

What is a Republic Anyway?

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April 19, 2005

As the story goes, at the close of the Constitutional Convention, a woman asked Benjamin Franklin what type of government the Constitution was bringing into existence. Franklin replied, "A republic, if you can keep it." Rather than bore the reader with arguments that we are not a democracy, or with Madisonian quotes about "spectacles of turbulence and contention," I will do what I have to date seen no one do – inform the reader about the essential features of a Republic. In order to keep it, we must first know what it is.

It has been baldly asserted that in a Democracy, majority rules, whereas in a Republic, Law rules. Consider, in a Democracy, there is no need for a Constitution, since the majority can simply change Law at a whim. In a Republic, there is a Law above the government, and in our case there is a written Constitution, in addition to the King to whom all governments owe honour.

According to The Federalist there are seven essential characteristics of our Republic. In the American Republic, as instituted, there was government:

1. With a Separation of Powers; *No. 9, 47, 28, 76*
2. By officers governing during a term
 - a. of limited time and/or
 - b. during good behaviour; *Nos. 9, 39*
3. By deputies of their own election; *Nos. 9, 39*
4. Wherein the power resides originally in the People; *No. 39*
5. That is deliberative in action; *No. 71*
6. That acknowledges the right of the people to alter or abolish the government whenever it becomes destructive toward the ends for which it was instituted; *No. 78*
7. That prohibits further grants of entitlement or nobility; *No. 84*

I. SEPARATION & A BALANCE OF POWERS

"The accumulation of all powers, legislative, executive and judiciary, in the same hands ... is the very definition of tyranny." The Federalist no. 47. In a republic, some men corporately perform certain functions, and others corporately perform other functions. As Massachusetts' Constitution maintains, "the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: *to the end it may be a government of laws and not of men.*" This is the horizontal separation of powers.

Additionally, in a republic as we speak of it in America, there is vertical Separation between the Source of Power and the Administrators of the Power. In our Constitution, recognition of this fact can be found in the *Supremacy Clause*. It puts the Source of the Power outside of the jurisdiction of those who administer it when it states that the Constitution itself (not one

or several of the administering branches of government) “shall be the supreme Law of the Land.” Art. VI, c.2.

In Maryland, I saw this displayed in a quite peculiar way – the Maryland Constitution declares that the governmental officers hold their powers *in trust* for the benefit of the Public. In a trust, there is a Grantor, a Trustee and a Beneficiary. If the State is the Trustee and the People the Beneficiary, who is the Grantor? “God, the supreme Lord and King of all the world, [who] has ordained civil magistrates, to be, under Him, over the people, for His own glory, and the public good.¹” That is true of all civil governments, be they intentionally set up as secular, Muslim, Jewish, or whichever. All men, and all governments, owe to the God of the Bible the glory and the thanks for his grant of permission to bear the administration of the sword.

However, the separation of powers is not complete and total, since there are checks and balances. Congress can be checked and balanced by a member of the Executive Department – the Vice President presides over the senate and casts tie-breaking votes. Art. I,§3. The President can call up special sessions and adjourn Congress under certain circumstances. Art. II,§3. The President has veto power. Art. I,§7.

The President can be checked by Congress through the power of impeachment, over-riding a veto and the House carries the power of the purse over the military commanded by the President. Arts. II,§4; I,§§7, 8 respectively. Congress can investigate the actions of the President to ensure a proper execution of the laws and expenditure of funds and actually funds the Executive department. Art. I, §8. The Senate has the obligation to confirm or reject Presidential appointments, Art. II, §2.

Federal judges can be impeached by the Congress. Arts. I,§3; II,§4; III,§1. Congress has the power to appropriate funds for the judiciary, can determine the number of judges and the size of federal courts and can even rescind areas of jurisdiction of the courts. Arts. I,§8; III,§§1, 22. Judges are appointed by the President. Art. II,§2.²

II. TERMS OF OFFICE

One could easily conclude adherence to the condition requiring office-holders hold their offices during terms of years as being satisfied in America – there are biannual elections for the House, and elections on the Fourth and Sixth year for President and Senator. However, to believe that satisfied the provision you would also have to believe that elected officials are the only officers of government and forget the literally millions of office-holders in the administration of the Federal government. “The real power in America resides in ... the ‘permanent political class,’ of which the formal government is a subset.”³ As individuals, these office-holders might come and go, but their offices and their bureaucratic work continues in the publication of the officially sanctioned books used in the education of children, professionals and lawyers. Their work continues in the regulation of our use of

¹ The Westminster Confession of Faith, c. xxiii.

² James McClellan. Liberty, Order and Justice: An Introduction to the Constitutional Principles of American Government. 3d Edition. Liberty Fund. Indianapolis, Indiana (2000) at 332-335.

³ Fred Reed, “Spread Democracy – at Home,” *The American Conservative*, vol.3, no.4 (March 1, 2004) at 16-17.

privately owned land and water. Their work continues in the regulation of office furniture and behaviour. Their work continues in the perversion of youth. While occasionally one might get fired for overstepping the line individually, he would simply be replaced by another. The unconstitutional Office is perpetual, even if the holder is not.

And the second term of office is *during good behaviour*. I cannot quite explain my exasperation in law school when a kindly professor, seriously one of my favourites, who carried a copy of the Constitution in his jacket pocket and read from it continually, expressed to the class that federal judges are appointed for life. I referred him to Article III, §1 and we read the words “The judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour.” He gasped as if he had never read that part before, which is understandable after years of being told by judges and aspiring judges to believe that judges hold their offices for life.

John Adams wrote in 1776 that judges “should hold estates for life in their offices; or, in other words, their commissions should be during good behavior ... For misbehavior, they grant inquest of the colony, the house of representatives, should impeach them ... [and] if convicted, should be removed from their offices, *and subject to such other punishment as shall be proper.*”⁴

Terms of office during good behaviour is not limited to the judiciary; neither is the infraction of that standard. Congressmen can solicit and prostitute minor male-children for sexual gratification. The President can commit adultery in the White House, perjure himself, and have the Congress determine that perjury is an impeachable offense only to have the Senate refuse to convict as the Constitution requires.⁵ Our States have refused to exercise Tenth Amendment rights against a rogue judiciary and permit the Federal government to prosecute crimes that are not treason, counterfeiting, piracy or a felony committed on the high Seas.⁶ Mayors have simply started issuing marriage licenses to homosexuals. School boards have exercised their offices of trust for the benefit of another’s child without regard to parental wishes, and in many cases in violation of statute by subjecting children to harmful prurient material. All of this ill behaviour goes unpunished, and these bureaucrats remain in their position.

III. GOVERNMENT BY DEPUTIES OF THEIR OWN ELECTION

First, reverting back to a degree on the previous topic, who really runs government? Are our “deputies of government” the 435 members of the House, plus the 100 Senators, plus the President and 9 Supreme Court judges? Of course not. We are governed and regulated by countless number of acronym agencies and deputies. Have you voted for these office holders? And I’m sure even if you haven’t, you still know that their “regulations” while not

⁴ McClellan. *Liberty, Order and Justice*. at 196.

⁵ The House determines whether an offense is impeachable, Art. I,§2, and the Senate determines whether the offense was committed, Art. I,§3. Thus, the House determined that perjury was an offense for which a President could be impeached, and the Senate ought to have limited its findings to whether he committed perjury.

⁶ United States Constitution, Arts. III, §3; I, §8,cc.6, 10

law, have the effect of law. For a violation of a regulation, you can be fined, imprisoned or have your children taken away.

Secondly, “of their own election” implies, and the Unanimous Declaration explicitly states, “Governments ... deriv[e] their just powers from the consent of the governed.” This is not a “theory of government,” it is a Law, if you will. Governments exist by the consent of the governed. Rogue and tyrannical civil governments are built on the backs of their People. After the bureaucratic waste and mismanagement of collecting your taxes, your taxes pay for the salaries of all of these federal employees.

IV. POWER RESIDES IN THE PEOPLE

The Unanimous Declaration states, “Governments are instituted among men, deriving their just powers from the consent of the governed.” I believe our Framers understood that God is the Source, the “institutor” from which the right of government comes.⁷ God implants into “the People” generally the power of civil government, who thereafter in their corporate capacity delegate the right of government to a select few according to a form of their choosing. “Power residing in the People” is a matter of fact, a Law, and a natural right. This is true whether the People constitute a monarchy, democracy or aristocracy.⁸ The singular difference, then, in our instance is that in a Republic, according to Federalist nos. 9 & 39, the government acknowledges their delegated power.

Abraham Lincoln said that America was a government of the People, by the People and for the People. I wonder if you know from where that phrase comes. In his 1382 publication of the Wycliffe Bible, John Wycliffe wrote in the introduction, “The Bible is for the government of the people, by the people and for the people.” The ol’ tyrant Lincoln appropriated to himself and the whole federal government (but, mostly himself) after Gettysburg the phrase Wycliffe had conferred onto the Word of God. It smacks of Elizabeth’s declaration after learning that her rival Mary was dead and that she was going to be Queen, “The stone which the builders rejected, the same is become the head of the corner. This is the Lord’s doing, and it is marvelous in our eyes?” It smacks also of Sean Hannity’s attribution to George W. Bush in his newest book, Deliver Us From Evil. My God, have mercy on us for allowing such mean and debased men to administer our government.

Instead of the liberal hope for democracy, “power of the people” (and the People really means the state), what our Framers intended and understood, they also codified into their constitutions. Our Framers, understood that Romans 13 meant, “God, the supreme Lord and King of all the world, has ordained civil magistrates, to be, under Him, over the people,

⁷ However, even if our Founders did not mean this, it is still true because God claims to Himself, and He cannot lie, the power to set up or take down governments for his own glory. Civil governments *in all cases* act only in subordination to God. See Gospel According to Matthew, c. 22:21. St. Paul, Letter to the Roman Christian Church, c. 13:1. Stephanus Junius Brutus, Vindiciæ, Contra Tyrannos, The First Question. Samuel Rutherford, Lex, Rex, Q xxviii, arg. 4. Westminster Confession of Faith, c. xxiii. William Blackstone, Commentaries on the Laws of England, Intro. § 54.

⁸ At the root, these are the only forms of government – all other governments are but adaptations or mixtures of these three. See William Blackstone, Commentaries on the Laws of England, Intro. § 52.

for His own glory, and the public good.”⁹ “The power resides originally in the People” means that the civil government is, what we have said, in a position of trust for the benefit of the People. God, through People, constitutes civil magistrates. You may have heard this old maxim already, *The King for the People, not the People for the King*. There can more easily be a People without a King than there can be a King without a People.

But today, is this true? Does the civil government in America *on any level* believe that it serves as there mere vicar of God and Trustee for the People?

V. DELIBERATIVENESS IN ACTION

This feature of a republican form of government I find to be the second most fascinating, out done only by the point discussed immediately below. In a Monarchical form of government, while still there is no God-given right to do wrong, the King, being one man, can easily be lead astray at his whims and fancy. That was the reason England constituted a Parliament in the first place. The People, fed up with the King going tyrant so frequently, instituted a check on his power and created a deliberative body of men coming from the commoners.

About this characteristic of Republicanism, Hamilton wrote in Federalist no. 71:

The republican principle demands, that the deliberate sense of the community should govern the conduct of those to whom they intrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men, who flatter their prejudices to betray their interests.

A larger body consisting of men from various climates, dispositions and temperaments are going to be slower to act than would one man or a close group of people from one locale. This beautiful principle of republicanism has been lost, however, to a certain degree by the homogenization of the American culture, but more so by the consolidated source from which “the People,” including our representatives, get their information – New York City.¹⁰ Have you ever watched to see just how much of the American agenda is set by New York City – they call former Mayor Giuliani of that Yankee town “America’s mayor.” Praise God that adultery-committing, former roommate of a homosexual couple is not my mayor. But, truth be told, North, South, East and West, our talking points, if we are watching the news, come from one consolidated source that has lost any interest in keeping the government in line, and seeks rather to play the part of being the impulse who flatter the People’s passions and prejudices only to betray their interests.

⁹ *Westminster Confession of Faith*, Ch. XXIII (1)

¹⁰ Both FoxNews and NBC are based in New York City, as are their reporters, anchors and producers. I recently heard Katie Couric comment that she fancised of a peaceful rural life raising goats – little does she know about the daily schedule of a goat farmer, nor of the behaviour of goats. Consider, goats get on and eat everything. They bleat when they are hungry or cold – or full or hot. There is a radical disconnect between the mind of a flatlander and a farmer. City dwellers set our gun policies and laws with foolish statements like, “The police are only two minutes away.” Even though this may be true in the city, it most certainly is not true in the suburbs or rural America. Millions of Americans are living in towns with one part-time police officer who would take forty minutes to arrive, but these millions have their opinions about guns shaped by city-folk.

The principle of deliberativeness in action speaks directly against an oligarchy by Judges (jurocracy) who overturn the laws of God as administered in the States regarding abortion, sodomy, affirmative action, acknowledgment of Him as the source from whom all blessings flow, &c. Judges are supposed to determine whether the case before them is a violation of a Law, and if the Law is ungodly or unconstitutional, they are to acquit the accused, but they are not permitted to judge the standard itself which is above them, God's Law and how we administer his government in America through a Constitution.

The creature is always subject to the Creator; thus, the jurisdiction of the court does not extend over the Constitution nor over the Law of God they are duty bound to administer. Marbury v. Madison, the case by which the Court absorbed to itself the power of *Judicial Review* holds, "a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument."¹¹

VI. ACKNOWLEDGEMENT OF THE RIGHT TO ALTER OR ABOLISH THE GOVERNMENT WHENEVER IT BECOMES DESTRUCTIVE TOWARD THE ENDS FOR WHICH IT WAS INSTITUTED

As stated, I find this to be the most peculiar feature of a republican form of government. The Unanimous Declaration Reads:

[W]henever any Form of Government becomes destructive of these ends [to secure the inalienable rights to life, liberty and property], it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

The Massachusetts Constitution of 1780 (still in effect) reads:

[T]he people alone have an incontestible, unalienable, and indefeasible right to institute government; and to reform, alter or totally change the same, when their protection, safety, prosperity and happiness require it. *Declaration of Rights*, Art. VII

The State of Maryland Constitution's first Declaration of Right still reads:

[The People] have, at all times, the inalienable right to alter, reform or abolish their Form of Government in such manner as they may deem expedient. *Declaration of Rights*, Art. I.

The State of New Hampshire ostensibly acknowledges in its Constitution:

[W]henever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress and ineffectual, the people may, and of right ought to reform the old, or establish a new government. The doctrine of nonresistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind. *Part First*, Art. 10.

That same phrase, "the doctrine of nonresistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind," is found in the Maryland and Tennessee Constitutions.

¹¹ Marbury v. Madison, 5 U.S. 137 (1803) at 180.

Constitutions of 15 States acknowledged the right of the People to alter or abolish the existing government when it becomes destructive to the ends for which it was instituted. See Pennsylvania Const. of 1873, Art. I, § 2; Maryland Const. of 1867, Dec. of Rights, Art. I; Virginia Const. of 1902, Art. I, § 3; Alabama Const. of 1865, Art. I, § 2; Arkansas Const. of 1874, Art. II, § 1; Idaho Const. of 1889, Art. I, § 2; Kansas Const. of 1858, Art. I, § 2; Kentucky Const. of 1890, Bill of Rights, § 4; Ohio Const. of 1851, Art. I, § 2; Oregon Const. of 1857, Art. I, § 1; Tennessee Const. of 1870, Art. I, § 1; Texas Const. of 1876, Art. I, § 2; Vermont Const. of 1793, c. 1, Art. 7; West Virginia Const. of 1872, Art. 3, § 3; Wyoming Const. of 1889, Art. I, § 1. Some 24 other States have, or have had, slightly varying forms of the same provision. See New Hampshire Const., Pt. I, Art. 10; Massachusetts Const., Part the First, Article VII; Connecticut Const., Article First, § 2; New Jersey Const., Art. I, 2; Delaware Const., Preamble; North Carolina Const., Art. I, § 3; South Carolina Const., Art. 1, § 1; Rhode Island Const., Art. I, § 1; California Const., Art. I, § 2; Colorado Const., Art. II, § 2; Florida Const., Dec. of Rights, § 2; Indiana Const., Art. I, § 1; Iowa Const., Art. I, § 2; Maine Const., Art. I, § 2; Michigan Const. of 1835, Art. I, § 2; Minnesota Const., Art. I, § 1; Mississippi Const., Art. 3, § 6; Missouri Const., Art. I, § 3; Montana Const., Art. III, § 2; Nevada Const., Art. I, § 2; North Dakota Const., Art. I, § 2; Oklahoma Const., Art. II, § 1; South Dakota Const., Art. VI, § 26; Utah Const., Art. I, § 2.¹²

And what does our modern, Arminian/Evangelical Church teach regarding Romans 13? Unconditional, unlimited submission to tyrants. “Render unto Cæsar that which is Cæsar’s but unto God that which is God’s” has been perverted as if Christ said, “Render unto whatever god of your choosing a Sunday, but unto Cæsar everything else.”

VII PROHIBITION OF TITLES OF NOBILITY AND ENTITLEMENTS

Hamilton considered the Art. I, §9, c.8 prohibition of titles of nobility and entitlements to be the “corner stone” of republican government. To my knowledge, this provision of the Constitution has only been mentioned once by a Federal Court, and then it was used to buttress a decision to deny to a state its Tenth Amendment powers.¹³

Hamilton did not even write much on this provision:

*Nothing need be said to illustrate the importance of the prohibition of titles of nobility. This may truly be denominated the corner stone of republican government for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people. Federalist, no. 84 (*emphasis mine*).*

¹² This list of the fifteen States comes from Scales v. United States, 367 U.S. 203 (1961), Douglas Dissenting. Scales was a case about Communists’ right to overthrow our government. That is not the subject matter about which I am writing. Communists, who have an anti-Christian and atheistic belief about the purpose for which God institutes civil governments, have no right to advocate an overthrow of a government under these “right of revolution” clauses in Constitution. The phrases are conditional, *whenever governments become destructive toward the ends for which God institutes them, it is the right of the People to alter or abolish them*. Thus, if a government is properly acting by securing rights to life, liberty and property by the proper administration of the sword executing God’s judgment on those who offend His law, there is no legitimate standing to seek the “right to revolt.” There is no right to do that which is immoral and wrong. Communists, who hate God, have no right to participate in the functions of, or the election of others, to civil government.

¹³ Eskra v. Morton, 524 F.2d 9 (1975).

Perhaps in 1788, “nothing need be said,” but today our Republic is gone and ostensibly, since America does not knight its officers, this provision of the Constitution is still obeyed. So, if “there can never be serious danger” that the government will begin to lord itself over the People without Titles of Nobility, what has happened?

I want to look first at Deuteronomy 17:18-20

18. It shall be, when [a king] sitteth upon the throne of his kingdom, that he shall write him a copy of this law in a book out of that which is before the priests the Levites: 19. And it shall be with him, and he shall read therein all the days of his life: that he may learn to fear the Lord his God, to keep all the words of this law and these statutes, to do them: 20. *That his heart be not lifted up above his brethren,* and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel.

An Israelite King was required to write a copy of the Law¹⁴ “that his heart might not be lifted up above his brethren,” or as Hamilton noted, absent a title of nobility, “the government will [not] be any other than of the people.” There is no room for the elite, entitled philosopher-king in a Republican government. But it is not the word “knight” against which the prohibition of titles speak, but the *entitlement* that comes with such titles. Entitlements such as pensions and exemptions on social security taxation (not that there should be social security in the first place) are unconstitutional. Our officers are supposed to hold office for a term and then go home – which now, even if they do, they continue to get paid for their previous, often times ignoble, service.

What is worse, not only does the elite-class receive entitlements, but so does our lowest class – there is simply no Constitutional authority for welfare. “The tyrant apportions food doles to the people, he does so *in order that he might gut the people all the more easily afterwards.*”¹⁵

Rome, in order to remove the trauma of having to apply, decreed welfare to be a hereditary right.¹⁶ While welfare is not technically an hereditary entitlement in America, practically it is since the people on welfare have been gutted of their dignity, honour and ability to learn how to retain employ – and the sins of the parents are visited upon the children. Then to compound the problem, our Federal government has refused to the States the Tenth Amendment right to deny to such entitlement holders the right to amass to themselves more entitlement through the exercise of their vote. States are required to provide education for people who pay literally nothing into the treasury – they are mere parasites on the Commonwealth.

The cry of 1776 was “Taxation without Representation,” but today we have “Representation without Taxation.” While people are taxed at differing amounts, they all receive the same weight in their votes (disproportionate taxation without representation). Those who pay no taxes are entitled to a right to vote which is given the same weight as he who had more than fifty percent of his income confiscated. “One man, one vote” is the legal maxim that

¹⁴ Despite this requirement, this “Book of the Law” was lost and no King of Israel is known to have actually have been aware of this commandment until Josiah’s reign when Hilkiah found the Book in the Temple in 621 B.C. II Kings 22; II Chronicles 34.

¹⁵ Stephanus Junias Brutus, *Vindicae, Contra Tyrannos*, Third Question.

¹⁶ R.J. Rushdoony, *The “Atheism” of the Early Church*, Ross House Books, California (2002) at 17.

prevails despite the Constitutional right of the States to set their own rules and regulations on who may vote in their elections.¹⁷

People, either the taxpayer or taxuser, will vote in their own selfish interests. But the entitled voter, by so doing, will effectuate legal plunder.¹⁸ The solution is to destroy the trough of entitlement, and the proverbial pigs will go away.

Conclusion

If the Framers of our form of Government claimed that in a republican form of government 1.) there is a strict separation of powers, horizontally and vertically; 2.) the government is run by officers governing for a term and only during good behaviour 3.) who are of our election, and not by the appointment of the government itself; 4.) the government recognises that power resides originally in the People (immediately from God); 5.) there is a deliberativeness in action and that it is, by the checks and balances, not subject to the whimsical fancy of a few; 6.) the government acknowledges the final right of the People to alter or abolish it whenever it usurps the rights for which it was instituted by the People to administer God's Law, 7.) the government does not grant entitlements, and our government is none of those things, in what, then, may I ask, do we now live?

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¹⁷ Each of the Amendments since the Twelfth Amendment, and excepting the Repeal of Prohibition and the XXVII Amendment which was written in 1789 but not ratified until 1992, has served to reduce the Powers of the States or the People, and to provide for that power denied to vest in the Federal government.

¹⁸ Frederic Bastiat, The Law: The Classic Blueprint for a Just Society, Foundation for Economic Education, New York (1988) at 12-14.