

America is a Republic, Not a Democracy!

by Nelson Hultberg

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largess from the public treasury. From that time on the majority always votes for the candidates promising the most benefits from the public treasury, with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship.

-- Alexander Fraser Tytler
18th century Historian and Jurist

It is the view of most Americans today, that as long as all legislation in a country is democratically established by a majority vote of the people, then that country is politically free, and justice reigns. This modern view of course would be considered grievously naive by the Founding Fathers, who in their perusal of history had acquired a thorough grasp of the follies of ancient Greek democracies. In their minds, it would be ludicrous to consider freedom and justice to be determined merely by "democratic approval" of government laws.

This is an enormously important point for Americans to understand, for the fact that it is not being taught in our schools and clarified in the voters' minds is one of the main reasons why the philosophy of statism is spreading throughout the world.

If we consider freedom to be most prevalent where there is a minimum of coercion utilized among human beings, it should be clear to any man with a jot of common sense that we are no longer *truly* free in this country, that there is, and has been for some time now in the words of Robert Nisbet, a "new despotism" creeping over us.

If we were to ask an average citizen in the street today if he considers himself free and his government just (and if he were articulate), he would undoubtedly spew out a long list of unjustifiable policies forced upon him by Washington and his own local city hall, ranging from ever-increasing taxes and welfare boondoggles, to the ominous oppressions of the Patriot Act, to the special privileges of affirmative action and its despicable reverse racism.

If we were to ask one of America's industrious, small businessmen today if he considers himself free and his government just, he would (if he was politically aware) promptly reply, "Are you kidding! I'm unfairly taxed, regulated and controlled beyond belief by mindless government bureaucrats. They hound every move and decision I make. The forms to fill out for one year's operation alone are enough to swamp an army of secretaries and the most sophisticated computer I can afford to buy."

If we were to ask one of America's more money wise pensioners today if he considers himself free and his government just, we would be informed very testily, "Certainly not! My money is being systematically destroyed, a little bit more every year, by the 'paper aristocracy' and its government induced inflation. Federal Reserve flim-flammers are

robbing me as surely as if they were to come into my local bank annually and steal a certain percentage of my savings account."

If we were to ask the middle class parents of school age children in America today, if they consider themselves free and their government just, we would quite likely be bombarded with such indignation as, "God no, we're not free! We can't even put our children in our own neighborhood school. Sanctimonious judges have gone berserk and think they can now program everybody's lives to fit their sociological obsessions."

How are we to account for such reactions? America doesn't have a personal dictator and is not visibly like the Chinese, South American, or Middle East tyrannies. How then can there be such widespread disenchantment with the amount of freedom and justice we have in this country? The answer, of course, is that America does have a dictator. It is difficult for many to recognize, for the dictator is not the President, or the Congress, or the Supreme Court. It is the people themselves. It is the majority will.

What is the difference whether a government's dictates emanate from a single autocrat like Hitler in Germany, or from a group of oligarchs like the Politburo in China, or from fifty-one percent of "the people" like in America? If they are absolute dictates that are arbitrarily arrived at, if they are widespread and cannot be refused by the individual, then freedom no longer prevails. Our dictator is the dinosaur bureaucracy in Washington that is taking our money from our paychecks, our freedom from our businesses and families, and our meaning from our lives -- but that dinosaur receives its orders from the majority will of the people.

Today's high school civics classes laud the idea of "democracy" with pages of beatific hosannahs attesting to its charms. But our children would be far better served with an introduction to H.L. Mencken's early 20th century critique, *Notes On Democracy*, and its caustic account of allowing America's "booboisie" total reign:

"The aim of democracy is to break all...free spirits to the common harness. It tries to iron them out, to pump them dry of self-respect, to make docile John Does of them. The measure of its success is the extent to which such men are brought down, and made common. The measure of civilization is the extent to which they resist and survive. Thus the only sort of liberty that is real under democracy is the liberty of the have-nots to destroy the liberty of the haves." [1]

"[M]en of unusual intelligence and enterprise, men who regard their constitutional liberties seriously and are willing to go to some risk and expense to defend them....are inevitably unpopular under democracy, for their qualities are qualities that the mob wholly lacks, and is uneasily conscious of lacking." [2]

"Why should democracy rise against bribery? It is itself a form of wholesale bribery. In place of a government with a fixed purpose and a visible goal, it sets up a government that is a mere function of the mob's vagaries, and that maintains itself by constantly bargaining with those vagaries. Its security depends wholly upon providing satisfactory

bribes for the prehensile minorities that constitute the mob, or that have managed to deceive and inflame the mob." [3]

"The democrat, leaping into the air to flap his wings and praise God, is for ever coming down with a thump. The seeds of his disaster...lie in his own stupidity: he can never get rid of the naive delusion...that happiness is something to be got by taking it away from the other fellow." [4]

What then are we to make of this ruinous "legalized plunder," that we call participatory democracy and extol as some sort of political Nirvana? This incongruous notion that gangling masses of men, who find enjoyable entertainment in Reality TV and profundity in *National Inquirer*, can presciently determine the destiny of great nations?

What we are to make of it is that America was never meant to be a *pure* democracy with "absolute majority will" ruling the country under the bumptious guidance of unruly masses. She was meant to be a *strictly limited* Constitutional Republic governed by level headed, high-minded men of sagacity and self-discipline whose chief function is to preserve individual rights rather than render them senseless and non-existent.

In other words, the Founding Fathers recognized that, because of the nature of life itself, all men possessed a certain set of rights that were never to be put up for vote. One of the most important of these was a man's right to his property (which meant also his wages and his profits). This is the fundamental cornerstone of our system and precisely where it differs from the rapacious tumult of a democracy. The majority will is supposed to be severely limited and have no power to redistribute a man's earnings. America's Founding Fathers knew their history well, and had seen the ultimate result of democracies -- that they vote themselves into tyrannies marked by constant unrest and sedition.

James Madison gave us sage advice when he warned that, "democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security and the rights of property; and have been as short in their lives as they have been violent in their deaths." [5]

John Adams advised his fellow countrymen: "There never was a democracy yet that did not commit suicide." [6]

Thomas Jefferson, writing in relation to the Virginia legislature, stated, "One hundred and seventy-three despots" are "as oppressive as one," and that "an elective despotism was not the government we fought for." [7]

Even the intellectuals of Rome recognized that their empire's greatness and freedom were directly related to their *republican* form of government. In the words of historian, Will Durant, Cicero believed, that "without checks and balances...democracy becomes mob rule, chaos and dictatorship." Cicero went on to say that the man usually chosen as leader in a democracy is "someone bold and unscrupulous...who curries favor with the people by giving them other men's property." [8]

Are we in modern America any different? Are not our political leaders "bold and unscrupulous?" Do they not attempt to "curry our favor" by advocating the redistribution of more and more personal wealth for social services? Is this not the same as giving the people "other men's property?" Have not all our modern era administrations throughout the 20th century been possessed of the same dictatorial inclinations? Have they not all advocated that the productive people of the nation give up progressively more of their earnings every year for those who do not wish to be productive?

Here then is the evil of a democracy with the "majority will" ruling absolutely. It allows dictatorial control and confiscation to be utilized against the individual simply because the masses desire such control and confiscation to be utilized. The concept of individual sovereignty is thus destroyed, a dangerous cloud of confusion develops in the area of social ethics, and the might of numbers becomes our only guide as to what is right and wrong.

No businessman would ever think it right to walk in and rob the corner grocery store (at the point of a gun), to obtain money to help his faltering dry goods business. Yet most Americans today do not think it wrong in any way for the "majority will" to vote for the government in Washington to force the owner of that grocery store (under the threat of a prison sentence) to give up a substantial portion of his money (in the form of higher taxes) to subsidize corporations that are unprofitable, or to support able-bodied men and women until they decide they would like to go back to work, or to support pretentious mediocrities through the National Endowment for the Arts, or to pay highly profitable farmers to refrain from planting certain crops for a year.

What is the difference, though, ethically in the two acts? Both are violations of the individual store owner's right to the product of his labor. The democratic thievery is just so indirect that responsibility for the act is largely diffused, and thus not so noticeable to the perpetrators. But is it somehow right because fifty-one percent of the voters are advocating it? The philosophical democrat, awash in egalitarian adoration, answers yes; but that is because he allows his emotions to dictate his policies. He is capable of only thinking short range and then invariably blanks out on the evil incongruities that result. The stronger and more sagacious man of reason, steeped in the wisdom of history's morality tale, knows better. He knows that both acts -- the gunpoint robbery and the IRS performed robbery -- are acts of *unjust coercion* and destroy the individual store owner's rights. In both cases, the owner is forced against his will to give up money that he has earned with excruciating effort, to be used toward a goal that he neither approves of, nor cares about, nor is necessary to preserve a free domestic order.

Our philosophical "democrats" should ask themselves the following: What if a majority of voters allowed the crudities of bigotry to prevail in their minds and ruled that all black people must be off the city streets and in their homes by sundown? If not, they were to be jailed. What if the majority of the people suddenly decided that the free exercise of religion was a detriment to the public interest? Or, overwhelmed with the envy that lurks in the hearts of men everywhere, they decided to require all people earning in excess of \$30,000 a year to give that excess to the Federal Government to be dispensed out equally to anyone earning

under \$30,000 a year? Would such bigotry and persecution and envy be right because the "majority will" had ruled them so? Certainly not. The "majority will" has the same capacity as any graft-swilling despot in any Third World dictatorship to destroy a man's freedom and a nation's justice. Its power cannot be enacted on whim for whatever the masses wish.

By their very nature, an individual's rights are not to be abrogated by the mass. They are not to be subject to open assault by frenzied mobs in search of covetous gratification. Madison, Jefferson, Hamilton, Henry and Adams would be inflamed with outrage at the Constitutional violations taking place in America today -- violations that strike viciously at the heart of the very existence of the Republic itself.

As Constitutional scholar, Gottfried Dietz, points out, the Founders of this nation believed that "popular government, being as human as any other form of government ... was not immune from the corruption that tends to come with power. An expansion of popular power...could bring about despotism as much as had the expansion of monarchical power....In a word, the growth of democracy could conceivably reduce the protection of the individual. It could pervert free government into a sheer majority rule which considered democracy an end in itself.

"It testifies to the wisdom of the Founding Fathers that they recognized this danger. The oppressive acts of Parliament and of some state legislatures had brought home to them a democratic dilemma which was expressed by Elbridge Gerry's remark in the Federal Convention: 'The evils we experience flow from the excess of democracy.' The recognition that American government had to be democratic was accompanied by the realization that democracy could degenerate into a majoritarian despotism. To prevent this, democracy was bridled. While men were deemed worthy of self-government, they were not considered so perfect as to be trusted absolutely. They were not given free reign." [9]

Our primary fault today then is that we have misconstrued what the democratic process is really for by giving men the right to vote themselves special privileges and redistributed wealth from the pockets of their neighbors -- i.e., by making democracy "an end in itself." We now think the election process can be used to determine what the entire role of government should be. We now presume that indulgent throngs of voters, in collusion with Congressional opportunists, will somehow form through their devious ruminations a proper method of governing.

In other words, whatever fifty-one percent of the voting masses wish of their government, they have the right to have, which in baldest terms is *mobocracy*. It leads to what Alexis de Tocqueville warned it would -- the tyranny of the majority -- in which the power of government "covers the whole of social life with a network of petty, complicated rules that are both minute and uniform, through which even men of the greatest originality and the most vigorous temperament cannot force their heads above the crowd. It does not break men's will, but softens, bends, and guides it; it seldom enjoins, but often inhibits, action; it does not destroy anything, but prevents much being born; it is not at all tyrannical, but it hinders, restrains, enervates, stifles, and stultifies so much that in the end each nation is no

more than a flock of timid and hardworking animals with the government as its shepherd."
[10]

This then is "political democracy." If men such as Tocqueville, Acton, Burckhardt, Mill, Spencer, Belloc and Mencken were alive today, they would surely be amused, in fact horrified, at our calamitous efforts to govern ourselves by counting noses to decide truth and political legitimacy.

This is not what America's *republican* form of democracy was meant to be. The democratic process, in its republican form, was meant to be mainly the ability to remove politicians from office peacefully. It was meant to be a method to transfer power, not a method to define the scope and size of government. The task of defining the scope of government had already been accomplished through the centuries of reason and experience that went into the writing of the Constitution. Thus government was already defined, with its functions prescribed for it in that sacred document. The laws and services that citizens were to be allowed to vote for were strictly limited and were to always be provided for on the local or state level. Only in a few clearly designated areas, were the people to be allowed to vote for the Federal Government to provide them with laws and services. If it became overwhelmingly necessary to alter such functions, there was an amendment process provided that would require the electorate to operate deliberately and prudently. This was America's *republican* form of limited democracy.

Democracy's primary task then is to allow people to determine which citizens of their communities are sufficiently possessed of the necessary integrity, brains and skills to go to the seats of political power and implement government's *pre-defined constitutional* functions. It is basically a tool to avoid violence and coups d'etat in the transfer of power, to assure a peaceful and orderly governing process. But the overall philosophical role of government cannot be left up to the vote of the majority in the open ended, arbitrary manner that presently prevails. As the history of every ancient Greek democracy clearly demonstrates, such a system will self-destruct and tumble down the edifice of liberty, order and prosperity.

Most pundits, when confronted with the majority will dilemma, reply that such concern over the tyranny of the mass is paranoid; that the country has endured till now and will continue to do so; that the erosion of rights spoken of here could never happen. But it already has happened egregiously and continuously throughout the past eighty years, and to a lesser degree throughout the 19th century.

The progressive income tax (passed in 1913), which basically destroyed our right to the product of our labor and our right to equality under the law, was justified by the fact that the "majority of Americans" approved of it. In this case, three-fourths of the state governments eliminated the constitutional ban on direct taxation and then fifty-one percent of our Congressmen made it steeply progressive over the years.

The fact that it takes three-fourths of the state governments to alter the Constitution, however, does not check a covetous majority will from usurping the basic rights of the

individual. Fifty-one percent of each single state's legislators is all that is required for that state to ratify a fundamental change in the Constitution, and those legislators are put in office by a fifty-one percent vote of the people of that state.

Thus if fifty-one percent of the voting constituents of thirty-eight states can take away a man's fundamental rights, then we don't really have the iron clad guarantee against tyranny that we think, do we? In this way, it takes even less than fifty-one percent of the nation's voters to alter the structure of the Constitution itself, and abrogate all the freedoms we possess. Thus even our "deliberate process" of amending the Constitution is susceptible to exploitation at the hands of ill-informed masses.

There are numerous other examples of freedoms lost to majority passions this past century. For example: The rash of labor legislation enacted during the twenties, thirties and forties (the Clayton, Wagner and LaGuardia Acts, the NLRB, etc.), which destroyed the rights of workers and owners to trade and negotiate freely among themselves, was justified by the fact that the "majority of Americans" approved of it. The government's present obsessions with implementing racial-sexual quotas for company hiring and school enrolling, which violates men's rights to associate freely, are being justified by the fact that the "majority of Americans" approve of them.

Obtuse obedience to the "majority will" is thus the basis for all the present efforts to curtail free interaction, association, and trade in the United States. Supposedly the polls show that the "majority" approves of federal legislation in these areas. Yet the rights to trade openly and to associate freely are supposed to be clear-cut rights guaranteed to us as Americans. How long will they remain predominantly so? The Federal Government is so imperious now that it doesn't even bother to cajole the necessary fifty-one percent majorities of the required thirty-eight states into amending the Constitution to give it the power it wants. It merely grants itself sufficient bureaucratic power every few years to chip away at the right of citizens to dispose of their property, to trade, and to associate.

If the Federal Government can take away our right to our property (i.e., our income), our right to trade openly, and our right to associate freely because of "majority approval," then it can also at some later date take away our right to speak and write freely, our right to worship freely, our right to habeas corpus, or any other right we now possess. Yet are any of these usurpations proper or legal because the "majority will" rules them so? Or even three-fourths of the people? The answer is automatic to stalwart men of honor and principle: Might does not make right. The majority will must always be *limited*. And this is the reason why the Constitution should be interpreted literally, and why it should hold certain rights that transcend the electoral process.

This was the vision of America's revolutionaries in 1787. They gave us a REPUBLIC, not a DEMOCRACY. And though they fell short of achieving a perfect document of control over the government of their republic, they at least gave the world a spectacular start toward an understanding of the value of a written Constitution. They recognized that all humans have a basic set of rights that are essential for the living of life -- the chief of those being

freedom of thought, association and trade, and the control and disposal of one's property -- rights that were not to be taken away by single dictators, oligarchic groups, or *majority wills*.

In end, the immediate and personal committing of an evil act clearly shows one its evil, such as the individual robbing of a store. This is easily seen as wrong. But the delay and diffusion of that same evil act (such as that which takes place in a democracy, when fifty-one percent of the people vote for their legislators to slowly confiscate the store owner's wealth over the years through higher and higher taxes), clouds the concepts of right and wrong and allows the evil to become entrenched. In such a covetous climate of ethical confusion, tyranny is not far away.

Allow unthinking masses to vote their whims, and we have signed a death warrant for the ideals of liberty and high culture, for Burke's "unbought graces" of life, for equality of rights and the dream that gave birth to our nation -- the dream that said a man is what he makes of himself through individual effort to produce new wealth, rather than through legislative coercion to redistribute his neighbor's wealth. Look around America today. Where is there true liberty and high culture? Where are there any of the "unbought graces" of life? Where is there equality of rights? Where is the American Dream of life built solely upon individual effort?

Few authorities are willing to discuss it, but here is the main impediment to freedom and justice in America today -- our blind worshiping of the majority will. We are making slaves out of those who are productive, and rulers out of those who gather together in bumptious mobs. We are allowing the destruction of individual rights to be justified by the might of numbers in pursuit of public handouts. The democratic majority, overwhelmed with corrosive envy, is stepping all over the individual; and we the people have lost the clarity of mind to recognize such a crime for what it is.

Notes

1. H.L. Mencken, *Notes on Democracy* (New York: Alfred A. Knopf, 1926), p. 151.
2. *Ibid.*, p. 160.
3. *Ibid.*, p. 180.
4. *Ibid.*, p. 208.
5. Essay No. 10, *The Federalist Papers*, Roy P. Fairfield, ed. (New York: Doubleday & Co., 1961), p. 20.
6. *The Selected Writings of John and John Quincy Adams*, Koch and Peden, editors (New York: Alfred A. Knopf, 194), p. xxxii.
7. Quoted in Gottfried Dietze, *The Federalist: A Classic on Federalism and Free Government* (Baltimore: The Johns Hopkins Press, 1960), p. 61.
8. Will Durant, *The Story of Civilization, Part III: Caesar and Christ* (New York: Simon and Schuster, 1944), p. 165.

9. Gottfried Dietze, *America's Political dilemma: From Limited to Unlimited Democracy* (Baltimore: The John Hopkins Press, 1968), p. 14.

10. Alexis de Tocqueville, *Democracy in America*, J.P. Mayer, editor (New York: Anchor Books, 1969), p. 692.