

ON RECONSTRUCTING THE AMERICAN REPUBLIC

Prof. Tom Rose

"The powers not delegated to the United States by the Constitution, nor prohibited to it by the states, are reserved to the states respectively, or to the people." (Tenth Amendment, U.S. Constitution,)

If it can be said that Americans ever had a national dream, their dream can be summarized like this:

America, as a republic, was established and dedicated to the proposition of protecting and enhancing man's individual freedom and self-responsibility before God, with the emphasis of civil government being local self-determination.

Note that the idea of civil government is essentially theological in nature, because it presupposes a transcendent rule of law which serves as a norm for both the rulers and those who are ruled (Rom 13:1-4: both the governed and the governors are commissioned by God). It is thus law which makes and establishes civil authority, and not the reverse. But note in addition the two main points of civil government in America which make American civil government unique:

(1) Man, as a free and self-responsible individual, stands directly and personally before God.

(2) The nature and source of power of the civil authority are primarily local and self-determined. (That is, it is widely dispersed geographically and federal in character, as contrasted with a centralized unitary authority in which authority and power flow from the top down.)

It was with these objects in mind that the Articles of Confederation of 1777 (ratified in

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1781) and the new Constitution of 1787 (ratified in 1789) were drafted and ratified by the individual states as separate and independent political entities. Anyone who does not understand these objects does not understand the Christian character of American civil government. The central government that was established by the Articles of Confederation, and continued by the Constitution of 1787, was not established by the people acting directly either at the individual state level or as a homogeneous mass throughout the original thirteen states. Rather, our general government (the national government) was the product or offspring of the compacting parties, the states, acting as sovereign political entities and deriving their political sovereignty from their citizens.

In effect and in reality, the American national government is the *creature*, and the compacting states are its *creators*. It is extremely important that Americans keep this vital fact of history always in mind. That the above cited goals and structure of American civil government are solidly Biblical emphasizes the historical fact that the American Republic was indeed founded as a self-governing Christian nation.

"None of the modern interpretations of the Tenth Amendment 'lend even remote support to the proposition that a state or its people can control any aspect of the federal government.'" Rep. Thomas Foley, (D) Washington, Speaker of the U.S. House of Representatives, as quoted in the Wall Street Journal, and cited in World magazine, 1/22/94

The extent to which the whole federal structure of American civil government, from the local to the national, was influenced by The Bible is little understood and even less appreciated in this day and age. But, it is an undeniable fact that the early settlers in Jamestown and Plymouth (and especially Plymouth) patterned their civil polity according to Biblical precepts as comprehended and understood by the Protestant churches of the reformation.

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The American Republic & The Reformation

It cannot be denied that the character of local self-rule and federalized structure of the Reformation churches greatly influenced American civil government.

While it is true, under our presently existing state and general constitutions, that the flow of governmental power goes from the individual citizens to the states, and thence to the local subdivisions and the national government, it is important for Americans to recognize the original priority of local government in our federalized structure. This fact is too often overlooked by historians and political scientists, who tend to present American government from a false unitary perspective (unitary government being the situation in which governmental power flows from the central government at the national level to the various subdivisions).

The Creators and The Created

Just how far America has strayed from our original Christian principles of a decentralized and self-governing republic can be seen in the following incident:

A state official of Oklahoma advised the people of Tulsa that the Environmental Protection Agency of the U.S. Government was not pleased with that city's failure to submit a suitable plan for air pollution control. And, if a suitable plan was not submitted within a year, the official warned, the EPA would impose "sanctions" to bring the recalcitrant city into line. One threat was made to block the city's industrial development; another was to withdraw federal funds for highway and water projects.

INTERPOSITION: The doctrine that a state, in the exercise of its sovereignty, may reject a mandate of the federal government deemed to be unconstitutional or to exceed the powers delegated to the federal government by the Constitution. The doctrine denies constitutional obligation of states to respect Supreme Court decisions with which they do not agree. The concept is based on the Tenth Amendment to the Constitution of the United States reserving to the states or to the people thereof, those powers not delegated to the United States. The U.S. Supreme Court rejected this doctrine in Cooper v. Aaron, 358 U.S. 1, 78S. Ct 1401, 3L. Ed. 2d 5.

Note the ironic switch:

The political creature now has the temerity to dictate to its creators!

Thus is the federal character of the American Republic destroyed in the same way that some apostate church denominations work to assume primary rather than delegated authority in the higher courts!

The Power of Taxation

This switch in power—the switch in power from the local and state levels to the national level—is plainly evident in all 50 States and in innumerable communities. It has been made possible by the unlimited taxing authority which the states unwisely granted the national government via the 16th Amendment in 1913. It was further enhanced by ratification, in the same year, of the 17th Amendment, which changed the election of senators by the various state legislatures to election by the direct vote of the people. This Amendment radically altered the original structure of the American Republic and virtually eliminated the influence of the states as independent political entities in the national Congress.

The question now facing concerned Americans, especially American Christians, is this:

What can be done about the disturbing unBiblical growth of absolutist and tyrannical civil government in America? What can be done to reclaim the original American Christian dream of individual freedom and self-responsibility before God, which is the underlying principle upon which our American Republic was founded?

A Practical Outworking of The Faith

Faithful preaching of the saving Gospel of Christ is, of course, part of the answer. But, it is not the whole answer, for it is only too evident that many truly born-again Christians blindly and ignorantly support the aggressive growth of humanistic civil government which we have been witnessing during this century.

Not only is there a need to preach salvation by the atoning blood of Jesus Christ but to carefully and systematically edify the saints in the practical outworking of such faith in every aspect of life and culture, including the institution of civil government.

A grass-roots rebellion against the federal income tax is now sweeping across America. Are

An 8th Grader Writes Her Congressman

"When I received your letter, I read through the Constitution of the United States. In it I found an amendment that was of great interest to me. In the Tenth Amendment it states that all powers not given to the national government by the Constitution and not denied to the states, are to be given to the states or to the people of the states.

"With that in mind, how is it possible for the national government to control education? When reading through the Constitution I found nothing granting the national government the right to control education. Is there a law that was made that explains this unconstitutional act? If so, I would appreciate a written copy of this law."

Letter to Representative Toby Roth (WI) from Cherry Sigl, 8th grade student, Notre Dame Middle School, De Pere, WI, 1/12/93 (Congressional Record, 2/13/93, pE258)

the rebellors subversive rebels or are they as-yet unrecognized patriots? Regardless of how one answers, the people in tax rebellion are reacting against the blatant immorality of a government which has long been engaging in the sins of coveting another's property and indulging in massive legal theft by taxing and redistributing citizens' hard-earned wealth via statist-controlled handouts and subsidy programs.

Tax rebellion by individuals may perhaps prove to be the most direct and effective manner of denying an aggressively totalitarian State the funds which supply its very life blood. But there is a clear Biblical principle which Americans have not yet used to restore the American Republic:

The Biblical principle of interposition or nullification—the very practical step of having an intermediate level of government interpose itself between an oppressing ruler and the oppressed people.

Perhaps the clearest application of this Biblical principle is found in I Kings 12:1-24, where the elders of Israel appealed on behalf of the people to King Rehoboam to reduce the burdensome taxes his father Solomon had imposed on the populace. When Rehoboam refused, the cry of the elders was, "To your tents, O Israel!" Their interposition—and the refusal of the king to rule

in accordance to God's higher law — led to a God-ordained tax rebellion, that is, a legal rebellion.

The principle of governmental interposition is inherent in the Biblical principle of self-government. It is a feudal (contractual) principle. This same principle of interposition was used by the colonial legislatures in America to seek redress from King George III of England. When the legal interposition of the colonial legislatures failed, the colonies declared their independence: "To your tents, America!" Thus the American Revolution was a legal and an orderly resistance against tyranny.

The sentiment, "Rebellion against tyrants is obedience to God!" is certainly Biblical. It is clearly taught in I Kings 12:1-24, and this Biblical principle speaks clearly to Christians today who are concerned about the growth of an anti-Christian absolutist State in Washington, D.C.

The principle of governmental interposition, in addition to being Biblical, is also constitutional. It is inherent in the very concept of local self-determination, a solid American governmental principle.

Alien and Sedition Laws

American history is rich with practical applications of governmental interposition. Since the establishment of our independent republic, it was invoked in 1798 by Kentucky and Virginia (the Kentucky and Virginia Resolutions) to oppose the Alien and Sedition Laws which were passed by Congress that year. It was also used by the Hartford Convention during the War of 1812, and with success by South Carolina in 1832 to oppose a higher tariff law which Congress had imposed. Massachusetts and some other New England States applied the principle of governmental interposition to negate the more stringent Fugitive Slave Law of 1850. And it was the breakdown of the Biblical principle of governmental interposition which produced the tragedy of the Civil War of 1861. Since that time the way toward the growth of a highly centralized, absolutist State in America has been all too evident.

The Hartford Convention (1814-15) also warrants consideration.

Early in 1814 many local governments (towns) in Massachusetts presented memorials

to the state legislature setting forth the dangers to which the War of 1812 had exposed them. They suggested the appointment of delegates to meet with delegates of other states for the purpose of developing a united effort to protect the mutual interest of the New England states. Delegates from MA, RI, CT, NH and VT, representing local conventions in their respective states, met at Hartford from December 15, 1814 to January 5, 1815. The Hartford Convention resolved:

"That it be and hereby is recommended to the legislatures of the several states represented in this Convention, to adopt all such measures as may be necessary effectually to protect the citizens of said states from the operation and effects of all acts which have been or may be passed by the Congress of the United States, which shall contain provisions, subjecting the militia or other citizens to forcible drafts, conscriptions, or impressments, not authorized by the constitution of the United States."

The legislatures of Massachusetts and Connecticut sent commissioners to Washington to urge submission of amendments to the Constitution, but the war had ended before they arrived, and the whole matter was ignored. However, the Hartford Convention is important in at least two respects:

First, it shows the principles of governmental interposition applied at both the local and state levels.

Second, it shows that the Northeast (as well as the Southern and Western) states accepted the legality and the constitutionality of a governmental concept which was forcefully wrenched from American civil polity in the Civil War.

We see here that the principle of interposition or nullification was widely accepted by all sections of these United States up to the time of the Civil War. In the era of statist centralism which has resulted from the forceful overthrow of this Biblical and legal principle, the concept has come to be considered only a quaint historical oddity. But, the question is not whether the Civil War once-and-for-all forcefully buried the concept; rather, the question is: Is the principle of governmental interposition Biblical? And if the answer is "Yes!",*

A bipartisan group of representatives point out in House Resolution 277 that "unfunded federal mandates cost the American public more than \$430 billion annually." U.S. Conference of Mayors claims a survey of largest cities carrying out 10 major federal-mandated programs in 1993 cost \$3.6 billion -- about 12 percent of total annual budgets. County governments report similar findings: costs them \$4.8 billion annually to comply with 12 unfunded or minimally funded federal mandates. In Colorado, State Rep. Charles Duke introduced a resolution to affirm states' sovereignty over Federal Government in all cases other than those specifically given to Congress by the Constitution. Supporters in Colorado and other states argue "individual states must all stand strong within the Union of States; declare Constitution the Supreme Law of our land; assert our individual and State rights as secured by the Constitution ..."

as I believe it is, then the principle holds for all times and all places, and Christians should recognize its validity.

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* From South Carolina's Ordinance of Nullification (1832):

"We, therefore, the people of the State of South Carolina in Convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts ... are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens...."

(While President Andrew Jackson did not agree with the action taken by the people of South Carolina, he admitted that there is an "indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured ...," South Carolina's clear intent was to secede from the Union if the national Congress insisted on pursuing its sectional protective tariff policy. Thus, South Carolina's 1832 Act of Nullification must be regarded as an example of successfully applying the principle of governmental interposition.)

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