

The State of the Union under a failed Constitution

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The legal profession's tyranny over the nation.¹ The examination, diagnosis, treatment and cure.

Earlier Federalist articles² by this writer, 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 or '*faction*' is a violation of the principle of separation of powers of the US Constitution. That was considered '*the very definition of tyranny*' by James Madison,³ who wrote the Constitution.

Federalist # 90 characterized the nature and manifestation of the legal profession's tyranny. Its nature lies in the ability of the legal profession to work its will on the nation, in a virtually unlimited manner. It does so through the effective control it has acquired of all government. Its tyranny is first manifested by the loss of precious liberties⁴ guaranteed by the Constitution. It is further manifested by other very substantial, unnecessary costs. These costs occur in the financial, emotional, educational and countless other areas. Such a state of affairs is precisely what the Constitution was written to prevent. ***Therefore the only logical conclusion is that either the Constitution is flawed or that it is not being enforced.*** To determine which it is we must do the following: 1. Examine the Constitution's purpose and accomplishments; (*The examination*); 2. Determine why the Constitution failed in its purpose of protecting us from the tyranny of the legal profession. (*The diagnosis*); And 3. Determine what the necessary remedies are. (*The treatment and cure*).

1. The examination.

The Constitution was written in 1787. The need arose because the Articles of Confederation did not provide the federal government with sufficient power to govern. That insufficiency was deliberate. It was born of the fear that more government power would lead to oppression. Correcting that insufficiency ***without allowing the new government to have sufficient power to oppress the people,***⁵ ***became the principal purpose of the Constitution.***

Madison observed that tyranny and oppression historically arose from four identifiable sources: 1. The monarchy (or its equivalent); 2. The aristocracy; 3. The Church, (or organized religion of whatever persuasion); And 4. The military. He observed two things. First that the monarchy constituted tyranny in the hands of a single individual. Second that all other sources of tyranny arose,

from what he termed, a single '*same hands*' group or '*faction*.' Which he defined as: '*a number of citizens who are ruled and actuated by some common... interest adverse to the rights of other citizens,... or to the permanent and aggregate interests of the community*.'⁶

So Madison wrote the Constitution, first to *prevent all specifically known sources of tyranny from the possibility of acquiring power*. Second, to *prevent any other potential 'same hands' group that might arise later, from acquiring power*.

He addressed the first part of his problem as follows: 1. To prevent the potential tyranny of a monarchy, the Nation was organized as a constitutional democracy; 2. To prevent the potential tyranny of the aristocracy, the Constitution prohibits the United States from granting and anyone from accepting, 'Titles of nobility';⁷ 3. To prevent the potential tyranny of the Church, the Constitution's Bill of Rights prohibits Congress from passing any law respecting the establishment of religion, or prohibiting the free exercise thereof,⁸ (the separation of Church and State); 4. Finally, to prevent the potential tyranny of the military, the Constitution appoints the President of the United States, a civilian, the Commander-in-Chief of the Armed Forces.⁹ That took care of any then known, potential '*same hands*,' source of tyranny.

Addressing the second part of the problem was much more difficult. This is because Madison had to protect against any number of future *same hands factions, then unknown*. His solution consisted of providing a very elaborate system of representative government and separation of powers. That system became the cornerstone of the Constitution.¹⁰ ***That system made it theoretically impossible for any single same hands group to ever acquire control of all government.*** The solution came at a high cost. That cost was the loss of both efficiency and consistent accountability in government.¹¹

The Constitution has always succeeded in protecting the Nation against historical sources of tyranny.¹² ***Until fairly recent times, the Constitution even accomplished the same purpose, respecting sources of tyranny then not specifically identified.*** However we now know that the legal profession has been tyrannizing the nation for some considerable time. ***Thus we now have the worst of all possible worlds. We have lost efficiency and consistent accountability in government, yet we have not avoided the tyranny that the Constitution was specifically written to prevent.***¹³

2. The Diagnosis.

The Constitution is a written document. It is dependent, for its interpretation and enforcement, upon men and women subject to human weaknesses. The Constitution was written to account for and overcome those weaknesses. That is why the cornerstone of the Constitution is the principle of the separation of powers and representative government. But the behavior of human beings is not

easily or completely foreseeable. Man's behavior, in pursuit of greed and the lust for power, can and will change to successfully adjust to changing circumstances. ***Preventive measures must keep pace to ensure a free society.***¹⁴

The medical analogy. The analogy best suited to a discussion about the disease of tyranny and its cure, is found in the field of medicine. The human body is subject to diseases in many forms. It is protected by a system known as the 'immune system'. *The body politic of the Nation is subject to the disease of tyranny in many forms. It is protected from tyranny by its own 'immune system'. That system is the constitutional provision for representative government and separation of powers.* If the body's immune system is insufficient to fully protect against specific diseases, like polio, diphtheria and tetanus, medical science develops vaccines for additional specific protection. *Similarly, the body politic of nations have historically suffered from tyranny from certain specific sources. So the Constitution provides 'vaccines', in the form of particular provisions, for additional specific protection against the four known sources of tyranny.*¹⁵

The human body's immune system acts automatically to defend against any intruder entering the body, to cause harm. The body cannot long survive without it. The immune system cannot however, protect against the HIV virus that causes AIDS.¹⁶ That is because the HIV virus destroys the immune system. That leaves the body vulnerable to deadly diseases, which then kill it. *The body politic also, cannot long survive the destruction of its 'immune system'. That system is presently being completely destroyed by the legal profession, in the same way that the HIV virus destroys the body's immune system.* Let us examine how and why.

Over 200 years the legal profession, ***responsible for the enforcement of the Constitution***, seeking its own best interests against that of the community, ***'mutated' into the new tyranny. It changed from the defender and guardian of the Constitution to the principal source of tyranny in the Nation.*** In pursuit of the profession's own interests it acquired tyrannical control of the Nation's government.¹⁷ It did so by first creating a national Bar association, known as the American Bar Association (ABA), then state bar associations. It then created a *de jure*¹⁸ State judicial system controlled completely by lawyers/judges. And a *de facto*¹⁹ federal system on the same basis. More power led to greater dominance in all elective offices. As its power increased, so did the corruption of many of its members and their activities.

The members of the legal profession are charged with guarding our Constitution. None know it better. That is why none other could have succeeded in corrupting it so completely. Lawyers ostensibly run for elective office as 'representatives of the people'. However whether consciously or not, they run first, last and always, for themselves and their own 'same hands'

control group. Such activity by individual lawyers is unconstitutional. It may even be an act of treason.²⁰ However those charged by the nation to identify and remedy the situation, are themselves the cause of it. They are therefore far more likely to fight to preserve, than to correct it. The few who may be tempted to try to correct it, risk severe retribution from their colleagues.²¹

That is how and why the 'immune system' of the Nation's body politic has been destroyed by the legal profession, as effectively as the HIV virus destroys the human body's 'immune system'. **By taking over the effective control of all government for its own 'same hands' faction or group, the legal profession has stripped the people of this nation of the protective system of representative government and separation of powers intended to immunize the nation against tyranny.** The HIV virus eventually and inexorably causes AIDS. That results in certain death for the body. So does the virus of the legal profession's control of all government. It will quickly and inexorably cause the death of what is left of freedom and constitutional government.²² The Nation is fast sinking into chaos.

The disease called AIDS strips the body of its immune system. That allows a multitude of deadly diseases to flourish. Similarly the virus of the legal profession strips the body politic of its 'immune system'. *That allows a multitude of tyrannical activities to flourish.* The HIV virus can lie dormant in the body for years before symptoms appear or are recognized. Similarly the virus of the legal profession within the Nation's body politic, can sometimes exist in a dormant state for years, without immediate symptoms of tyranny surfacing, let alone being recognized.

The legal profession has become the metaphorical AIDS carrier of the American body politic. It exists virtually everywhere and in all the Nation's activities. It is doing fundamental and often irrevocable harm to the people.²³ It is replacing freedom with tyranny. Fortunately the problem can be solved.

3. The treatment and cure.

In the medical field there are occasionally very simple treatments that can produce remarkable results. In 1848 Ignaz Semmelweiss²⁴ made an amazing discovery. It was that simply washing one's hands after dissecting cadavers and before touching a patient's open wounds, would save lives. So it is with the Nation's body politic. ***The treatment that is called for requires only that the Nation recognize that lawyers are constitutionally barred from serving outside the judiciary branch of government. It would be nice but not even necessary that the Courts say so. Only that the nation understand it. After which the treatment calls for the nation to never again vote for any lawyer outside the judiciary branch. When that occurs the virus of tyranny will be destroyed and the nation will be cured.***

The matter is urgent. Time is very much of the essence. The Nation has at best, only a very few years left, to correct the situation and avoid civil strife of a very serious nature. The danger at hand may even include the permanent, total collapse of the system of government provided by the Constitution, and intended by the Founding Fathers.

PUBLIUS II
(Ronald Bibace)

About the author: *This writer is a constitutional scholar. He has written Federalists 86, 87, 88, 89 & 90 in defense of the Constitution. He is like Madison, a non lawyer who loves the law, and like Hamilton an immigrant and naturalized American.*

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1. The legal profession, as a whole, must bear responsibility for tyrannizing the nation. ***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.***
 2. Federalists #'s 86, 87, 88, 89, & 90, written in 1995.
 3. Federalist # 47, (1788) by James Madison. The same sentiments were echoed by Hamilton, Jefferson, and the French philosopher, Montesquieu.
 4. The loss of the protection of the Bill of Rights, of accessibility to the courts, of reasonable freedom from crime, of the right to a decent public education, and of affordable healthcare, to name only a few.
 5. Granting the government '*sufficient power to govern, but insufficient to oppress*' was the fundamental goal of the founding fathers. It is another way of saying the purpose of a Constitution is to achieve the delicate balance between '*freedom and security*'.
 6. James Madison, Federalist # 10, (1787)
 7. US Constitution, Article I, Section 9.
 8. Amendment I to the Constitution, ratified in 1791 as part of the Bill of Rights.
 9. US Constitution, Article II, Section 2.
 10. See Federalist # 88, page 3, by this writer.
 11. Consistent accountability exists only if the Executive and the Legislative branches are controlled by the same party at all times. That has not been the case in most of the last 15 years. Otherwise each branch takes credit for the good, and blames the other for the bad.
 12. Although some people feel that the word *Esquire* after a lawyer's name, does constitute a 'title of nobility'.
 13. Perhaps it is unreasonable to expect any constitutional democracy to survive without serious internal challenge for over 200 years. Perhaps that is what is meant by the phrase: '*eternal vigilance is the price of liberty*'. Perhaps it is necessary to review the workings of the Constitution every so often to make certain all is as it should be. Perhaps it is most fitting that this writer, the person to raise the alarm, like James Madison who wrote the Constitution, is not a lawyer.
 14. Either by enforcing the Constitution as written, as in this case, or by amending it if necessary.
 15. See page 2, paragraph 1.
 16. AIDS: Acquired Immune Deficiency Syndrome.
 17. There is no suggestion that the profession was seeking tyrannical control, nor that an actual conspiracy ever existed to that end. Nevertheless, that is what ensued. In law that is called a 'constructive conspiracy'.
 18. *de jure*: in law,
 19. *de facto*: in fact
 20. The intentional nullification of the principal of representative government and separation of powers, a cornerstone principal of the US Constitution, constitutes a material undermining of the

- Constitution. That constitutes the giving of aid and comfort to and adhering to the enemies of the United States. That is treason under Article III, Section 3, of the Constitution.
21. There are many lawyers and judges aware of the situation and in support of the position advanced here. The legal profession contains large numbers of people, still untainted by the corruption that afflicts the profession. We call upon those people, above all others, to assist us in our task by speaking out , and not to withdraw from practice. We are aware of the risks we are asking them to take and remind them that the founding fathers, mostly lawyers, risked their lives for the good of the Nation not personal gain, when they signed the Declaration of Independence.
 22. Already perceived by many, as on its deathbed now.
 23. As one who loves the law, this writer makes this statement with deep sadness.
 24. Semmelweis, Ignaz Phillip, (1818-1865) Hungarian physician who introduced antisepsis into medical practice. Encyclopedia Britannica. .