

Just Say No to Tyranny! (Excerpted from "Proactive Liberty")

The next time the conversation drifts toward the current political situation and somebody says, "The government has stripped the constitution," or, "The USA Patriot Act has destroyed the Bill of Rights," you must instantly respond, "No! That's not right!"

If anyone asks, How so? Or tries to argue the point, your response is simple: "Congress can't amend the constitution, and therefore it can't override it. Congress can't pass a law that changes or erases any part of the constitution!"

However, you can effectively erase your liberty by believing that congress can do those things. But you erase it by believing in an illusion. The illusion is based on the assumption that when congress acts and the president signs, the result is necessarily a law.

Because of what appears to be a lawful command on the surface, many Citizens, because of their respect for what appears to be law, are cunningly coerced into waiving their rights due to ignorance. --US. v. Minker, 350 US 179 at 187

We must all simply walk away from this delusion and the self-pity that flows from it, and live as we are supposed to live, free people in a free society. Of course, first we must regain an idea of what that looks like.

To get there, the term government must first become understood in a different light than it has been. Currently, where the word govern means to hold back, it is too often taken that government's job is to restrain everyone and to permit only those things to which no one objects. Our government today is taken to be an issuer of permits, where all things not permitted are prohibited.

People all over the country are inadvertently surrendering their rights to the growing fascist tyranny in Washington. The strange part is that while they are doing it begrudgingly, they are at the same time doing it proactively. They are doing it to themselves! They do it every time they say anything like, "The government is destroying our rights!" or, "The Patriot Act is destroying the Bill of Rights!" This is, of course, merely the voice of confusion, and neither of these statements is true. It's a cruel joke: who needs oppressive government when you can fool the people into voluntarily surrendering their rights all by themselves?

Repugnance and Nullity

Most people think that when congress acts to pass a bill and the president signs that enactment, the result is automatically a law, which can be enforced and then must be obeyed. This is not always true.

An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation as inoperative as though it had never been passed. --Norton v Shelby County, 118 US 425, 442

The Belligerent Claimant in Person

That's a hefty title, and frightening in its implications, but it's the one you must wear if you are to be a truly free individual; so sayeth the US Courts. What does it mean?

Here is what an Appeals Court has said:

The privilege against self-incrimination is neither accorded to the passive resistant, nor the person who is ignorant of his rights, nor to one indifferent thereto. It is a fighting clause. Its benefits can be retained only by sustained combat. It can not be retained by attorney or solicitor. It is valid only when insisted upon by a belligerent claimant in person. The one who is persuaded by honeyed words or moral suasion to testify or produce documents rather than make a last ditch stand, simply loses the protection. Once he testifies to part, he has waived his right and must on cross examination or otherwise, testify as to the whole transaction. He must refuse to answer or produce, and test the matter in contempt proceedings, or by habeas corpus. --US v Johnson, 76 F. Supp 538, 540 (1947).

In plain language, the belligerent claimant in person looks like anyone else, with one big exception: he does not "go along to get along". He steadfastly refuses to meet unconstitutional mandates and the misguided social expectations that flow from those void mandates. He consistently encourages others to stand up for themselves and to band together for their common preservation, and he lives a life of integrity: he is a fine example to all those who meet or see him of what it means to be truly American.

The Method of Liberty

The method I propose we all use as the foundation of our recovering our rightful relationship with our government, that is, we being the sovereigns and it being our servant, is for us to become the belligerent claimant in person, every one. Yes, it's a little extra work. Yes, it's a bit risky. But then freedom is not free. And lazy people always become slaves.

The belligerent claimant in person is not on the defensive. He is proactive, aggressive, yes belligerent, in claiming his rights. The belligerent claimant in person forces the accuser to meet the legally required burdens of due process and proof.

The belligerent claimant in person never says, "I objected to the search because I have the right to a lawful warrant," unless there is an actual law authorizing that search under a lawful warrant. When what really happened is that they came to his door without a warrant and claimed they didn't need one under such-and-such allegation of law, and proceeded to violate his privacy under color of law, that's clearly unconstitutional regardless of any allegation of law or legal right. In that case he merely asserts his rights and demands that they prove the elements of their claim, beginning with the constitutional basis for their presumption of legal authority.

The belligerent claimant in person never says, "I didn't file or pay any income tax because...(whatever reason)...." Instead, he just demands that they prove the elements of their claim, including showing exactly what type of financial receipts he had and exactly what in which specific law clearly shows that those particular receipts, or any of them, are taxable income.

When you plead an affirmative defense, you do two things to your case. An affirmative defense operates as a demurrer, which essentially says that the basis of the government's action is valid but that it doesn't apply in your instant case because of this or that exception. What this means is that you've waived your rights as they pertain to constitutionality and with that waiver you've given up the right to argue the constitution! And, you've totally shifted the burden of proof onto yourself. If you cannot prove your counterclaim, you automatically lose.

This is where the so-called patriot movement has erred all along. This is how we've gotten into the apparency of being told that we can't bring up the constitution, which has led many of us to believe that the courts are more corrupt than they actually are. And this is how the government has generated an overwhelming mass of bad case law that is now used to improperly invalidate affirmative defenses that, while they still should not be raised as defenses, might otherwise serve us well as the foundations of a challenge against the illegal applications of law and the outright unconstitutional acts of governments that we are seeing so much of.

If you enter an affirmative defense, they only have to poke holes in that defense, and you lose. They don't have to prove their claim or justify their actions because you waived your right to contest those facts when you bought into the game and took the burden of proof onto your defense.

Instead, you should assertively claim your rights as inalienable, in the same exalted sense that they are guaranteed by the Bill of Rights and the various states' declarations of rights. These are rights that the people who formed our constitutional governments knew we had before and senior to that formation, and which they wisely saw to define as being above the law.

Rights that existed antecedent to the law (before the law existed) cannot be removed by the law when they are guaranteed by the source of the law itself. To be sure, the Johnson case explicitly states this, where the legal definition of privilege with respect to rights includes the language, "held...against or beyond the course of the law". No law can restrain you from the responsible exercise of your rights unless that law complies with the constitution's own due-process provision for the forfeiture of rights upon conviction for serious crimes.

So: the method is to be the belligerent claimant in person. In practice, it is refusing to comply with unconstitutional mandates, whether they are disguised as laws or merely the improper demands of officers and agents of the courts and government. In action, it is ignoring unconstitutional enactments altogether, and when accused by government, doing nothing more than steadfastly and

aggressively demanding that government justify itself before the constitution and valid law.

This is beyond civil disobedience. This is proactive liberty!

In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution. --Thomas Jefferson

The operative word is bind! The method is to be belligerent claimants in person and bind the fools and fascists down by the chains of the constitution.

The Plan

The plan is to take the necessary organizational and action steps to encourage, facilitate and defend proactive liberty, and see to the enforcement of lawful government.

We must make it safe to be free.

We must proactively employ political involvement and the electoral process to remove and replace every elected official in the land who will not or cannot pass a basic test on the constitution and sign a binding contract with the voters to actually follow through on speaking and voting consistently with it. And we must support and elect those who will.

How will we do this? The same way our opponents have accomplished their goals so far: organization and funding.

Obviously, time is short, and tyranny is looming large upon us.

The enemies of the US constitution, both foreign and domestic, have successfully positioned themselves within our midst as being just as American, just as patriotic, just as devoted to the American solution and anyone else. But the truth is that they are not that at all. They are pretenders perverting the vision, gently massaging it through the years until it meets their standards. And their standards are not the standards of the founders of this country.

Where our founders saw strong, self-reliant but cooperative and responsible individuals going forth to carve a free society from a harsh but benignly neutral universe, our enemies see frail victims who owe each other everything in their futile common cause against a cold impersonal universe, huddled together against cosmic chaos. In that view they see us as agents of disorder and self-serving individualism, and they must destroy us and our way of life. They have largely succeeded, because they have two things we don't have. They have a plan, where we have something to lose. And they are building something, where we are fighting a dismembered defensive action.

No wonder we have lost most of the dream.

Yet, again, Minker, cited above, shows us the way: ignore the illusion, formulate a plan, and set to building something!

For far too long American constitutionalists have been on the negative side of the equation--accused, cheated, attacked and living in grief for what once was.

It is time to find the high road and assume a positive posture. We are the ones who know what America is, because we are the ones who understand our founding documents. Believe it or not, the vast majority among our enemy hasn't even read the constitution! They know all they need to know from the propaganda machine they've built into our public schools. With our own money, our enemies have indoctrinated our children against their heritage. And most of what we have done about this and a thousand other affronts to our birthright is to weep.

But the belligerent claimant in person does not weep for what was and now appears to be gone. No! He sees that the world of politics is of our own making, and that all it takes to stand tall, proud and strong, and preserve our constitution, the guarantees of our rights, and our country as it was intended to be, is to claim it. Against all challengers, within as well as without.

That is the necessary attitude adjustment the patriot community needs to get through. For not to do that would be to continue stooped-shouldered and beaten down the path to oblivion, for there is no strength in fighting a holding action; eventually you are worn away. True power is in taking a position, holding the position, and then proceeding in terms of it. Where we have failed to do any one of these, we have been defined by those whose interests oppose ours, and with our loss of self we have seen our world eroded.

If we are to rebuild, we must take the affirmative perspective of the builder: where there is emptiness, there will be structure. We must re-envision our country and our people moving freely upon the world's stage in all their intended glory and we must follow those three maxims of positioning to that vision: take it, hold it, and proceed in terms of it.

For now, the first step is clear: determine to become the successful belligerent claimant in person. See yourself as living free and using law and votes to stomp out of existence anyone who would interfere with your responsible and benevolent exercise of liberty.

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