

The State of the Union under a failed Constitution

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*The nature and manifestation of the legal profession's tyranny over the nation.*¹

Federalists 86, 87, 88 and 89, by this author identified the unconstitutional effective control of all government by members of the legal profession, as the most important single problem the nation faces today. That is because control by a single '*same hands*' group, is a violation of the separation of powers principle of the US Constitution. That control was characterized by James Madison, author of the Constitution, as '*the very definition of tyranny.*' That constitutional violation disqualifies lawyers from running for elective office outside the judiciary *as a matter of law*. Disqualification is independent of whether or not the control results in tyrannical behavior. The identification of specific areas of tyrannical harm is brought to the public's attention as a tool to assist its understanding and encourage action. *It is neither needed nor offered as evidence in the case against the legal profession.*

The nation's unawareness of tyranny in government.

Few in the nation seem aware of the tyrannical nature of our government, or are able to identify its source. Thus the nation perpetually replenishes the source of tyranny, by continuing to elect lawyers in large numbers to the legislative and executive branches of government. That provides members of the legal profession with the continuing effective control needed to sustain the tyranny they exercise. How is that possible? To understand what is happening, we must carefully examine the precise nature and manifestation of the form of tyranny to which we have been subjected, and how it has remained concealed for so long.²

Definition of tyranny.

The dictionary³ defines '*tyranny*' as: *Absolute power arbitrarily or unjustly administered.*⁴ The word '*absolute*' is defined as: *unlimited, unconditional.* Thus tyranny is: *Unlimited power unjustly administered.* Effective control of government provides '*unlimited power*'. Such power in government is always unjustly administered.

The first problem that we face is that the public perceives tyranny in government as connected to a tyrant or dictator abusing his own people in the most visible and egregious way. The public easily recognizes tyrants on the extreme left or right of the political spectrum, but not in the center. Much less so, when the appearance of freedom continues to pertain. It is true that so far most citizens are not aware of anyone being seized by 'jackbooted thugs' and taken away in the middle of the night. Nor of widespread torture of innocent

people to extract false confessions. Nor of concentration camps or the more obvious trappings of known tyrants. *Yet tyranny is what it is and it can destroy the Nation.*

The government's job as intended under the Constitution.

Our nation is a Republic governed by a constitutional democracy. A government's job in such a nation is to make, interpret and enforce laws in a manner that is fair and just to all. The reason most⁵ laws are needed in the first place, is that every society is faced with a large number of compelling and conflicting, legitimate state interests. *These conflicting interests require decisions resolving them through the making, interpreting and enforcing of laws, that balance the rights and obligations of all the conflicting parties as well as the interests of society, in a just manner.*

There is only one way to ensure that the resolution of conflicts is fair to the great body of society. That is to ensure that the representatives charged with the decision making process are *'derived from the great body of society, not from an inconsiderable proportion or a favored class of it'*.⁶ For it is only by the interaction of the many factions thus represented, that the final results of resolving conflicts can hope to be fair to all.⁷

The existing government under the tyrannical control of the legal profession.

We have established that effective control of government is in the hands of the legal profession. *That the makers, interpreters, enforcers, advocates and adjudicators in virtually all material, government decision making situations, belong to that particular 'same hands' group. Thus that group exercises absolute power. It is axiomatic that such power will be and has been, administered unjustly. That is tyranny.* Defenders of the system point to some specific instances of seemingly just results, as justification for the whole system. This is an Aristotelian false argument known as *non sequitur*.⁸ *That is because the fairness of a system is not shown by proving that some derive benefits from it,* but rather that all are treated in a just and equitable manner under it. All systems of government, no matter how tyrannical, can show the former. Only a system of government by, of and for the people, can hope to show the latter.

A society's laws arise from conflicts between competing interests. Our legal system is an adversarial one, in which the truth is expected to arise from the clash of advocates advancing conflicting positions. *That is what makes it so easy for this unconstitutional control group to tyrannize the nation without seeming to. Since every material decision made by the control group is made to resolve conflicting interests, it is almost always possible on a case by case basis to make a strong case for whatever decision is reached. It is only by*

viewing the accumulated result of the decision making process that the truth emerges. That is the process we are involved with here.

We can see now how the legal profession succeeded in tyrannizing the nation. Here are some of the more egregious examples of its tyranny:

- It has unconstitutionally monopolized the practice of law and rendered it exorbitantly expensive and thus inaccessible to most. It has then criminalized attempts by non-lawyers to defend their own corporate interests in court, or the interests of others, in any way.*
- It has de-criminalized activities practiced by its own members and considered criminal in other nations, granting special interests favored access to government.*
- It has unconstitutionally established so-called 'Unified Bars' in many of the several states. Each of which is **a body elected by nobodymaking laws impacting everybody.***
- It has used the Unified Bars as instruments of alleged 'self discipline' to avoid real discipline.*
- It has established a system of legalized extortion that allows its members to sue anyone, anywhere, at any time, for any reason, with sufficient impunity that it forces defendants to pay a high price to settle a case , because that is still cheaper than winning it.*
- It continually invents legal justification for new alleged 'wrongs' upon which to sue. It does so in order to expand even further, its well established system of legalized extortion.*
- It has successfully insinuated itself into every aspect of the people's lives, so that little of importance can occur without some form of legally extortionary participation by its members.*
- It has, by making access to the courts prohibitively expensive, stripped almost all of the people of all of the protections afforded by the Bill of Rights.*
- It has created a nation with a massive illiteracy problem by allegedly, protecting the constitutional rights of students, while ignoring their right to either learn or be safe in school.*
- It has made divorce a war where no prisoners are taken, and where many participants suffer major lifelong adverse effects, financially, emotionally and psychologically.*
- It has re-established the oldest instrument of tyrants, the tyrannical principle of punishment without cause, and named it 'strict liability'.⁹*

The specific impact of the legal profession's tyranny on the nation.

The advancing through tyrannical control, of a particular group's agenda is always detrimental to the general society it is impacting.¹⁰ However the different parts of the agenda do not necessarily carry the same degree of adverse consequences for the nation. Sometimes the worst damage to others brings the profession the fewest rewards. That is the nature of tyranny. Here are some of the forms that impact can take:

- *An unjust direct transfer of wealth* from those who earned it to the profession. Here the gain to the profession and the loss to society are equal. (E.g., Excessive probate fees)
- *An imposition of unjust law resulting in expensive defensive action* taken by society. Here the gain to the profession is very much smaller than the enormous loss to society. (E.g., The threat of frivolous malpractice suits on the cost of healthcare.)
- *An imposition of unjust law directly benefiting the profession.* Here the profession's gain is a much greater proportion of society's loss. (E.g., The laws on class actions.)
- *An unjust imposition of the profession's philosophical views on the nation.* Here the profession's financial gain may be very small, while the devastation to the nation is so great and so varied, that it is almost impossible to measure. (E.g., The devastation of our system of public education through the exaltation of student's constitutional rights, while ignoring their competing, conflicting and at least equally compelling, right to learn.)

The total cost of the legal profession's tyranny of the nation.

The total cost is varied and very high, but difficult to either identify completely or calculate precisely. The measurement of total cost includes the financial cost, the cost in quality of life and the cost of the loss of integrity in government. Other costs are measured in terms of: the decline of public education; the inability for most of us to access our courts; the emotional distress felt by divorcing couples and their children; and the rising distrust in elected representatives by an alarming and increasing large majority of the Nation. The ultimate cost, perhaps imminent, is the complete destruction of our nation and a turning to violence, as the only solution to a government perceived as oppressive and non-responsive to its people.

The financial cost: That cost has been estimated by Professor Steve McGee of the University of Texas, a former White House economist, at about one trillion dollars a year. That is about 15% of our Gross Domestic Product.

The emotional cost: That cost is first felt by the emotional devastation imposed on tens of millions of divorced individuals and their children. The profession

has created a system in which lawyers, are empowered to strip both the client and the client's spouse of as much of the family fortune as possible. Which lawyers do, while arguing that their actions are merely the fulfillment of their obligation to zealously represent their client. The former spouses and their children, often bereft of assets, and left emotionally shell-shocked by the experience, become the lifelong victims of the process. While the children then often become the pawns in continuing child custody problems, false accusations of sexual abuse and domestic violence.

The loss of self esteem and the breeding of hatred and distrust among divorcing family members is another byproduct of the system. Resulting greatly from unjust accusations of wrongdoing by lawyers against opposing spouses, it contributes to the production of dysfunctional children and parents who often hate each other. Many others suffer great unnecessary emotional distress as a result of the society that lawyers have created. Few suffer as much as families in divorce.

The educational cost to the nation: The nation's public schools suffer from devastating problems created by lawyers. Lawyers have successfully challenged the right of schools to adequately discipline children, to keep disruptive children out of classes, to search children for weapons and drugs and to exercise control over violence in schools. They have compromised safety in schools and made the most effective teaching impossible. They then succeeded in imposing a legal obligation and financial liability for educational results on the schools and individual teachers. Schools responded by lowering standards to avoid legal liability for failing students, allowing students to graduate without the basic skills graduation implies. As a result the nation now has some 100 million illiterate adults. The devastating consequences of an illiterate population trying to compete in an increasingly educated world market, cannot be overstated. The Nation's future is at stake.

The political cost to the nation: The latest surveys report that 75% of the nation **does not trust its own government.** That is a remarkable condemnation of the system. It is normal for many, even a majority to **disagree** with their government. Such is the nature of the democratic process. **Distrust** however goes much farther and deeper. It indicates that we are in very serious danger of losing confidence in our political process. Beyond that total chaos may lie.

Juventus, a senator in ancient Rome once asked: *Who shall guard the guardians themselves?* He spoke of the elected representatives who were charged with guarding and protecting the laws that protected the people. He gave no answer. One answer he could have given is: *We the people shall guard the guardians.* That is what we can do. That is what we must do.

PUBLIUS II
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About the author: *This writer is a constitutional scholar. He has written Federalists 86, 87, 88, & 89, in defense of the Constitution. He is like Madison, a non lawyer who loves the law, and like Hamilton an immigrant and naturalized American.*

1. The legal profession, as a whole, bears responsibility for having tyrannized the nation and some believe, brought it to the brink of destruction. *It does not however, bear that responsibility alone. Since the price of liberty is eternal vigilance we must all share in the responsibility for having failed to be vigilant.* These articles are written to help the nation rectify its problems not seek retribution against anyone. Therefore it is best for the nation to approach the resolution of the situation as Abraham Lincoln did the end of the Civil War. Thus with '*malice towards none and charity for all*' the nation should forgive those who have trespassed against it and forget their past transgressions. It is vital to the long term well being of the nation that the members of the judiciary branch recover the honor and prestige that should accompany honest and faithful service in that branch. We all need to work towards that end, remembering that what happened to the legal profession could have happened to any other group given a similar opportunity.
2. Federalist #10, by James Madison warned that: *Men of factious tempers, of local prejudices or of sinister designs, may by intrigue, by corruption or by other means, first obtain the suffrages, and then betray the interests of the people.*
3. Funk & Wagnalls *New Comprehensive International Dictionary of the English language (1978)*
4. Since Lord Acton's belief that: *Power tends to corrupt and absolute power corrupts absolutely* has achieved universal acknowledgment as true, it is hard to conceive of any '*Absolute power*' in the context of government, being administered otherwise than arbitrarily or unjustly.
5. A certain number of laws, like naming a national holiday for Washington's birthday, may not address any conflicting interests.
6. James Madison in Federalist # 51 (1788). *Madison was addressing the fear of MAJORITY abuse of MINORITY rights, let alone minority abuse of majority rights.* It is clear from this that Madison felt completely secure that what has happened could never have happened.
7. *Ibid.*
8. *non sequitur*: It does not follow. Encyclopedia Britannica, *Logic, Aristotelian false arguments.*
9. *strict liability*: Liability without fault. Black's Law dictionary. In lay terms that is punishment without cause.
10. However it sometimes provides benefits to some non lawyers that they might not otherwise have obtained, such as the windfalls that benefit a few in the present tyrannical tort system. The extreme example of this kind of thinking is found in what apologists for Adolf Hitler say: '*Yes he was a very bad man , but he did build the Autobahn.*'