 paid by just one of its members, the landowner.

In effect, the landowner is subjected to a special discriminatory tax of \$10,000. He has been forced to pay a much greater share of the cost of the "public benefit."

Now, let's carry this economic analysis further. Suppose that the owner is unwilling to sell at any price. In this case his price could be termed infinity, and the true cost of the land to the community is infinity. This may sound far-fetched, but when a person says he does not wish to sell at any price, he means that his price is beyond the range at which he is capable of balancing it against the value of his sacrifice. There are many persons who feel this way about their property.

To use an analogous example, suppose your grandfather, whom you loved dearly, and has since passed away, gave you a violin some years ago. Even though it is not the finest violin, and would command very little in a pawn shop, you are rather fond of

it sentimentally. Now, suppose a robber comes along and takes the violin by threat of force. But as he takes it he hands you a sum of money equal to three or four times what anyone in their right mind would willingly pay for this violin. This would be acceptable if you were willing to sell, but because of sentimental value and your unwillingness to sell, you surely have been a victim of robbery.

Many property owners own land that has been in their family for generations and its value to them is beyond comprehension, let alone compensation. They simply do not wish to sell. Much Indian land was acquired by the government in this manner. In these cases how do you determine "just compensation?" It cannot be done.

By definition, ownership means the right to sell or not to sell. If an owner does not wish to sell, it means that he values his property more than any appraised evaluation. To force a sale at the appraised value is to deprive him of his land. What are the overriding social justifications for this sort of coercive confiscation?

### PUBLIC PURPOSE

Suppose that a grocer wishes to open a store at a choice city location, or that a steel producer wishes to erect a plant near a source of iron ore. Each must go into the free market and bid for the land which they desire. If the land has some unique quality (in these examples it is the quality of good location), they must pay accordingly. If the price is too high, they must seek some other suitable land. The grocer's or the steel producer's business is certainly connected with the public interest. After all, consumers need groceries and products made from steel. It is because the public wishes to shop on Main Street in the city that the grocer seeks this location, and his costs and prices will reflect a measure of the public desire. So too, it is because he prefers cheap steel to expensive steel that the producer seeks a location near the ore and transportation.

But, does the public interest require that the grocer or the steel producer should have the power to acquire the land they desire by force? If force is used in such cases, it would be on the basis that steel and groceries are of overriding and superior need to the community than the interest and rights of the landowner.

Since we don't allow the use of force to acquire land for steel production and grocery sales, how is it justified that we apply compulsory acquisition for schools, roads and libraries? What is the distinguishing characteristic in one consumer need over the other?

In the sense that schools and libraries are essential to the community, so are groceries and steel. If groceries and steel are not essential because there are substitutes in the market for them (locational), so too, are there locational substitutes for the

so-called "public" and "community" needs. The choice is never between schools or no schools, roads or no roads. The choice is between superior and inferior locations. It is even questionable that the free market will provide less than ideally located properties for roads and schools. Nevertheless, locational superiority does not justify the use of force in acquisition.

The truth about compulsory acquisition for public services is that they are obtained at a cheaper rate than they would otherwise be in the open market and at the expense and misery of particular individual property owners.

### **REDEVELOPMENT**

In the last few decades the state has made tremendous use of eminent domain in redevelopment schemes. Public authorities condemn whole neighborhoods as unfit for habitation, ousting the poor inhabitants and replacing the homes with expensive housing, parks, fancy shopping malls, and civic centers. Often they are replaced with opera houses and convention centers used only by the wealthy. The claim of right by the state in these instances is shameful.

Substandard housing which is cramped, old and often unsightly is not necessarily unhealthy. The original inhabitants are entitled to live in their "substandard" homes regardless of the whim of do-good commissioners and housing authorities. "Entitled" is the correct word, for their problem is one of poverty, not housing or public health. It is a gross miscarriage of justice and morality to force them out of their cheap but affordable housing into allegedly better but unaffordable housing.

### **ZONERS AND CONDEMNERS**

Another seldom considered aspect of state seizure is that the very same government agents who downgrade the value of land through the zoning process later condemn through eminent domain. For example, when the local zoning authority zones land that was formerly commercial to residential use only, the value of the land is severely diminished. The later seizure is "justly compensated" by using the appraised value which reflects new limited use zoning. The local authority that zones the land is the same authority which forces the sale for urban renewal, schools, etc. It is highly probable that such authorities look ahead toward their requirements. In many documented cases the zoning policy is tailored accordingly so that future compensation costs are minimized.

### **EMINENT DOMAIN IN USE TODAY**

Now let's explore how state seizure is used in practice today.

The following cases are but three among tens of thousands of similar instances that have occurred across the nation.

Several years ago local authorities condemned Steven Anthony's home in the Hollywood area. The intent was to raze his dwelling for the "public purpose" of constructing a film museum for the major film studios. For ten weeks Mr. Anthony held off the deputies with his shotgun, defending his home and property as he felt he had a right to do. But one night a pair of deputies, posing as ex-marine pals, caught him off guard, jumped him, beat him severely and hauled him off to jail where he spent a year on six-year-old traffic charges. The whole neighborhood was cordoned off and the home was demolished by sundown the next day.

Did the politicians ever create the promised film museum? It was never built, for disputes among these same authorities led to abandonment of this project and the land was eventually paved over and made into a parking lot as it remains today.

### **OLD POLISH NEIGHBORHOOD**

We have all observed how the Great Russian Empire has treated the people of Poland, and we are sympathetic. This could never happen in our free country. However, note what local American authorities have done to the residents of Poletown, an old immigrant neighborhood in Detroit.

General Motors wanted to build a new Cadillac plant there, but was unable to find a desirable site. So GM executives petitioned the city council and planning commission to condemn the entire Polish neighborhood. For the alleged "public purpose" of 6,000 jobs at the plant, the city used the power of eminent domain to uproot over 3,500 residents from over 250 acres of residential land.

Most of the establishment press and civic leaders, including the Chamber of Commerce and other local leaders, applauded the project. The only problem was that 3,500 people, many of them first and second generation immigrants, would be forced from their homes; 150 small businesses, one hospital and 16 old stone churches would be destroyed.

Herculean efforts were made to save the neighborhood, but the court battles were lost as the judges decreed... "When a legislature speaks, the public interest has been declared in terms well nigh conclusive..." Quoting precedent to support their rulings... "When there is such a public need, the abstract right of an individual to make use of his own property in his own way is compelled to yield to the general comfort and protection of the com-

munity, and to a proper regard to the relative rights in others." One justice warned that "no homeowner's, merchant's, or manufacturer's property, however productive or valuable to its owner, is immune from condemnation for the benefit of other private interests that will put it to a 'higher' use."

"Abstract rights of an individual" aside, consider the implications of this ruling. No private property is immune from condemnation for the *benefit of other private interests* that will put it to a higher use. New ground has been broken here in definition of "public purpose." And who determines if another use is "higher?"

One resident of Poletown said "We've got to win this fight to show that the American people still have a voice...corporations have lost all respect for old people and young people. It's just profit and greed." The problem, however, is not corporate respect or the profit motive at all. The problem is governmental use of force. For all of GM's wealth and influence, it has never been able to force anyone to buy its Cadillacs. Now, thanks to Detroit's politicians, many of whom are employed by GM, it is able to force people out of their homes. So, this was not a battle of little people vs. corporate greed, but rather one of political corruption and government run amok. What eminent domain means is that people must serve the state instead of the reverse.

The notion that some individuals may be sacrificed to "the public good" only means that some people may be sacrificed for the benefit of other people via government manipulation. Who is sacrificed, who is benefited, and whose rights are violated is determined by the political process.

### LOVE CANAL

Anyone who reads the papers knows that Hooker Chemical Company was responsible for the disaster at Niagara Falls. Seepage of chemicals into a suburban area with homes and schools was a result of corporate greed. A famous book, "Laying Waste, the Poisoning of America by Toxic Chemicals" by Michael Brown, was nominated for the Pulitzer Prize after supposedly exposing the company for its misdeeds at Love Canal.

The truth of the matter is that eminent domain and local politicians are directly responsible for this fiasco and not Hooker Chemical Company. It started early in the 1950's when an overzealous school board began eyeing the land that Hooker was using for its chemical waste disposal site on the outskirts of town. The site was the property of Hooker Chemical and was ideal in all respects for the safe disposal of wastes.

The school board decided that they wanted the land for more schools and exerted extreme pressure on Hooker to sell. Hooker resisted until threats of eminent domain were raised and finally capitulated and gave the land to the board for one dollar.

However, Hooker went to extraordinary lengths to advise all parties that there were dangerous chemicals buried on the site and that future uses would have to be limited to park and playground purposes - preferably parking lots with asphalt covers.

If the land had been limited to these uses there probably would never have been a problem. However, a few years later after building a school on part of the land, the board sold off the remaining acreage to a housing developer who proceeded to build homes. By this time the school board was keenly aware of the potential for chemical seepage, but played this down in order to effect a sale. The hapless buyer couldn't believe that a government agency would sell potentially dangerous land. "They wouldn't do that, would they?" asked the builder.

Eventually, city workmen punctured the clay walls of the site for a city sewer and compounded the problems. By 1979, the establishment media had played the disaster up as a corporate crime of incredible proportions and the U.S. Justice Department filed suit. With the public so misinformed, the government lawyers hoped to lay all the blame on Hooker Chemical, the only non-governmental agency involved. After all, chemical companies don't command much sympathy from the public.

Despite the media myths and Michael Brown's theory that Love Canal was the result of corporate greed and criminality, it's clear that Hooker may well have been the only party to this affair that acted in a responsible manner. Hooker's site was appropriate for its purpose and was not intended for other uses. It deeded the land to the school board only after extreme pressure and threat of eminent domain, and then warned the board of the potential for injury. *Hooker even placed a 17 line restriction in the deed to warn the subsequent owners of the dangers.* It urged the board not to construct over the site and only relinquished ownership when there was no other choice.

For those who insist on believing in government solutions to problems, please note that the school board, the city engineer and the State Department of Transportation were all involved in this disaster. Also, other governmental agencies spread misinformation about the canal: the Niagara County Health Department, the State Department of Health, the U.S. Environmental Protection Agency and the U.S. Department of Justice.

Is there any chance that the government criminals involved would be charged and prosecuted? Of course not! When the

Department of Justice filed suit against Hooker in 1979, they were acting to protect the interests of all the other government agencies that played a culpable role in the Love Canal mess.

### CONCLUSIONS

An examination of the history of eminent domain indicates that the concept is deeply rooted in royal prerogative and that even in our modern times, in our enlightened age, in our "constitutionally restrained" nation, the tendency is for wider and wider use of seizure. "Public purpose" restraints have lost their meaning to the extent that recently a city even tried, and almost succeeded, in taking a sports team from a private owner. City lawyers argued that the team's continued tenure in the area was vital to the happiness of the sports-minded public of the city.

Eminent domain has become a tool for authorities to enter into all manner of schemes unrelated to public purpose. The courts have all but abandoned even the pretense of public purpose by affirming that it is whatever the legislature says it is. In this climate, precedent sanction is given to one private use over other private uses.

Finally, upon close scrutiny it appears that public purposes are actually merely consumer needs that, like any other, can be met in the marketplace. If they are met in the marketplace, they are invariably cheaper, there is flexibility to changing desires, and there is the absence of force. Indeed, it is questionable whether a nation of free men can tolerate, under any circumstances, a provision for state seizure of the property of individuals.

1. Economics of "Just Compensation," *The Uses and Abuses of Eminent Domain*, Arthur Shenfield, Law and Liberty Working Paper, Institute for Humane Studies (1978).

2. Steven Anthony, flier, Society for Libertarian Life, Fullerton, California.

3. Love Canal: The Truth Seeps Out, Eric Zuesse, *Reason*, (2-1981).

## A REVOLUTION BETRAYED: Political Power Comes Full Circle

By R. S. Radford

*It often happens that men pull in a certain political, social, or familiar harness simply because they never have time to ask themselves whether the position they stand in and the work they accomplish is right.*

—Peter Kropotkin

A government, or state, is an agency claiming sovereignty over a particular population within a defined geographical area. How this sovereignty is acquired and maintained has always been an essential determinant of the legitimacy of any political system. Every human being is born with the natural ability to assume control over his own person and his own life. While he may be prevented from actually doing so, it is axiomatic that no person may rightfully assume such power over another without the other's consent. The history of government furnishes many examples of how this consent is achieved. Generally, the transfer

of sovereignty from the individual to the state is effected by force. From time to time, however, principles are set forth by which governments may be said to rightfully assume their power, by the free consent of the subject population. Such a principle is the concept of representation.

This was the key issue in a major ideological dispute in the war of ideas leading up to the American Revolution. Its significance in the revolutionary vision of a legitimate state was repeatedly emphasized in the flood of pamphlets, broadsides, and editorials that inundated the colonies in the decade preceding the war. Too often, modern students are led to interpret this debate as simply a demand by the colonists for representation in Parliament. This view is far wide of the mark, for in fact the colonists were represented at that time, as the concept of representation then stood.

The British Parliament by the late eighteenth century had become a reflection of the empire. While members were returned from the various districts, they prided themselves on being jointly and individually representatives of the entire realm. The idea of the "common good" was in vogue and was frequently cited to placate those subjects—in England as well as abroad—who could not vote directly for representatives. While none of us is *actually* represented, the theme went, we are all represented *virtually*. That is, while no ordinary subject could protect his interests directly in Commons, while electors no longer instructed their members on limits of authority or votes to be cast, and while many qualified subjects could not participate in elections at all, it made no difference. For each member of Parliament was to consider the interests of the *entire* population in his deliberations; he bore no special responsibility to those who had actually returned him to his seat.

This argument was defended in Edmund Burke's "Speech to the Electors of Bristol," delivered in 1774. "Parliament," said Burke, "is not a congress of hostile interests, which interests each shall maintain as an *agent and advocate*; but Parliament is a deliberate assembly of *one* nation, with *one* interest, that of the whole ... the general good."

Burke understood the elitist implications of his position, and did not hesitate to continue: "But government and legislation are matters of reason and judgment, and not of inclination; and what sort of reason is that in which the determination precedes the discussion, in which one set of men deliberate and another decide, and where those who form the conclusion are perhaps

three hundred miles distant from those who hear the arguments?" Evidently the electorate was seen to be given to unreasonable inclination, apt to reach hasty decisions without grasping the evidence, sorely in need of a dispassionate, *deliberative* body as protection against self-inflicted public injury. The role implied is seemingly one of representative as keeper.

Across the sea this argument fell on deaf and hostile ears. To the colonists it was Parliament that seemed to form conclusions—not three hundred miles distant from the argument, but an ocean removed! American political theorists rejected the notion that the colonists were represented in Parliament precisely because no member could be held responsible by the colonists for his actions in that body. "Virtual" representation was broadly renounced in favor of the prior concept of attorneyship in representation. This position traces far back into English history, to the time when representatives were held strictly accountable to their electors for actions taken in Parliament and were subject to close instruction concerning allowable conduct before they were permitted to leave their constituencies.

The trend throughout the colonies, in theory and in practice, had been a drift back to this system. From the earliest years of settlement, Massachusetts town meetings had maintained the custom of investing deputies to the General Court with voting instructions. Various restrictions were established to bind the representatives to their constituents by residence or property qualifications, and by subjecting their official actions to popular review. Daniel Dulany expressed the almost universal American rejection of virtual representation in his influential pamphlet, *On the Propriety of Imposing Taxes*. Arthur Lee, in the fourth of his *Monitor* papers, described the proper role of representatives as "*trustees* for their constituents." Even Alexander Hamilton spoke of congressional representation as a "substitute for a meeting of the citizens in person."

The central idea that characterized the American position was simply this: Either those who are elected to legislatures *actually* represent their constituents, jointly and severally, or they do not. If one is actually a representative, he will be expected to act in the place of his electors, to defend and uphold their interests as they would themselves. If on the other hand the legislator is merely a delegate—a member among peers in the legislative body—his only interest in his electors will be that of assuring their compliance in his re-election. The English parliamentary

system, most eloquently enunciated and defended by Burke, was clearly based on the latter view. The delegate *could not* actually represent his electors, for he and they were not cut of the same cloth. The role of a member of Parliament was—and still is—to act as *the electors would*, if they possessed the wisdom, judgment, and information of the delegate. This is quite the opposite of actual representation in the historical, legal sense. The Americans recognized this system as a primary instrument in their suppression by the Crown, and they contended in the Declaration of Independence not only that the right of representation in the legislature is “inestimable to the people and formidable to tyrants only,” but that legislative powers revert to “the people at large” when not appropriately exercised by actual representatives.

There is no need to review the final resolution of this dispute through secession and war. We all know that the colonists, standing for actual rather than virtual representation, carried the day.

Or did they?

Private citizens in this country have very rarely challenged their elected representatives to justify their exercise of power. One example was Lysander Spooner's celebrated letter to Sen. Thomas F. Bayard in 1882. A second, more comprehensive inquiry was undertaken in 1972 by the individualist philosopher, Robert LeFevre. Spurred by a current controversy over political ethics, LeFevre wrote to each member then sitting in the U.S. Senate and House of Representatives. Cogently spelling out the logical and moral contradictions of political representation as it is currently exercised, LeFevre managed to engage 46 congressmen in an exchange of correspondence that continued for up to three months. Curiously, the men and women then in power could not agree whether they were really agents of their electors (most felt not), and varied widely in their interpretation of their own function and authority. Some threw themselves upon the Constitution, others indulged in the metaphysics of collective choice, while still others stoutly maintained that they were certainly representatives, though they weren't certain what a representative is. Strangest of all, some explicitly defended their position with the words of Edmund Burke—citing the very concept which lives, fortunes, and sacred honor were once pledged to overthrow!

They said:

“I do not now, nor have I at any time, represented myself as

anyone's agent... Frankly, I do not know of any congressman who designates himself as anyone's agent.”

—Wilbur D. Mills

“Any system of government is going to involve persons acting as the agent of other persons.”

—Fletcher Thompson

“I completely reject the theory that I am merely an agent... I have always accepted as my basic philosophy, as an elected official, the thesis argued by Edmund Burke in his famous ‘Speech to the Electors of Bristol.’”

—Charles A. Mosher

“A man holding public office can *not* be viewed only as an agent of others. Rather, he must be viewed as one elected to *deliberate* majorities—to determine what is a reasonable majority and act, therefore, not in his own behalf, or necessarily in behalf of an unreasonable majority, but in behalf of some common good over and above the conflicting interests ... comprising any senator's constituency.”

—James L. Buckley

“Simply because there are so many different people with so many different ideas I could not possibly represent them all in the Senate.”

—Mike Gravel

“It is impossible to represent all the people of my district all the time.”

—Philip E. Ruppe

“I don't claim to represent the views of all my constituents.”

—John G. Dow

“I represent them all without regard to race, creed or political affiliation.”

—T. J. Dulski

“Members of Congress do indeed represent those who elect them although they indeed do not represent necessarily the views or wishes of all those who elect them.”

—Richardson Preyer

“I can assure you that I am a candidate for re-election to the Congress this year.”

—Gerald R. Ford



What are we to make of this, if not to conclude that these men really have no idea of what their true relationship to the public might be?

LeFevre contends that ours is no longer a representative government—that currently accepted institutions have broken the tie between voter and legislator which was originally the central tenet of American political philosophy. Campaign rhetoric and historic documents assure us that representative democracy flourishes in this country. Fourth of July orators extol our system of government as one of law and not of men. But what nature of representation or of law is it, in which those in power determine what it is they represent, and whom, and how?

John Holt's *New York Journal* published a series of editorials in 1776 entitled, "The Interest of America." His edition of May 30 offered the following argument: "No one can comprehend the complexed affairs of an whole country. Farmers will not be fully acquainted with, or attentive to maritime or mercantile affairs, nor will the merchant fully understand or attend to affairs in the country. Was there a man who had been poor and rich, who had been a farmer in the country and a merchant in the city, who had an acquaintance with, or had well considered the several occupations and manufactures in town and country, acquainted with civil law and courts of judicature...such a phoenix would be a fit person to settle our public affairs.

"To suppose that an hundred or a thousand are made for one man is contrary to nature, for we are all equal by nature; and contrary to reason and equity."

In similar spirit, James Madison wrote in *The Federalist* (Number 57): "I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from repressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny."

These passages reflect the powerful reservations of American political sentiment concerning the possibility of a legislative elite. By contrast, Burke wrote in 1780, "I cannot, indeed, take upon me to say I have the honor to *follow* the sense of the people.

The truth is, *I met it on the way*, while I was pursuing their interests according to my own ideas." How pursuing another's interest according to one's own ideas differs from pursuing one's own interest is not revealed. Interestingly, no congressman who responded to LeFevre drew upon the thinking of Madison or Holt—though several drew upon Burke.

It is now widely accepted that the executive branch of the federal government has lost contact with the American people. The judicial system was never designed for such contact. The Congress is the only remaining branch of government in which the people may feel they have some voice or influence over the state. Unfortunately, this illusion is dispelled in the words of the congressmen to LeFevre. They speak of themselves as representing districts or states, which is impossible; they see themselves as representatives of persons whose interests clearly conflict with their own, which is illegal; they are responsible for drafting the laws of their country, yet they claim immunity from the law.

But if congressmen are not bound by the same law as the rest of us, one might well ask, *by what are they bound?* All they can tell us is that they are elements in a system that is both self-authorizing and self-perpetuating, and while no two of them can agree on their actual role in that system, we are assured that this role is both reasonable and proper.

LeFevre's unique correspondence gave every member of Congress an opportunity to express himself on this question. Some of the best minds in that body did so. Yet the issues remain unresolved—and in fact grow more compelling and distinct in light of the congressmen's inability to deal with them. A final irony arises when we ask what course is open to the private citizen who objects to the contradictory, arbitrary and capricious usurpation of power by those who claim to act in his behalf. Most civics textbooks confidently give us the remedy for such abuses: write your congressman.

*An earlier version of this essay appeared as the introduction to The Power of Congress (As Congress Sees It) Pine Tree Press, 1976.*

# WHO'S AFRAID OF NO GOVERNMENT?

***"That government is best which governs not at all; and when men are prepared for it, that will be the kind of government which they will have."***

***Henry David Thoreau***

## **CIVIL DISOBEDIENCE**

**By L.K. Samuels**

Who's afraid of no government?

Apparently, most people are. But if the thought of no government does not bring out gasps of fear, surely the mere utterance of the word "anarchist" will. After all, who condones chaos, violence and terrorism? No one, of course. But few people understand that when it comes to chaos, violence and terrorism, government's of the world have almost a monopoly. This is the important question. Why is it that when a group of men, who have no nation-state, kill innocent people, the act is

But when Israel, Jordan, France or any other nation-state commit the same act of killing innocent people, it is called "Defense." Isn't terrorism still terrorism, no matter who commits it?

Governments are terrorists. But they hide their actions behind the label of nationalism and patriotism. And more. War becomes defense, theft becomes taxation, slavery becomes conscription, terrorism becomes defense. And few people question the violations. Rather, if there is a protest, it is because the government is oppressing the "wrong group of people", and not that coercion is

wrong in itself.

So then what is no government; what is anarchy. No government is the absence of government. It is the absence of terrorism, chaos, wars, regulations, taxation, drafts, etc. It is the absence of physical aggression upon another human being. This is why many people have turned against governments; because governments are the largest perpetrators of violence and terrorism. If a self-avowed anarchist were to terrorize a community or injure people, he would be mimicking the actions of a government. If enough of these so-called anarchists were to organize and seize a country's government by force, they would become the new governmental leaders. How could these rebels be anarchists if they are *rulers* of a country?

They are not anarchists, of course. They are jungle terrorists, underground politicians, would-be dictators or aspiring military generals. The advocates of *no governmental coercion* have no interest in acting like rulers of nation-states. Again, if they were interested, they would not be anarchists.

Physical violence is the key. To employ initiated violence to eliminate government is only to imitate government; to engage in political power plays, civil wars and revolutions which only replace one set of rulers with another — hardly in keeping with the image of *no government*.

It should be remembered that the nihilists of Russia, who were often labeled as anarchists, were terrorists seeking to depose the Czar and rule in his place. The nihilists were an underground government, employing the same violence to topple the government as the government was employing to oppress the people and to destroy the nihilists. The nihilists were neither peaceful nor anarchistic.

## **THE LIBERTARIAN ANARCHIST**

To differentiate between other so-called anarchist factions, the term *libertarian anarchist* was invented. Similar to the individualist anarchist of the 19th century (and Prof. Murray Rothbard's *anarcho-capitalist*), the libertarian anarchist comprises a small but important percentage of the general libertarian movement (around 25 to 35 percent).

The goal of the libertarian anarchist is to dismantle the *belief* that some overseer must rule, control or dominate another human being. Note that the libertarian anarchist wants only to abolish the idea, willingness and allegiance of citizens to be vic-

timized by government (a victimization more massive and destructive than could ever be accomplished by any band of terrorists). This is the battlefield.

The battle involves consistency and reason. The citizenry must discover that initiating violence does not solve problems; it creates them — whether committed by governments, service organizations, gangs or individuals. Violence breeds violence. This is perhaps the catalyst for most rebels; government aggressed upon them, and they feel compelled to strike back.

The libertarian anarchist first deals with increasing justice and decreasing aggression on the personal level before hitting the big time with the atrocities of world-wide governments. After all, government action usually reflects the characteristics of that particular society. Therefore, the libertarian anarchist is not engaged in replacing one set of rulers with another, be they scoundrels, saints or libertarians. It is impossible to halt aggression of governments or individuals by becoming part of it. Nor can the situation change by joining or competing with a system which legalizes coercion. If a group (i.e. political party, etc.) tries to join the system to eventually dismantle the government's injustices, that group must also defend the very corrupt system that it is working to change. The result — status-quo; rulers are replaced, not rulership.

### GUARDING INDIVIDUAL LIBERTY

The masses often fail to recognize that government is the worst vehicle to provide or guard the rights of life, liberty or property. If government is in a position to permit certain liberties by edict or legislative enactment, it is conceivable that government can and will dictate or legislate rights away from citizens in the fashion of an *Indian giver*. Individual rights are not gifts of gods or governments; they are naturally born out of everyone's equal liberty to live peacefully, without perpetration of physical force or fraud against persons or property.

The main reason for government's constant violation of individual rights centers on the attitudes of the populace at large. It is the citizen who is often willing to disregard or violate his neighbor's rights. It is this attitude which is the root of government's ability to trespass on the rights of others.

Basically, it is natural for people to take advantage of others if given the opportunity. Government was found to be the most effective and profitable means to take advantage of people on a

more colossal, mass-operating scale. In psychological terms, government represents the people's "Id," a monster of the malignant subconscious mind which has been made respectable by sheer numbers of people — majority rule.

Rulership by the masses is no virtue. The German voter brought the National Socialists and Hitler to power in the 1930's. The masses in pre-Civil War South (United States) believed in the enslavement of blacks. In fact, the U.S. Supreme Court upheld the enslavement of Blacks in the 1850's. Just because the masses favor something, does not make it right.

The U.S. Congress did abolish Black Slavery after the Civil War. But Congress only abolished the ownership of people by other people. Individuals could no longer own people. However, Congress did not abolish other types of slavery. Government was still permitted to own people. In other words, the masses, the public sector, could own individuals.

When the King's Court abolished slavery in England (1830's), the lawyers opposing slavery argued that when a black slave entered England, he was obligated to serve just one master — the King of England. The argument won favor with the judges, and the court ruled that people residing in England were the King's subjects who owed allegiance to the crown alone, and not to any individual subject. In other words, the King's government is the universal slaveholder.

In the United States, government has replaced the King as the universal slaveholder. The American black slave had his allowance (if any) seized at any time. The slave's life could be taken by the overlord, and any small liberties granted by a slaveholder could be rescinded. The modern-day citizen is under similar conditions in that his allowance (income) is seized in taxes, his life taken in wars and his limited liberties constantly rescinded by parliaments, dictators or congresses. If a citizen, for instance, refuses to pay taxes, government will seize his property and imprison him. Slavery is at issue here because the government is saying that the citizen stole money from the government. Government is saying that it owns the total income of every citizen. And that it has graciously allowed citizens to keep some of their money. This is simply saying that the government owns the citizen 100 percent.

### THE UNNECESSARY EVIL

How can oppression be abolished without dismantling the entity which manufactures the oppression? It is impossible. The

best way to eliminate the oppression and corruption emanating from government is to eventually eliminate the need for government. If people begin to see government as it really is, and if the citizenry refuses to co-operate or participate in government (tax-evasion, draft-evasion, etc.), the State will crumble of its own weight.

It is disturbing to see that some naive individuals never learn from history. Constant demands for stronger and stronger government to solve the problems of the nation-state are heard daily. The very problems usually caused by the busybody State in the first place. Stronger government leads only to stronger possibilities of a larger, more corrupt State capable of greater injury committed against minorities and individuals. And as the State grows in strength, the individual as the overseer of his life grows weaker. It is inevitable; an authoritarian-based government cannot co-exist in an environment of strong, independent, free and volitional people. As the saying goes: *Power corrupts; absolute power corrupts absolutely.*

The best method to protect individual liberties is by *not* trusting them to untrustworthy institutions. And what institution is more *untrustworthy* than the State (i.e. Watergate, CIA operations, secret campaign funding, Nixon's enemy list, IRS harassment of the administration's enemies, CIA assassination attempts, Vietnam War, secret files on political troublemakers, the Plumbers, etc.).

Thomas Paine wrote, *government is a necessary evil*; but Paine never foresaw the technology available to government to commit mass atrocities as seen with the rise of national socialism (Fascism) and international socialism (Communism). Both ideologies reduce individual existence to the status of a *national resource*.

It is apparent that the crucial error of the early American revolutionaries' attitude was accepting the evils of government as necessary. Evil is never necessary. Evil can never be justified. Evil is Evil. So government must be classified as an *Unnecessary Evil*. This is the major position of the libertarian anarchist whose tradition is embedded in the teachings of Thomas Jefferson and Thomas Paine. The libertarian anarchist refuses to support any inherently evil institution, especially the State.

As mentioned before, many people argue that without a government chaos and lawlessness would rule. Is it possible that this is exactly what the State desires its citizens to believe? Would the State-owned and controlled public education systems

teach anything else? Would politicians preach anything else but that public pen pushers and agencies are indispensable?

## BAREFOOT IN THE NETHERLANDS

When Prof. John Hospers of the USC philosophy department lectured in the Netherlands, some of the audience became upset and confused with Hosper's advocacy against government operated enterprises. They approached Hospers after the lecture and complained that they disliked walking barefooted. Dumbfounded, Hospers said he never discussed that issue. An assistant to Hospers from the Netherlands whispered to Hospers that in his country most shoes are manufactured by the government. Apparently many of the people in the audience thought that Hospers' opposition to nationalization would result in a shoeless Netherlands, as if only government could produce shoes.

People have been conditioned to believe that without government, even in certain areas, chaos and disorder would erupt. Nothing could be further from the truth. Under the First Amendment, government is forbidden to enter the field of free press or speech. Therefore, press and speech is in an environment of anarchy. Yet, where is the chaos?

Samuel L. Blumenfeld in *Penthouse* (Nov. 1973) wrote, "Has history not shown that when governments are destroyed people not only manage to survive, but the basic fabric of society is maintained? Does society not depend more on individual self-control for stability and prosperity than on government control?"

Order, organization and stability does not originate from government. As Robert LeFevre pointed out in *Does Government Protection Protect?* (1978), order originates from three areas, *family, business and fraternity*. These areas represent the greatest involvement of people's life. What else is there? And if someone becomes disorderly in an attempt to rob or murder someone, protection, as a commodity, can be provided outside of government. Already, non-government fire departments (Rural/Metro Fire Department, Inc. in Scottsdale, Arizona) and non-government policing businesses (i.e. in San Francisco) are in operation. Furthermore, more than one million cases have been handled through private arbitration court systems in recent years. Even national defense could be provided by contributions from citizens as well as policies from insurance agencies, all voluntarily.

Order is derived from free trade and trust, and there is nothing

so chaotic and devious as governments involved in wars and oppression. Free individuals have little reason to be chaotic or rebellious. If no one has the authority to control the lives of other people, there is obviously no institution to rebel against.

When the citizen is free to choose his lifestyle and run his life, it is to his advantage to be orderly, especially economically. In a free society individuals are too busy living life to be chaotic or to attempt control of another. Even if someone tried to control another, being without the legitimacy of a government and being decentralized, the expense would be prohibitive. Wars are expensive and most people would view the plundering, would-be government as terrorists and thieves.

It was Johnny Carson on the *Tonight Show* who made an astute observation during President Ford's trip to Russia and Japan in 1974. At the time, no Vice President had been approved by Congress. Commenting that without a Vice President "no one was running the country," Johnny paused and said, "Notice the difference?" receiving thundering applause from his audience.

What is the proper function of government? In the Western world it is the government's duty to protect citizens from criminal elements; to prevent murder, theft and injury. But these crimes are only enforced only on an individual level. What of the State's legalization of such crimes? Aren't these violations of the proper function of a government in a free society?

How is it possible for the State to murder and rob its citizens, and outlaw private murder and robbery? Why is a citizen arrested and jailed if he attempts to tax or draft another citizen? Isn't this a double-standard? How can the State demand its citizens to be honest and moral when the State is neither? In fact, isn't the government merely an association of individuals in the first place? If so, then why should the people in government have any more authority over life and death than the people in the streets? If the government is the people, then, as the people, why aren't the people in government at the same level of authority as the next citizen?

It should be noted that government is not physical. That is, government cannot be physically touched by human hands. Only individuals, which makes up the governing body of the state, are physical in substance. Society and government are mere theories without material form. Unfortunately, many people place their faith, respect, patriotism and obedience into an institution which by conservative estimates has killed around *one*

*billion men and women* in countless wars, prison camps, torture chambers, inquisitions, imperialistic ventures and so forth from Stalin, Mao, Hitler, Attila the Hun, Napoleon, Caesar to thousands of lesser known leaders who had the misfortune to in smaller, less powerful nations.

Despite all the suffering caused by governments, despite all the killing (*40 million people killed in World War I alone*) and despite the billions of dollars worth of property damage, many citizens are eager to follow the bidding of their government, although it has all the potential of reverting back to past atrocities at almost any moment. This has been one of the oldest concepts of mankind. *Never question the existence of government, just question who should run it or how it should be operated.*

### THE HOME OF RATIONAL ANARCHISM

The traditional home of rational, peaceful anarchy is America. Most of the frontier days were lived in an environment of anarchy or extremely limited statism. A number of early American colonies had large communities without taxation or government authority. In essence, they were living in **de facto anarchy**. If roads were needed, the community would assist with funding, voluntarily. If protection was needed, the community would again provide it without coercion. The colonies had to provide their own services on a private level. The English Kings for over 150 years had ignored the colonies, providing them with little funds to build roads, cities or provide protection.

In fact, during the American Revolutionary War, the Continental Congress was given **no authority** to tax or draft the American citizenry. It was all voluntary. However, some individual American colonies did draft some men to fight the British.

In the tradition of Jefferson and Thoreau, the libertarian-individualist anarchist is opposed to all forms of aggression, and has nothing in common with the European socialist anarchist who is often characterized as a black-capped bomb thrower. Nor is the libertarian anarchist happy with so-called libertarian anarchists who are supporters of the Libertarian Party. These "partarchs" believe that some form of free society can be achieved through the political process.

Unfortunately, the word anarchy has a bad name, basically due

to the Eastern European socialist-anarchist. These pseudo-anarchists strongly believe in the initiation of violence. They have killed government officials, destroyed property and have tried to raise armies. All of which are unacceptable to the libertarian anarchist.

The pseudo-anarchist is no better than government. They are simply trying to assume the same old role of an almighty State. And if anything is to be feared, it is initiated violence of *any means to justify someone's ends*.

If violence is feared so should government be feared. If chaos is feared, so should government be feared. Government should be feared, not the absence of it.

# DID YOU NOTICE

## THE WARTS ON BEAUTIFUL DEMOCRACY?

By Robert LeFevre

As most of us are aware, Winston Churchill admitted that democracy was a poor form of government. But he went on to ask: "What's better?" Apparently there were no answers given at the time.

What is it about democracy which caused Churchill to ask his question? And possibly to receive no answer?

The saving grace of democracy, if it can be said to have any, is that in the end the people can rise up and throw off their rulers by a relatively peaceful process called an election.

If one intends being entirely sanguine in the matter, the benefit accrues more particularly to the rulers than to the ruled. Without the controlled, regulated and policed electoral process, getting rid of rulers has often required direct and open violence. This is hard on rulers. And it requires fairly frequent trips to the dry cleaners to get the bloodstains from the carpets. On that ground alone, elections, voting and democracy can be viewed as a step above spears, sabers and Gatling guns and, in process, other forms of government.

And one can understand why so many rulers around the world favor democracy. Despite the manifest injuries they can legally inflict on one and all, they have an excellent chance of walking out of their offices on the final day with whole skins.

In other forms of government, we shoot, knife or hang the

rascals after they have pushed us beyond endurance. In democracies, we wreck reputations, smear all attempts at virtue and demonstrate that no man appears heroic while taking off his trousers.

At the moment, it would be hard to find a greater enthusiast for democracy than the government of these United States.

In contrast to the democracy that we have run up the flagpole stands its opposite, the dictatorship. Most of us are well aware of the evils of this form of government. If we focus in, the principal difference looms quickly. In a dictatorship, there is no mechanism for dissent or even for individual survival. The dictator has the last word. Indeed, he also has the first word and most of the words in between.

The difference between democracy and dictatorship is so pronounced at this point as to leave few reasonably informed people in doubt about their preference, regardless of where they reside. At the moment, only a handful of Third World countries offers lip service in favor of dictatorship, and most of those assuage the rising rancor against them by promising "new" or "first" elections next year, or when there are two moons, or if there is no flooding and the harvest is good.

On this score, democracy has already won the world and dictatorship, if not totally outlawed, is in full flight. Then what's wrong? The reason, as Churchill knew full well, is that democracy is still a dreadful kind of government. The mere improvement in a single area (a more sanitary way to rid a palace of political rats) should not be considered as a cure for all ills.

Democracy doesn't prevent what amounts to one man rule. It merely provides a method for getting people into power. At best, it's a savage ritual in which the weight of numbers is substituted for the caliber of canon. But after the election is over, the votes counted and the tears dried, we are left with the ins and the outs.

Take a look at the "great" democracies presently in existence. No ruling monarch ever had more attention, publicity, adoration, hatred, power and invitation to corruption than any of the great democratic leaders of the world.

Who are they? They are the current rulers of America, Russia (Russia is a republic where voting is urged upon the populace slightly more emphatically than it is urged here), China, Britain, France, Germany, Italy, Poland, Spain, Argentina and Mexico — not necessarily in that order.

When everyone has the option to vote, the stupid, the uneducated, the uninformed, the misinformed, the religious zealots, the scientific zealots, the buffs, the bluffs, the cons, the crooks, the fine people and the jerks are all herded together. Each vote counts exactly the same as the next one. It follows that if a democracy works exactly as it should, the persons

chosen will be mediocre.

The United States' own years of experience tend to show that this resort to the middle (while it may be splendid in preventing a roughing-up of professional polls) tends to enlarge the middle. More and more persons appear to populate the middle regions of intelligence. They win all the elections.

But, finally, and this is probably the worst, the public at large, like any spoiled brat, really doesn't know what is good for itself. Each individual may have a very good idea of what he needs and should have. But no individual is so gifted as to be able to decree his own preferences into a mandate for all.

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