

# **The Right to Alter or Abolish the Government**

GERALD R. THOMPSON



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## INTRODUCTION

If I were to tell you without qualification that the American people have a God-given right to alter or abolish the U.S. government or any state government and to replace them with something new, how would that strike you? Would you reject the idea because it is only me who is saying it? Does the idea seem too radical, or too *extreme*? Would it make a difference if you realized that without this type of radical extremist thinking, there wouldn't be a United States of America at all? Let's put it into context:

*We hold these Truths to be self-evident, that all Men are ... endowed by their Creator with certain unalienable Rights.... That to secure these Rights, Governments are instituted among Men.... That whenever any Form of Government becomes destructive of these Ends, 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. ... Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future security.* DECLARATION OF INDEPENDENCE (1776).

Still think the idea of a right to alter or abolish any of our present governments is too radical or extreme? Well, some people certainly think so, and they've taken steps to make sure nothing like what happened in the American Revolution ever happens again. First, they have taken pains to discredit the Declaration and to restrict the way it is taught in government approved curricula and government sponsored schools (including universities). Second, they have enacted statutes to strongly discourage any "throwing off" of the government, to wit:

***Rebellion or insurrection.*** *Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof ... shall be fined under this title or imprisoned not more than ten years, or both....* 18 U.S.C. §2383.

***Seditious conspiracy.*** *If two or more persons ... in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, ... they shall each be fined under this title or imprisoned not more than twenty years, or both.* 18 U.S.C. §2384.

***Advocating overthrow of Government.*** *Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State ... by force or violence, \* \* \* Shall be fined under this title or imprisoned not more than twenty years, or both....* 18 U.S.C. §2385.

Just let the above words sink in for a moment. First we have a quotation from the founding document of our nation, beloved and cherished by Americans for well over 200 years, to the effect that people have not only the right, but the *duty*, to throw off an abusive, despotic or tyrannical government which tramples on their individual rights.

Then we have laws enacted by that *same nation* having the primary purpose of ensuring that no one ever overthrows the existing government, conspires to overthrow it, or advocates its overthrow - without regard to whether those actions might actually be justified because the government has become abusive, despotic or tyrannical. Which illustrates a truism - the people have an absolute right to alter or abolish any given form of government, but *the persons in power absolutely never want people to exercise that right*.

It should be painfully obvious this is one reason (among others) why the Declaration of Independence has not been seriously regarded as *law* by legal scholars for over 100 years (and why it has been denigrated in academia). If people actually took the words of the Declaration at face value it would create all kinds of problems for our modern world, and people in academia, law and government have a vested interest in maintaining the status quo.

Belief in a government of limited powers, or (God help us!) a government that can be discarded from time to time, would put politicians and government workers of all stripes (as well as those in the symbiotic fields of law and education) at risk for losing their jobs - an intolerable risk. That is one reason why mainstream political culture left the worldview of the American founders in the ash heap of history long ago.

However, I believe the Declaration yet has things to teach us that not only have value, but authority, as we deal with the pressing issues of an overreaching, over-regulating, abusive, and dare I say, increasingly tyrannical American government (both state and federal). I'd like to show you that the ideas embodied in the Declaration are really not radical or extreme at all. In fact, it's not even complicated.

For this purpose, I will assume the Declaration's statements are *not* based on mere political expediency (*i.e.*, that the founders just said whatever they needed to say to give their political goals plausibility). I assume the founders were not a bunch of political charlatans - they actually believed what they said and were not deceived in their beliefs either. So in that light, let's consider the evidence from history and the laws of nature and nature's God, and see whether we can discover any eternal principles which undergird the Declaration's statements.

### **NOT BY FORCE OR VIOLENCE**

I am not advocating the exercise of any right to alter or abolish our forms of government by force or violence. I say this not because Title 18 of the U.S. Code forbids it, but because I simply don't need to. The right to alter or abolish is a natural right which is perfectly capable of being exercised lawfully without force or violence.

The laws of nature and nature's God allow for a way, actually several ways, to bring about fundamental government change peacefully without armed conflict. The most likely scenario for doing such a thing in America would be through a convention of states - either pursuant to Article V of the U.S. Constitution or apart from it through a Congress of States. At the state level, the people can similarly call for a constitutional convention directly.

If we look at the American Revolution, we can see that this is how the founders tried very hard to act. When the Declaration of Independence was adopted, it was brought into existence by the states through their duly appointed representatives. The Declaration followed a long series of events and documents laying the foundation for its adoption, including the Resolutions of the Stamp Act Congress (1765), the Declaration and Resolves of the First Continental Congress (1774), and the Declaration of the Causes and Necessity of Taking Up Arms (1775). All of which were adopted through duly appointed representatives of the people.

The war, when it came, was not instigated by the American founders. That is, the revolutionaries were careful not to be the military aggressors. Rather, the war was instigated by the British to prevent the American colonies from breaking free from Britain's rule. For their part, the Americans fought a defensive war, *i.e.*, to defend their right to declare independence against the British attempt to stop them.

So even though a war was fought, throwing off the British constitution in the legal sense was not accomplished by force or violence. But as often happens in life, you may have to militarily defend your freedom to act in the way you deem best. The American Revolution also illustrates the truth that no government official ever views an attempt to overthrow his position as lawful in his own mind, no matter how lawfully it may be regarded in the minds of the people who want him removed.

Looking at our current situation, no form of government can exist for over 200 years without building up a substantial amount of *systemic inertia*. By this I mean the tendency of all institutions to resist sudden or substantial changes to the direction they have been heading in up to that point.

By definition, any attempt to alter or abolish any form of civil government is a jolt to the system which will clash with that system's entrenched interests. Further, any entrenched interest will resist alteration or abolition from an outside source. And when that entrenched interest is attached to the power of the sword (*i.e.*, civil power), it will resist *violently*.

From the vantage point of those employed in government service (politicians, career bureaucrats, civil service workers, etc.), there is little difference between foreign attacks, domestic insurrection and lawful attempts to alter or abolish. Government employees are all *part of* the system, and foreign agents, domestic terrorists, and advocates of fundamental change are all *outside* the system. Thus, the response of government employees to all outside agents is the same - eliminate and crush all threats to their jobs. Keeping their jobs is more important than anything else.

Are you surprised that the current U.S. government labels Tea Party members, libertarians and militia groups as domestic terrorists? Don't be. To public employees, those people are all equally

outside the government system who want to significantly reduce the size of government or fundamentally alter the way the government does things. Which ultimately always translates into reducing the number of government agencies and employees, *i.e.*, cutting large numbers of public jobs. To those inside the government, government reduction is a threat.

In a sense, it's all about the jobs. Not just the money, but the power that goes with the position. Reduce government spending? Cut government programs? We're not just talking about money in the abstract here - but money paid to government employees to wield power. Since that is their livelihood, and it is human nature to crave power, they will use all the force and violence they can to prevent interference with their jobs, *i.e.*, positions of power.

You can talk about *special interests* all you want, but it is the *entrenched interests* you should worry about. Whenever I hear someone refer to government employees as *career bureaucrats*, a shiver runs up my spine. These are the true government insiders, who view the President as a mere temporary employee, because the bureaucrats will be there long after any President leaves office.

The upshot of which is that every government system - most especially the American system of government - will be extremely resistant to change. And that resistance will be fueled by a desire to prevent being forced to give up money and power. When people aren't fighting over religion and power, they are usually fighting over money and power, and that is as strong a motivation as anyone needs to make things turn ugly fast.

As a proponent of change (that is, to alter or abolish the form of government), you should expect that even if you are not looking for trouble, trouble will come looking for you. People in power will ignore you as long as they can, then slander and discredit you when that is no longer possible. They will heap economic and legal problems on you in an attempt to bury you under burdens that prevent your from forcefully advocating change. If that fails, ultimately they will use police actions and military force to put down your insurrection.

The astute reader will note that there are no statutes prohibiting an overthrow of the existing government, conspiring to overthrow it, or advocating its overthrow by non-violent means. That is because such statutes are unnecessary. If you work to abolish the government peacefully, the response will be to initiate an attack against you. If you defend yourself against such an attack, you will be labeled the aggressor and be found in violation of the statutes against violent overthrow. It's all very convenient.

So be warned. As a proponent of fundamental change you must not ever be a violent aggressor or the initiator of armed conflict. If it comes to violence, let it not begin with you. Just realize that violence may be an *unavoidable consequence* of actions lawfully taken. This should be a sobering thought to all who consider the matter carefully.

Ideas have consequences, and the ideas we are about to discuss in what follows are considered by some to be dangerous and/or extreme. So proceed at your own risk. But as for me, I will not be ruled by fear. Instead, I will follow the example of Jesus:

“And do not fear those who kill the body but cannot kill the soul. Rather fear him who can destroy both soul and body in hell.” Matt. 10:28.

## **GOD MAKES NATIONS - MEN MAKE GOVERNMENTS**

As we begin to consider whether people have a God-given or inalienable right to alter or abolish their form of government, we have to look at the factors which either point in that direction or mitigate against it. The first factor is whether civil governments, particularly in Gentile nations, are created, instituted or established by God or by men. If by God, then there can hardly be a God-given right to destroy what God has established. But if by men, then it is reasonable to assume that whatever men have the right to create, they can also change or destroy.

### **God Is the Creator of Nations**

When the world, and mankind, were created, there were no nations. But that doesn't necessarily mean nations were created by men. Gen. 10:1-31 gives us a genealogical list of the descendants of Noah, organized by family group, approximately 100 years after the flood (at the time of the tower of Babel). Gen. 10:32 summarizes the genealogy as follows: “These are the clans of the sons of Noah, according to their genealogies, *in their nations, and from these the nations spread abroad on the earth* after the flood.”

Gen. 10 is commonly known as the Table of Nations, because as Gen. 11:8-9 tells us, these 70 or so family groups were dispersed across the earth because they each spoke a different language. For many years these population groups had very little intermarriage, which caused each of them to develop certain distinctive physical and cultural characteristics that we now refer to as ethnicity. These ethnic groups in turn were the roots from which the nations originally sprang.

This separation of mankind into nations by language and ethnicity was not the invention of any man or group of men. The division of the world into nations was not founded on the directives of any human leader, the consent of any committee, nor was it the result of a natural evolutionary process. Rather, it was entirely God's idea - an idea imposed on mankind without its consent as a form of divine judgment. God is the maker of the nations of the world, not men.

This is confirmed by later scriptures. “When *the Most High gave to the nations their inheritance*, when he divided mankind, he fixed the borders of the peoples according to the number of the sons of God.” Deut. 32:8. “And *he [God] made from one man every nation of mankind to live on all the face of the earth*, having determined allotted periods and the boundaries of their dwelling place.” Acts 17:26. Who made the nations? God did.

However, when God made the nations, He gave not one of them a form of government. How they governed themselves was up to each of them to determine in their own way and in their own time. Even back in Gen. 9:6, when God instructed the descendants of Noah to implement capital punishment - commonly regarded as the first delegation of civil power (the power of the sword) - there was no civil government yet instituted to wield this new power. In fact, at that time there were

not yet even any nations - all of mankind was one community.

So we may say that biblically and historically, both *civil power* (Gen. 9:6) and *nationality* (Gen. 10:32) preceded the formation of any civil government. Nations came first, and civil governments followed later, which gives rise to three corollaries:

1) If nations and civil governments arose at different times, they likely arose by different means and were instigated by different persons. Sure enough, though scripture has abundant evidence of the hand of God in creating the nations, there is a conspicuous absence of similar evidence (except for Israel, discussed below) that He had a hand in creating any civil government. The absence of something does not prove the point, however, so I will take up this subject in more detail immediately following.

2) Logically we must conclude that nations and civil governments are not the same thing, but are two separate things. The same distinction can be made between the true Church (the invisible body of Christ) and religious institutions (the visible church). One reflects the other, and one is made to govern the other, but what God makes and what men make can never be made equal or identical. But I digress. I will discuss this topic in the next major section below.

3) Civil government was not (and is not) necessary for either the existence of nations, or the existence of the valid use of civil power. At this point we come to an *inconvenient truth*: civil government may be useful, but in the plan of the God who made man, it is not indispensable. No, I'm not seriously advocating that all civil government be done away with. Yes, I am seriously advocating that no *particular form* of civil government is absolutely critical to mankind's existence. [Do you think people cannot possibly live well on the earth without the U.S. Constitution? Based on what?]

### **Governments Are Instituted Among Men**

What we have as between God and men is a division of labor. God makes nations and He grants and defines the nature of civil power. God establishes rules and parameters (*i.e.*, laws) by which all civil governments are constrained, but He does not actually *form* (that is, create or structure) civil governments. (More on this later on.) What man does is to determine the form of government, what documents (if any) will establish and/or define that government, what powers may be exercised in what ways, and the manner of succession. God does not interfere in such matters.

The one exception, of a sort, was ancient Israel, which was a unique situation in the history of the world. What made it unique is that ancient Israel is the only nation in which God was actually: 1) a party to the national covenant (*i.e.*, constitution); and 2) king of the nation. These two things are what make for the existence of a true theocracy. No other nation in the history of the world can make the claim to be a theocracy in the sense that Israel was. The case of ancient Israel is unique.

Now the nation of Israel was not formed at Babel as were other nations, but was made from the descendants of Jacob (renamed Israel) - an act of God, not men. But Israel was not an *independent*

nation until centuries later when they were delivered from bondage in Egypt and crossed the Red Sea. It was at this point that the people of Israel first began the task of organizing a government.

In Exo. 19:5-6 God first announced His intention with respect to the nation. “If you will indeed obey my voice and keep my covenant, you shall be my treasured possession among all peoples, for all the earth is mine; and you shall be to me a kingdom of priests and a holy nation.” The response of the people is recorded in Exo. 19:8: “All the people answered together and said, ‘All that the Lord has spoken we will do.’”

In other words, before any form of government was instituted, the first act of the people was to agree to make a national covenant with the Creator, who had called them to be a special people and a holy nation. This agreement was made by the people of their own free choice, and not by coercion.

Then, after the Ten Commandments had been delivered and various laws and rules had been spoken in the hearing of all the people (*i.e.*, when the people actually heard the terms of the covenant), they gave their consent again.

Then he took the book of the covenant and read it in the hearing of the people. And they said, “All that the Lord has spoken we will do, and we will be obedient.” And Moses took the blood and threw it on the people and said, “Behold the blood of the covenant that the Lord has made with you in accordance with all these words.” Exo. 24:7-8.

The first system of government adopted in ancient Israel was a system of judges, whereby the judge would be the court of last resort in a judicial sense and also wield some limited executive power (*i.e.*, leader of the army, a commander-in-chief function). But even this system was largely self-directed by the people. Moses, at the urging of his father-in-law Jethro (not God) was advised to:

“look for able men from all the people, men who fear God, who are trustworthy and hate a bribe, and place such men over the people as chiefs of thousands, of hundreds, of fifties, and of tens. And let them judge the people at all times. Every great matter they shall bring to you, but any small matter they shall decide themselves.” Exo. 18:21-22.

Israel’s government during the time of the judges was one of the most de-centralized national governments in the history of the world. Most all government matters such as disputes and law enforcement were carried out in this multi-tiered fashion whereby the bulk of government functions occurred at the local level, not the national level.

Which brings us to the last verse in the book of Judges: “In those days there was no king in Israel. Everyone did what was right in his own eyes.” (Jdg. 21:25.) This verse is often taken by commentators as an implicit indictment against the Jewish people, but I read it differently.

If nothing else, it indicates that the system of judges was highly de-centralized, had very limited powers, and essentially left the people to govern themselves as they saw fit. In other words, both God and man placed a high value on self-government. *Which was a good thing*, because that’s what

God intended. It's not exactly the first thing that comes to mind when you envision a theocracy, is it?

What happens next in the history of Israel is even more instructive. The transition from a system of judges to a monarchy wasn't God's idea either. It was driven by popular demand.

Then all the elders of Israel gathered together and came to Samuel at Ramah and said to him, ... "Now appoint for us a king to judge us like all the nations." And the Lord said to Samuel, "Obey the voice of the people in all that they say to you, for they have not rejected you, but they have rejected me from being king over them. ... Now then, obey their voice; only you shall solemnly warn them and show them the ways of the king who shall reign over them."  
1 Sam. 8:4-5, 7, 9.

So when it came to governing the theocracy, God (the Creator, the Almighty, and the king of Israel) deferred to the wishes of the people. He neither forced a monarchy upon them, nor did He veto a change in the form of government when the people asked for it. He merely warned them what a more centralized government with a strong executive power would look like. Then He let the people decide what to do. And they decided to go for it, despite the warnings. 1 Sam. 8:19-20.

Ah, but you may say, "Didn't God anoint the kings over Israel, thus proving that He instituted the monarchy?" Yes, God did anoint the kings over Israel. But this made none of them actually king.

Saul was anointed by Samuel in 1 Sam. 10:1, but he was not actually made king until he was presented to the people and the people shouted, "Long live the king!" in 1 Sam. 10:24. Similarly, David was anointed Israel's next king in 1 Sam. 16:13. But Saul was still king at the time, and David was probably only a teenager. In any event, it was several years before David actually became king, and then only when accepted as king by the people.

It is precisely this situation which Samuel Rutherford used to argue that it is the people who make a king, not God. "If the Lord's immediate designation of David, and his anointing by the divine authority of Samuel, had been that which alone, without the election of the people, made David formally king of Israel, then there were two kings in Israel at one time," a situation which Rutherford called "most repugnant to God's truth and sound reason." Rutherford, *Lex Rex*, Question 4 (1644).

In fact, David ruled over only the tribe of Judah for 7½ years. 2 Sam. 2:11. He was not installed as king over the entire nation until the elders of all the tribes of Israel came to David and made a covenant with him, *i.e.*, until David had the consent of the people. 2 Sam. 5:1-4. Although God had a hand in conferring succession to the throne of Israel with David's descendants (2 Sam. 7:16), this did not put God in the business of instituting Israel's form of government, which by that point had already been established by the people.

Besides, God retains the authority and discretion to raise up and remove leaders in any nation, not just ancient Israel, none of which puts Him in the *government formation* business. More on this point below.

So even though ancient Israel was an exceptional case - a theocracy - the form of its government was driven by the consent of the people, not by divine imposition. In a way, ancient Israel is our hardest case. If God let the people choose their form of government in a theocracy, then why on earth would He intervene by imposing a form of government in any other non-theocratic nation? And if He had ever imposed a civil government elsewhere, *what nation would it be and where is the evidence for it?*

It would seem the general rule in Gentile nations is that civil governments are instituted among men via the consent of the governed. At least, that is what the American founders believed: *governments are instituted among men, deriving their just powers from the consent of the governed* (Declaration of Independence). The founders were also familiar with what the scriptures said about ancient Israel: “Now these things happened to them as an example, but they were written down for our instruction.” 1 Co. 10:11.

### **A NATION AND ITS GOVERNMENT ARE NOT THE SAME**

The next thing to consider regarding the possible right of the people to alter or abolish their form of government is whether a nation and its government are two different things, or one and the same. If they are the same, then to destroy a government is to destroy a nation which God has created. If they are not the same, then to destroy a government has the potential to leave a nation intact and leave God’s creation untouched. Obviously the preceding discussion heavily leans toward a nation and its government being two separate things. But let us examine the matter more closely by comparing the case examples of ancient Israel and the United States of America.

As discussed above, after Israel had existed for about 400 years, it radically changed its form of government. From the time of Moses up through Samuel, Israel was governed by a series of judges which was highly decentralized and had a tribal and familial organization. Similarly, the national army was really a militia-based system which was also organized along tribal and familial lines.

Nobody’s going to argue the ancient Israelites did a terrific job at governing themselves under the judges, but that’s not the point. That’s the way God intended for them to be governed, like it or not, and He had no intention of changing it. But the Israelites had other ideas, which is what eventually brought about the monarchy.

And there is another lesson to be learned besides *consent of the governed*. When ancient Israel abolished its form of civil government (the system of judges) and adopted a new form of government (a monarchy), the nation as an entity - its people, language, culture, territory and for the most part, its laws - were unchanged. *Abolishing the form of government did not destroy the nation*. The nation itself remained intact. Why? Because a nation and its government are not the same thing.

The writers of the Declaration of Independence were familiar with the Old Testament scriptures and adopted a legal framework consistent with that model. Thus, the Declaration states that although rights are endowed by the Creator, “governments are instituted among men.” Meaning, *governments are not created by God, and rights are not created by men*. God and men are not opposed to each

other, but they play different roles and are involved in separate aspects of national formation and governance.

The plain fact is that the Declaration made no pretense to form a government of the United States. Its sole purpose was to create the nation of the United States. The formation of its government would have to come later, and be done separately. And we know from history that this is exactly how things played out - the Declaration was made in 1776, and the first national government didn't come along until 1781 in the form of the Articles of Confederation. But we are no longer governed by the Articles of Confederation. So what happened?

The Articles were replaced by the U.S. Constitution (drafted in 1787, implemented in 1789). Which is a polite way of saying the government instituted by the Articles of Confederation was *abolished*. The mission of the Constitutional Convention of 1787 was merely to alter or amend the Articles of Confederation, but instead the delegates decided to discard the Articles altogether. And far from destroying the United States as a nation, the nation was strengthened as a result. One might even say that changing the form of government was a good thing.

When you think about it, the national histories of ancient Israel and the U.S.A. have some remarkable parallels. Both were created and existed for some time before any form of government was established.

[Aside: If the analogy between ancient Israel and the United States be carried to its logical conclusion, some of you may be wondering - Who created the United States as a nation, God or men? That is an interesting inquiry, but I will not delve into it here. Instead, I refer the reader to explore *The Christian Life and Character of the Civil Institutions of the United States*, by Benjamin F. Morris (American Vision Press, 2007), or *The Christian History of the American Revolution*, ed. Verna M. Hall (The Foundation for American Christian Education, 1976).]

When created, the initial form of government in each nation was fully consented to by the people, but in each case the people grew dissatisfied with that form of government and decided to reformulate it in significant ways.

At that point in each nation's history, duly appointed representatives of the people met and decided to adopt a new form of government, which actions were ratified by the people. When the old form of government was discarded, no thought was ever given to the possibility that the nation itself ceased to exist, or was in jeopardy. The people continued as one nation through the transition to a new form of government.

In each case the initial form of government was, in a real sense, disposable, *i.e.*, not critical to the existence of the nation. And in the case of America, the initial form of government was not merely disposable, but in fact was commonly viewed as defective and/or injurious to the well being of the nation. Which is a polite way of saying the national government was more harmful than good. Its presence was not sacrosanct, but onerous.

In both ancient Israel and America the transition from one form of government to another was accomplished peacefully, without violence. No one thought that because people were proposing the adoption of a new form of government and a discarding of the old form, the proponents of change (*i.e.*, delegates to the Constitutional Convention) were traitors, rebellious, or insurrectionist. No one viewed the proposal to change governments as a threat, a crime, an act of terror, or an act of war.

So let me ask you - If a similar thing were to happen today, who would be standing in line with our own history, with the laws of nature and nature's God, and with natural right? The peaceful proponents of change who would dare to attempt to curtail tyranny, or those who would crush any such attempt with force and violence to preserve the *status quo*?

Why should the abolition of any government - even the U.S. government - be feared? Frankly, I don't see the problem. It is not only theoretically possible to alter or abolish a nation's form of government without being destructive to the nation or its people, but it has actually happened both in ancient and in modern times. So what is there to fear?

Which brings me to a final point. Every nation of course has a right to preserve its government against foreign threats and from the lawless actions of persons within its borders. However, *no government has the right of self-preservation as against the will of its own people*. The people who have the right to form a government have the inherent right to re-form it (alter) or un-form it (abolish). This right is an inalienable (God-given) right which can never under any circumstances be denied.

The creature (civil government) cannot ever say to the creator (the people), "You cannot unmake me." This is the lesson from the potter and the clay, is it not? (Jer. 18:1-11.) The creator always has complete authority over anything it creates.

Self-preservation only applies to those persons and institutions which God has created, ordained and established (individual, family and Church), not to other associations and institutions created and established by men. Civil governments fall into this second category, not the first. A civil government has no inalienable right to life.

Of course, there's always the problem of coming up with a suitable replacement government that will hopefully be better. But if that one doesn't work well, it can be replaced, too. Although, I have to admit there is no such thing as a perfect system of government. All government systems will eventually become corrupted and fail, because that is man's unavoidable nature. Until we have perfect men, there will never be a perfect government system. And that will never happen.

The American founders had a fairly good appreciation of man's fallen nature. They tried to build in checks and balances to avoid concentrating too much power in any one place so as to prevent corruption and tyranny. Today, I'm not sure that mentality prevails anywhere. If anything, people in government positions today are pursuing a civil utopia with a zeal that tells me they either think man is perfectible, or government is. In either case, they are dead wrong.

I also don't fear people wanting to re-form the government so much as I fear people will want to un-make our nation. In the case of America, that would mean not merely throwing out the Constitution, but actually undoing the Declaration of Independence and forming an entirely new nation. The main problem with that - and the usual motivation for anyone having that goal - is to get rid of the laws of nature and of nature's God as the basis for our nation's laws.

Now *that* I have a problem with, because there simply isn't any better legal context for establishing a nation, regardless of its form of government. That is where the ultimate battle over national governance lies - will we as a people continue to be governed by the laws of nature and nature's God, or not? And once a nation gets off track in that regard, how do we bring it back?

### **THERE IS NO AUTHORITY EXCEPT FROM GOD**

Earlier I spoke of a division of labor between God and men when it comes to implementing a national government. Man chooses the form of government, what powers it may exercise, and the manner in which it will endure. God, on the other hand, grants and defines the nature of civil power. Let us now examine this latter proposition, especially as it relates to the question of whether it puts God in the government formation business, notwithstanding what we have already covered.

There are a number of key delegations of authority from God to man relating to man's government. The first, coterminous with the creation of the world, inaugurated man's self-government and the institution of the family, and is commonly referred to as the Dominion Mandate. *And God said to them, "Be fruitful and multiply and fill the earth and subdue it and have dominion over the fish of the sea and over the birds of the heavens and over every living thing that moves on the earth."* Gen. 1:28.

Another such delegation, usually called the Great Commission, inaugurated the Church. *"All authority in heaven and on earth has been given to me. Go therefore and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all that I have commanded you."* Mat. 28:18-20.

Although God announced His intentions with respect to the nation of Israel and its government in Exo. 19:5-6 (which we have already examined), He made no express delegation of authority (*i.e.*, civil power) with respect to the formation of the government in any Gentile nation. Since the divine delegations of authority regarding individual, family and church government apply across the board to all mankind irrespective of nationality, we might expect God would do the same for nations. But there is none.

The closest any grant of authority comes is the authorization to implement capital punishment in Gen. 9:6 which, being the quintessential *power of the sword*, is a type of civil power. But it is not directed to any nation or group of nations, and in fact when it was given there were a total of only eight persons on the whole face of the earth. The division of the human race into nations at Babel would not occur for another one or two centuries.

This would seem to clench the argument that all civil governments are instituted among men, not by God. Because the only time when God made an express grant of civil power to mankind in general was when no nations existed. After the nations did come into existence, God never formed a civil government among the Gentiles, and never vested any civil ruler with the divine authority to rule.

What else are we to conclude? That God gave some secret authorization to certain people so they could rule over others? That by custom or habit certain special people were vested with a divine right of kings? That some people have inherited the right to rule over others, and everyone else is born in subjection to them? Well, these arguments have certainly been used before, some of which have even tried to find justification in the Bible. But let's not engage in idle speculation.

### **The Nature of Civil Authority**

If the laws of nature and nature's God are to be our guide, then what we do in fact have is a couple of statements where the nature of civil authority is generally described:

Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Would you have no fear of the one who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain. For he is the servant of God, an avenger who carries out God's wrath on the wrongdoer. Rom. 13:1-4.

Be subject for the Lord's sake to every human institution, whether it be to the emperor as supreme, or to governors as sent by him to punish those who do evil and to praise those who do good. For this is the will of God, that by doing good you should put to silence the ignorance of foolish people. Live as people who are free, not using your freedom as a cover-up for evil, but living as servants of God. Honor everyone. Love the brotherhood. Fear God. Honor the emperor. 1 Pet. 2:13-17.

These texts suggest, since they are unconnected with the formation of any particular civil government, what it is that God expects all civil governments to do. These expectations are twofold: 1) punish wrongdoers with the power of the sword; and 2) praise those who do good. As understood in the American context, these are taken to mean: 1) the administration of justice; and 2) securing individual rights.

I will not examine at this point what wrongs may be punished by men and which may not, why the American tradition reads *praising those who do good as securing individual rights*, or what things God has *not* authorized civil government to do. Each of these is worth pursuing at another time. For now, I just want to consider the nature and source of civil authority in general, and how God expects people to respond to that authority.

I purposely gave an extended introduction to these texts to lay a contextual framework for understanding them. First, that God has created no form of government for any Gentile nation, and second, that God has given no direct delegation of civil authority to any Gentile ruler. We need these basic principles firmly grounded before coming to these texts. I will begin by examining three key phrases which pose some interpretive challenges.

*For there is no authority except from God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed.* I take this text to mean primarily that civil government is not inherently evil, but that when God created the nations He in fact intended them to exercise civil power, and that it was mankind's job to institute such forms of civil government as would carry out God's intention. Note that it is civil *authority* which God has instituted, not any particular *form* of government, nor any specific *persons* as civil rulers.

*For he [the civil ruler] is the servant of God, an avenger who carries out God's wrath on the wrongdoer.* This text indicates that the institution of civil government, consistent with God's purposes and intentions, is a good thing. It is also consistent with the general intention of God that all human institutions - including individual self-government, family government, and church government - are meant to restrain evil. Civil government is likewise tasked with restraining evil - the only difference being the types of evils it may restrain and the means it may use to restrain them when compared to the individual, family and church.

*Be subject for the Lord's sake to every human institution, whether it be to the emperor as supreme, or to governors as sent by him.* It is the nature of all civil governments to have multiple layers or tiers of responsibility. We saw this in the system of judges in ancient Israel, which is carried over into the American system of federal, state and local government. All such authority, when properly constituted, is equally entitled to respect and obedience.

What I do *not* see in any of these texts is an injunction for all people to give slavish obedience and homage to their civil rulers as embodiments of the presence of God among men. First, we must read all of scripture consistent with the rest of scripture and not force an interpretation which does violence to our understanding of many other texts. Second, we must carefully note what the Rom. 13 and 1 Pet. 2 texts do *not* say, namely,

Civil rulers stand in the place of God over the people, to the extent they may exercise authority which God has reserved unto Himself alone (*i.e.*, authority over the mind and heart, and matters which God has elsewhere delegated to individuals, families or the church).

God has placed certain people in positions of civil authority, and if you dare to challenge their authority you will incur the wrath of God.

Everything civil rulers do is by definition approved and sanctioned by God, because the mere fact they are in those positions shows divine approval.

Every act taken to hold civil rulers to the limited authority God has given them is an act of

rebellion against God Himself.

### **Locke & The Divine Right of Kings**

I sincerely hope we will not ever have to re-litigate the question of whether civil rulers have a divine right to rule, be they prophet, priest, king or president. I should have thought that matter firmly settled for all ages in the negative by John Locke's *First Treatise on Government* (1680), which can be viewed in its entirety at <http://www.lonang.com/exlibris/locke/>. However, since that essay is not as well known as the *Second Treatise* and is likely not required reading material in very many schools these days, let me briefly summarize it.

At the time, the crown of England through its puppet apologist Sir Robert Filmer published a book amid much fanfare claiming to show that the king of England was, to paraphrase Romans 13, the servant of God who was instituted and appointed by God, and that the only choice of the people was to be in subjection and render obedience. Filmer's argument is referred to today as *the divine right of kings*. This is, of course, exactly the way many people even today interpret Romans 13, and such an interpretation can only ever lead to one conclusion - *absolute tyranny*.

There is nothing worse than a civil ruler who thinks not only that he has unlimited power, but he is also the special agent of God to dispense justice on earth so that his authority is beyond question. In other words, a coupling of absolute power with absolute moral authority. God is able to restrain Himself in the use of absolute power and authority, but man always corrupts it for very great evil - *absolute power corrupts absolutely*.

In any event, the arguments made by Filmer were largely based on the claim that the king derived his authority as the heir and successor to Adam - Adam the original man, of the Garden of Eden. Locke in his *First Treatise* showed that every such claim was logically false, essentially by doing a detailed exposition of the book of Genesis, destroying the concept of the divine right of kings. Locke laid bare the foundation on which Filmer's arguments rested, namely, "That no man is born free." And I say to you, that is still the issue today - are people born free or not?

Interestingly, there is one argument the English crown and Sir Filmer never made, which is the one people now commonly ascribe to Romans 13 - "the mere fact I am king necessarily proves that God put me here." You see, the English king knew that such a claim is easily refuted - all one has to do is assassinate the king and install a successor. Then the new king can claim "it must have been God's will, because He allowed it to happen." There isn't a whole lot of security in that argument.

It's funny that people today gravitate towards a line of reasoning that at the time, when the divine right of kings was popular, was known to be impractical and foolish. Oh, how far we have fallen!

Which leaves us with a terrible irony. Jesus came to bring liberty (Lk. 4:18) and God intended that civil rulers would be for our good (Rom. 13:4). Yet, the way many people read Romans 13, it brings only bondage and evil. Shame on us! The solution? Change the way we understand the scriptures. And if your pastor or teacher is leading you into submission and subjection as a way of life instead

of freedom and liberty, then change your pastor or teacher.

### **WHETHER GOD IS A KING MAKER**

But someone will ask: Doesn't the Bible say God raises up specific individuals as kings of the earth? If so, doesn't it mean that in spite of all that we have examined so far, God doesn't actually want people to be altering or abolishing governments because that would allow people to depose the rulers God has installed? And how can anyone claim to have a God-given right to thwart what God has done? Well, let's see what the Bible says.

He [God] changes times and seasons; he removes kings and sets up kings; he gives wisdom to the wise and knowledge to those who have understanding. Dan. 2:21.

The sentence is by the decree of the watchers, the decision by the word of the holy ones, to the end that the living may know that the Most High rules the kingdom of men and gives it to whom he will and sets over it the lowliest of men. Dan. 4:17.

So Pilate said to him, "You will not speak to me? Do you not know that I have authority to release you and authority to crucify you?" Jesus answered him, "You would have no authority over me at all unless it had been given you from above. Therefore he who delivered me over to you has the greater sin." John 19:10-11.

How are we to understand these verses? Let me make a couple of analogies. Suppose you pray that God will send you a husband or wife and you believe your prayer has been answered. Or perhaps someone just comes into your life unexpectedly who later becomes your spouse. After the wedding, you (like many people) are apt to say that God brought so-and-so into your life, for which you are very thankful and happy.

Yet, the reality is that between your first meeting and the eventual wedding, there was a period of dating, of getting to know each other, during which you gradually made a commitment to date no others, and to be an exclusive couple. At some point there was a proposal of marriage and an acceptance. At the wedding ceremony, vows were made and promises exchanged by both of you. Still, looking back on the whole experience, you are more likely to say, "Look what God did in our lives," rather than "Look what we made happen."

Did God force you to marry your spouse under coercion or duress? Did anything that happened occur without the consent of both of you at every step along the way? Did God bypass the institution of marriage or the family in any way, violate the norms and customs of human relationships, or negate your individual free will? Of course not. Yet you still say, "God did it."

Move to another example. Many churches, especially in the Protestant world, engage in the process of calling a new pastor from time to time. In terms of mechanics, a pastoral search committee is formed, candidates are reviewed, interviews take place, and often select candidates are invited to come speak so the congregation can hear them. After which a vote is taken, and an offer of

employment is extended, negotiated and accepted.

The net result of which is, 99 times out of 100, someone will make an announcement to the congregation that “God has called so-and-so to serve as pastor” or that “so-and-so has heard God’s call.” Did any of this occur without the consent of the church or the pastor? Did God bypass the organizing documents of the church, or its rules or procedures? Was anyone coerced or have their free will negated? Again, no. Yet people still say, “God called the pastor.”

So it is with kings and other civil rulers. The two verses from Daniel quoted above show nothing more or less than God can promote or demote individuals as may serve His purposes any time He wishes. He can grant anyone mercy, or favor, or he can judge anyone, or discipline them. God has done this throughout history and continues this type of activity today.

But when it is said that God sets up and removes rulers, or gives kingdoms to whomever He chooses, it does *not* mean that He: 1) bypasses the consent of the people; 2) uses coercion; 3) violates anyone’s free will; or 4) overturns, overrules, or sidesteps the laws of that nation. In other words, when it is said that God raises up or tears down individual rulers, it does *not* mean that God is instituting a new form of government in any nation, nor that He is altering or abolishing any form of government.

Promoting or demoting individuals with respect to positions of power does not put God in the government formation business. His intervention in the lives of individuals is perfectly consistent with the principle that governments are instituted by men.

As for John 19, Jesus’ answer to Pilate merely confirms what we already know from Romans 13 - that God established the nature and boundaries of civil power in general. There is no implication whatever that God instituted the form of government of the Roman Empire or any other Gentile nation before or since.

By this time you should see a pattern emerging: that all arguments, whether concerning the creation of the nations, the example of ancient Israel, the nature of civil authority, or the way God raises up people to prominent positions, point in the same direction, namely, that the business of setting up and tearing down civil governments is wholly within the jurisdiction of man, and not something God undertakes Himself. There is a uniform witness of the laws of nature and nature’s God to this effect.

But to see this pattern, you have to be willing to see all of the relevant scriptures in the light of each other, and not any of them in isolation. You cannot just pick out Rom. 13:1 or Dan. 4:17 by itself and make either of them into a doctrine. You have to be willing to take into account the whole counsel of God (Cf. Acts 20:27) and make sure all scriptures are read consistently with each other.

### **GOVERNMENT IS THE MERE AGENT OF THE PEOPLE**

When examining the laws of nature and nature’s God, we have a basic choice between two opposing systems: Is it God => rulers => people, or is it God => people => rulers? That is, does civil

authority flow directly from God to civil rulers, who then exercise that authority over the people? Or does civil authority flow directly from God to the people, who then delegate some of that authority to their rulers?

### **The Historical Backdrop**

Even as the divine right of kings was flourishing as a political concept after the Protestant Reformation, so too was another political concept brewing, namely, that the powers of a king are not unlimited and that the king is under the law as much as any other. This was certainly the upshot of *Lex Rex*, in which it was conceived that the king was given power by way of a limited *donation* from the people,

so as these three acts remain with the people. (1.) That they may measure out, by ounce weights, so much royal power, and no more and no less. (2.) So as they may limit, moderate, and set banks and marches to the exercise. (3.) That they give it out, *conditionate*, upon this and that condition, that they may take again to themselves what they gave out upon condition if the condition be violated. Samuel Rutherford, *Lex Rex*, Question 4 (1644).

Then there was the *Vindiciae Contra Tyrannos* (1579), in which the author took the position that all civil governments implied, if not expressly contained, a *covenant* between the people and the king. This covenant, or compact, was a limitation on the king and the powers of the government, the author taking his cue from the examples of king Saul and king David we have already discussed. But it wasn't exactly an even bargain.

It is certain, then, that the people by way of stipulation require a performance of covenants. The king promises it. Now the condition of a stipulator is in terms of law more worthy than of a promisor. The people ask the king, whether he will govern justly and according to the laws? He promises he will. Then the people answer, and not before, that while he governs uprightly, they will obey faithfully. The king therefore promises simply and absolutely, the people upon condition: the which failing to be accomplished, the people rest according to equity and reason quit from their promise.

In other words, according to the *Vindiciae*, the king promises absolutely (unconditionally), while the people only stipulate conditionally. The king may not break his promise to the people under any circumstances, but the people may break their compact with the king if he behaves wrongly. The author then states the obvious logical conclusion:

Now, seeing that the people choose and establish their kings, it follows that the whole body of the people is above the king; for it is a thing most evident, that he who is established by another, is accounted under him who has established him, and he who receives his authority from another, is less than he from whom he derives his power.

John Locke conceived of the relationship between the people and their rulers yet another way, namely, as a form of *trust*.

There is ... another way whereby governments are dissolved, and that is, when the legislative, or the prince, either of them act contrary to their trust. \* \* \* In these, and the like cases, when the government is dissolved, the people are at liberty to provide for themselves by erecting a new legislative differing from the other by the change of persons, or form, or both, as they shall find it most for their safety and good. J. Locke, *Second Treatise on Government*, §§221, 220 (1690).

### **The American Way**

The framers were unquestionably familiar with all of these prior historical writings on the subject, as well as many others. In fact, you will find much of the language of the Declaration of Independence in Locke's 2<sup>nd</sup> Treatise, Ch. 19, *Of the Dissolution of Government*. So when the U.S. Constitution was being drafted and ratified, how was it conceived - as a donation, a covenant, or a trust?

According to Joseph Story, writing in his *Commentaries on the Constitution of the United States* (1833), the framers had a protracted discussion (during and immediately following the Constitutional Convention) about whether the United States government was founded on the principle of a compact or not. In fact, Story devoted a lengthy chapter (Bk. 3, Ch. 3) to just this question. The question is not an easy one, because as Story pointed out, there are several kinds of civil compacts.

The kind referred to by Locke and many others as a *social compact* actually had a very specific meaning, namely, an agreement between the members of society to form a civil community or a body politic. The first and most obvious example of which in America was the Mayflower Compact (1620). But a social compact as such formed no actual government and was not in any sense a compact between the people and their rulers. So Story ruled that out as a model for the Constitution.

Story explored whether the Constitution can be explained as some other form of compact. In the time he was writing (1833), the winds of Southern secession were already blowing, so he attempted to head off the twin evils of states leaving the union and individuals declaring themselves not bound by the Constitution, both of which he saw as logical outcomes if the Constitution was a form of compact. For a variety of reasons, he rejected the idea of the Constitution as any kind of compact.

Further, Story claimed that the American founders rejected that idea as well. According to Story, the framers did not want to base the Constitution on compact principles because it would make it seem like the states and/or the federal government were the equals of the people. The framers viewed the people as superior to all governments formed by them (state or federal), and all such governments as inferior. And how could you have an agreement between unequal parties?

Plus, following the rationale of the *Vindiciae*, viewing the Constitution as a compact would limit the ability of the people to alter or abolish their government to only cases of oppression - and the framers didn't want that limitation. They needed a broader principle - one that treated the people as superior to their rulers and did not regard the government as an equal. One that bound the states as much as the federal government. A principle by which the people did not serve civil rulers, but

the civil rulers served the people.

That principle was *agency*, with the people as the principal and civil rulers as their agents. Under the principle of agency, the government was inferior to the people, not an equal, and the people were its masters. Under agency, both states and the federal government were subject to the people and unable to escape from the constitutional scheme imposed on them by the people.

But most importantly, if civil authority resides originally in the people and civil rulers are merely their agents, then the people have the inherent right to remove any civil ruler, and to alter or abolish their form of government, as much as any principal can discharge an agent at will. Joseph Story, in his chapter on whether the Constitution is a compact, provided an excerpt from the constitutional debates in North Carolina as indicative of this view:

“[U]nless the rulers are guilty of oppression, the people, on the principles of a compact, have no right to new-model their government. This is held to be the principle of some monarchical governments in Europe. Our government is founded on much nobler principles. The people are known with certainty to have originated it themselves. Those in power are their servants and agents. And the people, without their consent, may new-model the government, whenever they think proper, not merely because it is oppressively exercised, but because they think another form will be more conducive to their welfare.” [Joseph Story, *Commentaries on the Constitution of the United States* (1833), Bk. 3, Ch. 3, §358.]

In the early years of the republic, these principles were well known and understood.

[I]n a republic, they [the people] assemble and administer it by their representatives and agents. Federalist, No. 14.

The federal and State governments are in fact but different agents and trustees of the people. Federalist, No. 46.

If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents. Federalist, No. 78.

It being one of the great, fundamental principles of the American governments, that the people are the sovereign, and those who administer the government their agents, and servants, not their kings and masters. [St. George Tucker, *Notes of Reference*, Vol. 1, Note D (1803).]

[W]hen the constitution is founded in voluntary compact, and consent, and imposes limits to the efficient force of the government, or administrative authority, the people are still the sovereign; the government is the mere creature of their will; and those who administer it are their agents and servants. \* \* \* And if it should happen that time and experience may

demonstrate that the people have adopted, or consented to a pernicious plan; whose destructive tendency they have discovered; and now see their error; taking that plan to tend to their good, which they find has the most opposite tendency; they are free from its obligation, and may insist upon a new model of polity. [St. George Tucker, *Notes of Reference*, Vol. 1, Note B (1803).]

So wrap your head around this if you will. It wasn't good enough for the framers that the people should be able to alter or abolish their government only in the case of oppression, but the people needed to be able to alter or abolish the government whenever they thought it might be beneficial. Talk about pushing the envelope. And nobody in 1787 thought the framers were extremists, radicals, or terrorists because of this. They were just stating the obvious.

### **Principles of Agency**

The fact that in America true sovereignty resides in the people and government is the mere agent of the people carries with it certain corollary principles as dictated by the law of nature. I suggest the following are among those corollaries dictated by nature:

- A. The agent has no inherent or natural authority, and no inherent or natural rights. The agent only has what the principal expressly gives it, and no more. Look closely at the 9<sup>th</sup> and 10<sup>th</sup> Amendments to the U.S. Constitution. The people have powers, some of which are delegated to the states or the federal government (10<sup>th</sup> Amend.). But neither the states nor the federal government have any rights - only the people have rights (9<sup>th</sup> Amend.).
- B. Just because an agency has been created does not deprive the principal of its original authority. The principal retains full authority to act on its own behalf and in its own self-interest. Just because the people have created a government does not mean they have deprived themselves of the ability to engage in self-government, or that ultimate sovereignty does not still reside with them.
- C. The principal can discharge the agent at any time without the consent of the agent. The agent has no right to retain its agency against the will of the principal. Any form of government is disposable and the people can alter or abolish their government at any time without the consent of public officials as a matter of natural right.
- D. The agent owes a duty of allegiance and obedience to follow the will of the principal - the principal owes no such duty to the agent. People are the masters, and public officials are the servants. It is not the duty of the people to serve the goals of public policy, nor the right of public officials to bend the people to their will as to how society should operate.
- E. Since the authority of an agent is derivative and delegated, it can never expand its own authority beyond whatever authority the principal had in the first place - the agent can never become greater than the principal. If I do not have the right to tell my neighbor what to do with his property, how to run his business, what contracts he must make, or spy on his

private communications, I cannot delegate that authority to a government agent, nor can a government agent vest himself with that authority.

F. If the agent purports to do things which the principal never had the right to do, it is illegitimate and a usurpation. When public officials tell us what to do with our own property, how to run our businesses, dictate the terms and kinds of contracts we must make, and spy on our private communications, it is usurpation, oppression and tyranny.

G. The mere substitution of a new agent for an old agent under the original grant of agency does not vest the new agent with any powers the prior agent did not have. In our constitutional system, every election is not a new authorization or a new grant of power. So unless the Constitution is changed, there are no new "mandates." Elections are not how the people delegate new authority to their agents.

### **AN INALIENABLE RIGHT**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. U.S. Const., 9<sup>th</sup> Amend.

The question naturally arises, when the 9<sup>th</sup> Amendment says the people retain other rights besides those listed in the Constitution and the Bill of Rights, what rights these are? The obvious answer, from a Lonang perspective, is whatever other rights are given to man by God. We need not scour the laws of nature and nature's God to determine all of the possible rights given to mankind because for the present purpose it is enough to refer back to what we have already covered.

Namely, that *God* gave mankind the right to institute such forms of government as should seem best to the people; that the people have the right to determine what documents (if any) will establish and/or define that government, what powers may be exercised in what ways, and the manner of succession; that *God* put all civil sovereignty ultimately in the hands of the people of every nation, and that He does not interfere with its exercise by the people.

A chief tenet of the law of accountability is that people owe the duty and accountability for the exercise of any authority they may have solely to the source from which it came. If the authority of the people to form, re-form and un-form civil governments comes from God, then to God alone are the people accountable, and most certainly are they not accountable to their delegees, their agents or their servants whom the people have chosen.

This accountability of the people to God alone, and not to their civil rulers, is what makes any God-given authority of the people an inalienable right. For as James Madison recognized,

It is unalienable ... because what is here a right towards men, is a duty towards the Creator. ... This duty is precedent both in order of time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe: And if a member of Civil Society,

who enters into any subordinate Association, must always do it with a reservation of his duty to the general authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign. J. Madison, *Memorial and Remonstrance Against Religious Assessments* (1785).

This conclusion is not merely my opinion. The manifold witness of the American founding is that the right of the people to form, re-form and un-form civil governments is an inalienable right.

[W]hen any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal. *Virginia Declaration of Rights*, §3 (1776).

Plus, of course, we have the witness of the Declaration of Independence. In that document, although it sometimes speaks of inalienable rights in general, there are exactly five things expressly denominated as rights and one additional right strongly implied: 1) life; 2) liberty; 3) the pursuit of happiness (primarily contract and property rights); 4) the right of representation; 5) equality (strongly implied in that all men are *created* equal); and 6) the right to alter or abolish the government.

Notwithstanding that the Declaration is (sadly) usually ignored for legal purposes today, life, liberty the pursuit of happiness, equality and representation are all still held in high regard as rights which are absolutely essential to the nature and composition of American civil society. These have not diminished in importance as basic rights over time.

My question is why the right to alter or abolish the government should be held in any lesser regard than the other rights named? Clearly the founders recognized the right as essential and inalienable, for of all the rights mentioned in the Declaration, the right to alter and abolish is the only one mentioned twice. (The second time is when the Declaration states, “it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future security.”)

The Declaration mentions the right of the people to alter or abolish their form of government in the same context, even the very same paragraph, as its mention of life, liberty, equality and the pursuit of happiness. Therefore, it is not only reasonable, but contextually required, that we read the right to alter or abolish in the same light as we read the other rights, and that we hold it in the same regard.

We need to ask ourselves whether the statements in the Declaration concerning the right to alter or abolish were *true* when they were written? Are they true now? Obviously circumstances in the world and in America have changed since 1776, but has anything changed in the laws of nature and nature’s God between then and now that would make the Declaration less true over time? Or, if you will, since the right to alter or abolish is a God-given right, has God changed His mind or the way He deals with mankind since 1776?

If so, where is the evidence? If not, then act on the truth we know. Because there is one thing about inalienable rights that you should never forget. Inalienable rights are eternal. Inalienable rights are bestowed by the Creator God who never changes. Cf. Heb. 13:8. Societies and governments may come and go, but the right to alter or abolish the government will always be there.

### **WHY MESS WITH NEAR PERFECTION?**

You may be asking yourself whether I actually want to significantly change or abolish the U.S. Constitution, but that isn't really the question.

The question is whether the federal government has gotten out of control to the point where it is continually trampling on more and more individual rights, denying more and more individual freedoms, and instead of establishing justice, promoting the general welfare and securing liberty, it is continually engaged in corrupting justice, promoting special interests and becoming oppressive.

I believe that is exactly what has happened, and I will detail the manner of current government oppression in the next section.

I don't harbor any grudges against the American framers or the chief product of their efforts, the U.S. Constitution. By any fair reckoning, the Constitution was a remarkable achievement in the annals of world history which brought unparalleled freedom, prosperity, peace and stability to our nation, helping us to become foremost among the nations of the earth in many ways. I would never want to disturb the vital constitutional doctrines of the separation of powers, of federalism, of enumerated powers, or the preservation of individual rights.

But beginning in the aftermath of the Civil War, greatly accelerated by reason of our national responses to World War I, the Great Depression, the upheaval of the 1960's and the attack of 9/11, things began to go terribly wrong. And instead of correcting past errors since then, things have only gotten exponentially worse since 2008 with regard to individual rights and freedoms.

So, yes, there are definitely some things I'd like to change.

I would make some things which were well understood when first written more clear and unambiguous so as to prevent their continued misinterpretation by Congress and the courts, *e.g.*:

- the first 8 articles of the Bill of Rights only apply to Congress, not the states (doing away with the so-called incorporation doctrine);
- the commerce clause only applies to eliminating state erected barriers to commerce, and is not a great substantive power for Congress to regulate the nation's commerce down to the local and individual level (doing away with the so-called interstate commerce power);
- defining *natural born citizen* as requiring that *both* of the parents of a presidential candidate must be citizens of the U.S., instead of leaving it for people to discover by reading Vattel's *The Law of Nations*; and
- clarifying that the preamble to the Constitution grants no substantive powers to provide for the general welfare of the nation.

I would add language specifically abolishing a number of Supreme Court inventions out of whole cloth, such as:

- the myth of judicial supremacy, that Supreme Court opinions are the supreme law of the land (restoring the Supremacy Clause to apply only to legislation, not judicial opinions);
- all notions of substantive due process and the dormant commerce clause (which are complete judicial fictions);
- the notion that *the public interest, convenience or necessity* is a sufficient constitutional basis for passing legislation;
- the fiction that Congress can delegate rule-making authority to administrative agencies or to government employees who are not elected representatives of the people; and
- the doctrine of implied powers, which subverts and negates the constitutional framework of enumerated powers only.

I'd instantly repeal the 17<sup>th</sup> Amendment (which took away the election of senators from the states and destroyed the constitutional structure of federalism).

But there are some things I think the framers actually got wrong and/or just completely missed because they weren't issues at the time, including:

- limiting the term of all members of Congress (both House and Senate) to twelve years; and
- limiting the terms of justices of the Supreme Court, and in fact all federal judges, to twelve years.

Finally, I would correct a number of fundamental misconceptions about the nature of civil authority and the limited function of civil government, namely:

- ban the government from being charitable with taxpayers funds (all forms of public assistance and welfare);
- ban all federal pensions except for wounded, killed or MIA military personnel;
- limit salaries, staffs and perks for all government employees;
- deny any separate staff or perks to the First Lady (merely being married to the President is not a government position);
- eliminate *all* so-called independent agencies (which constitute an unconstitutional fourth branch of government);
- repeal 90% of Title 42, U.S. Code (regarding the public health and welfare); and
- divest the federal government of 90% of its land holdings.

But let's face it, the main problem isn't actually the U.S. Constitution *per se*. The problem is the way it has consistently been misconstrued, perverted and outright ignored. And the fact that government employees and representatives are constantly thinking of ways to have the government do something new and additional, or have it do things in a bigger way than before. Everyone, it seems, wants their budgets to be expanded.

The time for that is past. We don't need the government to do more new things, or to do old things in a bigger way. We need the government to do less, and to get out of the way of the private sector. When God laid out the framework for civil authority, He did not envision or empower people to

create a centralized structure, but a decentralized one. Self-government is the rule - from the bottom up, not the top down.

However, I'm not sure there are enough people in the U.S. today (I'm talking about roughly a hundred people or so) who I would trust to write an all-new Constitution based on the principle of self-government. The framers were steeped in a common worldview, based on strong biblical teaching of a federal theology derived from a Judeo-Christian framework that is no longer commonly shared or well known.

Frankly, the most frightening possibility to me is throwing 100 modern Christians into a room and asking them to write a Constitution - which would be disastrous, because modern Christians simply have no clue about historic federal theology or any significant appreciation of the substance of the laws of nature and nature's God.

But of course, you'd never get Christians of any stripe to be a majority of a convention body today, which only goes to the point that the worldview framework of any group of constitutional 'experts' or political wannabees would be so fractured, so disparate that they wouldn't be able to agree on anything, or if they did, it would be horribly wrong. Can *you* name 100 people you would trust to create a *new and better* government structure?

In the end, however, exercising the right to alter or abolish isn't about getting my personal wish list, or anyone else's wish list (such as the Liberty Amendments proposed by Mark R. Levin), enacted. In fact, altering or abolishing the government isn't really about the Constitution at all. At root, the Constitution isn't the main problem. The main problem is the way everyone - government employees, public officials, public welfare recipients and the average voter - all *think* about government.

Thanks to the relentless efforts of the progressive movement, we have become a society not of free individuals, but of collectivist thinking drones.

Maybe what we really need is not a wholly new Constitution, but a fresh start, a reset, accomplished by brooming out all of the current people in government and forbidding them to return to government service. Accompanied by getting government out of the education business altogether, so maybe in a generation we can transform our population back into a society of free individuals.

In any event, something major has to be done. *Status quo* will lead America in only one direction - tyranny and despotism. Are we just going to sit by and let it happen?

## **A LONG TRAIN OF ABUSES AND USURPATIONS**

According to the Declaration of Independence, the people have the right and duty to "throw off" a government when a long train of abuses and usurpations indicates that the government is: 1) intent on destroying the inalienable rights of the people; or 2) intent on wielding unlimited power (that is, it has become *despotic*).

Unfortunately, the train of abuses and usurpations of the current government system in America (both state and federal) is growing at an alarming rate. In the words of the Declaration, let facts be submitted to a candid world.

The President has:

- appointed numerous officials to new offices or positions not authorized by Congress;
- made numerous recess appointments when Congress is not actually in recess;
- legislated from the Oval Office by issuing rules and regulations for the general public by executive fiat;
- decided which laws he will enforce or not and refuses to enforce those laws he does not personally approve when he has no discretion in the matter;
- refused to secure our national borders or enforce existing valid immigration laws;
- used the armed forces of the nation as fertile ground for implementing social policies relating to sexuality, gender and religion which are detrimental to force readiness, force capabilities and troop morale;
- undertaken actions for the sole purpose of achieving political ends without regard for the good of the people or his constitutional duties;
- implemented a foreign policy in which he refuses to name or acknowledge our actual enemies and uses euphemisms and weasel words to obscure the nature of the enemy;
- offended, rebuffed and spurned our international allies, while easing restrictions on our enemies and bowing to their leaders;
- vowed to hold terrorists responsible for attacks against us, but actually does nothing to apprehend or punish them; and
- allows agencies under his authority to wrongfully target people based on political or religious beliefs and refuses to hold anyone accountable.

Congress has:

- passed burdensome laws without knowing what was in them and openly mocked the requirement to read aloud and debate legislation prior to passage;
- farmed out the writing of major pieces of legislation to private interest groups and then adopted the same as their own work product;
- placed many burdensome requirements on the people which Congress exempts its own members and their staffs from sharing;
- failed to pass annual budgets as required by law or to restrain its own spending habits;
- authorized unprecedented increases in the national debt limit which have endangered the national economy;
- failed to hold the Federal Reserve accountable or to reign in its inexcusable printing of fiat currency in large quantities;
- established phony courts such as the FISA court which operate in secrecy and whose proceedings are completely *ex parte* (a non-adversarial proceeding, *i.e.*, no actual case or controversy);
- violated the separation of powers and usurped judicial power by taking testimony, administering oaths and using subpoenas to compel testimony in non-judicial hearings;
- used the tax laws to achieve a coercive redistribution of wealth under the guise of social welfare programs and individual tax subsidies;

- enacted manifold legislation based on a non-existent power to regulate things which merely affect interstate commerce indirectly;
- delegated legislative authority (rulemaking) to so-called independent agencies which have no accountability to the people;
- created a sizeable fourth branch of government consisting of administrative agencies which have no accountability to the people; and
- exercised a general police power that the Constitution intentionally reserved exclusively to the states.

The Supreme Court has:

- colluded with Congress to deprive the states of their proper spheres of sovereignty and so defeat the will of the people;
- created numerous fictitious constitutional doctrines out of whole cloth, such as substantive due process and the dormant commerce clause, all evincing a design to increase federal power;
- ‘incorporated’ the Bill of Rights intended solely for Congress and applied them to the states in violation of state sovereignty;
- proclaimed that its opinions are the supreme law of the land, whereas the Supremacy Clause applies solely to legislation, not judicial opinions;
- looked the other way and ignored pleas to enforce the natural-born citizen clause;
- refused to adhere to a color-blind or race neutral policy for government actions, instead deferring to the false gods of affirmative action and diversity;
- created non-existent individual rights to reproductive health based on penumbras and notions of social progress;
- refused to enforce familial rights to reproductive health based on the laws of nature and nature’s God;
- manufactured criminal procedure rights (Miranda warnings, state provided legal counsel, etc.) and prisoners’ rights (sex change operations, etc.) out of thin air;
- upheld the taking of private land by government for non-public uses, including private redevelopment; and
- allowed Congress and the President to expand the scope of federal powers well beyond anything envisioned by the Constitution and failing to act as guardians of the rights of the people.

Additionally, both state and federal governments act in numerous ways to defeat the rights of the people.

Government has deprived or subverted the right to life by:

- making the wholesale slaughter of unborn children not only permissible, but protected as a civil right;
- caring more for the lives of lower animal species through protective legislation than for unborn children;
- treating lower animals as having rights of property and inheritance;
- authorizing the assassination of people for political purposes, to protect government bureaucrats, or supposedly for national security reasons;

Government has deprived or subverted the right to personal liberty by:

- using national security as an excuse to deprive individuals of the due process of law in interrogations;
- engaging in the secret or forcible rendition of suspected criminals to another country without due process of law;
- creating a personal right to engage in immoral sexual behavior and to terminate pregnancies where no natural rights exist;
- engaging in intrusive government tracking of individual movements, electronic activities and transactions which are private in nature;
- involuntarily conscripting every teacher, health care professional and child care worker as a confidential informant (*i.e.*, government agent) with respect to the treatment of children; and
- granting anonymity to such informants depriving the accused of the right to face their accusers.

Government has deprived or subverted the rights of free speech by:

- treating institutional press organizations and personnel as entitled to freedom of the press, but denying that same right to unaffiliated individuals;
- restricting personal speech and behavior according to the dictates of the false gods of political correctness and zero tolerance policies in violation of the individual right of free expression;
- penalizing so-called hate crimes, when hate is exclusively within God's jurisdiction to deal with and no man has authority to punish; and
- limiting the time, place and manner of free speech based on the content of that speech.

Government has deprived or subverted the rights of religion and conscience by:

- denying to Christians the same freedom of religious expression which is afforded to people of other faiths;
- denying to individuals the freedom to make religious discriminations in their private associations, business transactions and employments;
- denying military chaplains and other government employees the right to freely practice their religious beliefs, including the right to proselytize;
- forcing private organizations to support health care policies which violate their religious beliefs;
- treating clergy as persons entitled to special tax and legal benefits in violation of the universal religious rights of all individuals to be treated equally in their religious capacities; and
- treating certain religious organizations as entitled to special exemptions in violation of the universal religious rights of all individuals and the prohibition of establishments of religion.

Government has deprived or subverted the rights of family government by:

- permitting the adoption of children by same-sex couples to whom God has given no natural right to bear children;
- permitting the artificial insemination of unmarried persons to whom God has given no natural right to conceive or bear children;
- restricting and denying the right of parents to control the sexual education, sexual behavior, and access to contraceptives or abortions of their children during their minority;
- restricting, regulating and licensing parents in the discharge of their natural rights and duties to educate their children in any manner they see fit;
- forcibly removing children from their parents based on non-compliance with government

standards for the education, care or discipline of such children; and

- coercively imposing progressive ideals of education through compulsory attendance laws, funding by property taxation, the licensing of teachers, and state approved curricula.

Government has deprived or subverted the rights of private property by:

- telling people what crops they can or cannot grow on their own land;
- telling people what they can or cannot build or develop on their own land;
- telling people that business activities which are perfectly lawful when conducted elsewhere cannot be conducted from their homes;
- requiring the preservation of habitats, wetlands and other environmental zones when their modification poses no common law nuisance or trespass to other property owners;
- imposing environmental regulations on privately held property;
- taxing property, gifts, estates and inheritances;
- taking private property in the name of a 'public use' but in reality turning such property over to another private owner;
- regulating land use for aesthetic purposes and to achieve other social goals through the use of zoning laws;
- designating various agricultural crops which God has made as contraband, making it illegal to grow, sell or possess them; and
- imposing licensing, regulation and taxation on the processing of agricultural produce for personal use or consumption (such as tobacco and alcohol).

Government has deprived or subverted the rights of free enterprise by:

- subverting the bankruptcy laws by denying the claims of legitimate creditors and granting improper claims to special interest groups for political favor;
- using taxpayer monies to fund the bailout of private enterprises;
- placing an inordinate and extreme amount of land in the nation under the sole dominion of the federal government, restricting its cultivation, habitation and development for commercial purposes;
- using taxpayer funds to prop up favored private business enterprises in obeisance to the false gods of green energy, environmentalism and sustainability in subversion of private markets; and
- taxing and regulating carbon dioxide emissions, which is the same as taxing the air, when the Creator has ordained that all living things other than plants should emit carbon dioxide, which is their natural right so to do.

Government has deprived the rights of private employers by:

- forcing them to hire people whose beliefs or lifestyles are repugnant to them, and prohibiting employers from making hiring and firing decisions based on factors they alone deem relevant, all in violation of the freedom of association;
- dictating the terms of employment, including wage and hour regulation, health care coverage, the provision of contraceptives and other benefits to employees at no cost, all in violation of the freedom of contract;
- forcing them to recognize and deal exclusively with labor unions, prohibiting the hiring of non-union employees, and subjecting union contracts to government oversight, all in violation of the rights of contract and association;

- involuntarily conscripting every private employer as a tax collection agent by making them collect, pay and account for taxes owed by others, namely, their employees;
- imposing numerous other regulatory burdens on the conduct of private enterprise which are unfunded liabilities, undertaken to impose non-consensual social policy objectives, thereby decreasing profits and incentives, and in many cases causing businesses to close not because of market factors but because of excessive government regulations;
- regulating business endeavors by imposing fees, licensing requirements, as well as time, place and manner restrictions, arbitrarily making illegal what is inherently lawful by natural right;
- granting monopolies to labor unions to represent employees and then forcing both employers and employees to deal exclusively with such unions under penalty of law; and
- imposing government restrictions (via licensing) on the number and qualifications of people who would choose a particular line of work.

Government has further deprived or subverted the rights of free association and contract by:

- requiring individuals to enter into private contracts for the purchase of auto or health insurance under penalty of law and dictating the terms of those policies;
- prescribing the terms and conditions of private contracts for the purchase of all manner of services and products (price controls, legal tender laws, etc.);
- prohibiting individuals from personally choosing with whom they might enter into all manner of business transactions, while at the same time allowing government to discriminate against persons in the name of achieving diversity, when the legal rights and duties are exactly the reverse;
- requiring private associations in the name of diversity to admit members and install leaders who fundamentally disagree with the purposes of the association; and
- using tort law to hold parents responsible for the sins of their children, and using affirmative action laws to hold children responsible for the sins of their ancestors.

The Declaration of Independence listed a mere 27 items of complaint, which to the minds of the signers constituted a long train of abuses and usurpations. I have here listed 89 items of complaint, and I have no doubt but that with some helpful suggestions by my readers, that list could be expanded. But really - how many items of complaint does anyone need?

By the standard used in the Declaration of Independence, have things reached the point where a long train of abuses and usurpations has made it necessary to make some fundamental changes to our government? You bet they have.

## **CONCLUSION**

It is a great and terrible truth that whatever people have the right to institute among men by the consent of the governed, they also have the right to alter or abolish by consent. These two great powers are two sides of the same coin, for one cannot possibly exist without the other. It is a package deal - you either get all of it, or none of it.

People not only have the right or ability to do these things, they have the duty or obligation to do them. It is irresponsible to fail to implement God's design for the government of any nation by

inadequately establishing a framework for the administration of justice and the securing of individual rights. It is just as irresponsible to fail to correct the situation when government gets so out of whack that the justice it administers is no longer just, and the individual rights of the people are no longer secure.

We as a people cannot do nothing. If not for ourselves, we owe it to our children - our posterity - to provide new guards for their future security when the existing ones have failed. This power is not to be taken lightly, nor should it be exercised regarding governments long established for light and transient causes.

But I hope you have seen the things with which we are now faced are not merely political differences, and the goal is not merely some light and transient cause. The struggle we are now facing is not about tweaking the government so that it can run better. It is about significantly paring back the size and scope of government. The government is simply doing too many things it shouldn't be doing at all. Eliminating fraud, excess and corruption isn't the issue. It's about eliminating usurpation and setting the people free from their governmentally imposed chains.

All the jousting between political parties (Republican, Democrat, Independent) and philosophical camps (progressive, establishment, tea party) is just a distraction. If there's one thing we should recognize by now, the problems we face with our government's excesses and tyrannization of the people cannot be solved by any election, or series of elections. Merely getting "our" people in and "their" people out isn't the solution if the entrenched interests and bureaucratic machinery currently in place remain intact.

Merely pouring new wine into old wineskins won't solve anything - in fact, it is just as likely to make the situation worse. Cf. Mat. 9:17. The wineskin itself (government structure) must be changed before the new wine (new people) can be put into it in order to make the whole thing work.

Ultimately, we as a nation must reject the idea that the state (*i.e.*, civil government in general) is the supreme achievement of mankind. Instead, we must embrace the ideal that the true foundation of every society is self-government, and those people are most free who have learned how to effectively stop the growth of civil power. Progressivism holds that progress is measured by an increased centralization of power. But I say the real progress of history is the ability to limit tyranny. That is the goal we must press toward.

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*Legal Foundations: The Framework of Law*

*Studies in the Laws of Nature's God*

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