

## **Empire, Anyone?** **by Joe Sobran**

*Remarks to the Libertarian National Convention  
July 6, 1996*

**After Boris Yeltsin's victory** in Russia's runoff election the other day, President Bill Clinton effusively congratulated the Russian people on having made the right choice: "The Russian people have turned their back on tyranny. They are turning the corner towards freedom. They and their leaders have cleared another important hurdle in building a new and enduring democracy."

Mr. Clinton's words struck me as a pat on the head — more than a trifle condescending to the Russians. I wondered how Americans would feel about a foreign ruler's telling them, after an election, that they'd chosen the right man. (Not that there would often be occasion for it.)

How easily we've come to assume that it's our job to play not only a tutelary, but an active role in seeing that other countries are governed properly. In World War I Woodrow Wilson announced the relative modest aim of making the world safe for democracy. Now we've adopted the more ambitious aim of making sure the whole world is democratic — from Haiti to Bosnia to Russia.

As a matter of fact, Russia has already surpassed us in one of the most important features of a democracy. It has a thriving multiparty system. For some reason the American establishment assumes that two parties are plenty — in fact that a two-party system is the ideal, and that any more parties amounts to wretched excess. So we get an effective choice between two parties that accuse each other of wanting to reduce entitlement programs or of shirking America's duty to provide "global leadership."

Some choice. And after every meaningless election, we have to endure lectures on low voter turnout. It never seems to occur to our semi-official

talking heads that the reason other democracies get higher turnouts is that their voters have more choices.

If two giant corporations controlled an industry the way our major parties control our political system — using the law to keep smaller competitors out of the market — would we call that a model of market competition? I somehow doubt it. The 1992 Perot vote showed that America is ready for real political choice. Ross Perot wound up with 19 per cent of the ballots cast. If he hadn't angered so many of his supporters by dropping out of the race for a while, he might have gotten twice as many. Nobody really knew what he stood for, but that only underscores how deeply many Americans hate the two choices they usually get.

It makes me wonder: Should Russia pressure the United States to adopt a genuine multiparty democracy? I wish Boris Yeltsin would at least encourage our young president to move to a market economy.

This year Americans will be asked to choose between Bill Clinton and Bob Dole — between the morally disqualified and the intellectually disabled. But such stark personal differences should not blind us to what these two candidates have in common. Both men offer the same qualification for the nation's highest office: neither poses a threat to the status quo. Both are what the media call “moderates.”

It's worth pausing for a moment to ask what our political labels mean. If you favor federal intervention at home, you're a “liberal.” If you favor federal intervention abroad, you're a “conservative.” If you favor both, you're a “moderate.”

If you favor neither, you're an “extremist.”

By these definitions, America used to be a land of extremists. It was dedicated to a philosophy of limited federal government at home and neutrality abroad. The Founders and Framers were emphatic on both points. Presidents used to feel obliged to assure the nation, in their campaign speeches and inaugural addresses, that they would respect the limits on federal power at home and refrain from getting us into war overseas.

Gradually the meaning of the Constitution was not only forgotten but inverted. Just as the “general welfare” was expanded to give the federal government powers the Constitution never conferred, and therefore denied, the “common defense of the United States” has been expanded to mean not the defense of our shores against invaders — what a quaint idea! — but global hegemony. To resist our alleged responsibility of global “leadership,” in the fashionable euphemism, is to commit the sin of “isolationism.”

On the other hand, we're assured that our “national interest” requires these ubiquitous interventions. But if, after weighing costs and benefits, you

argue that it's not in our interest at all, you're scolded for being isolationist. So it turns out that intervention is not really our interest, but our *duty*.

We're constantly reminded of the "lesson of Munich" — that aggressors have to be stopped early. We never hear of what might be called the lesson of Sarajevo — that alliances among governments may plunge a whole world into war over a single incident.

Over the last two centuries, the U.S. armed forces have killed millions of people in their own countries, while foreign armed forces have killed only a handful of Americans in American territory. Is it realistic to say that this ratio reflects only American defense with no elements of aggression or even needless intervention?

I few weeks ago I noticed a striking illustration of the new mindset. The magazine *The Weekly Standard*, which considers Bill Clinton insufficiently interventionist, ran a cover story with the legend: "Is This Any Way to Run a Planet?" I recalled how often our official propaganda accused the Kaiser, the Japanese, the Nazis, the Communists of seeking "world conquest." Before the Gulf War, one overheated conservative pundit even called Saddam Hussein a "global menace." (And let's not forget the menace of Manuel Noriega.) Now it appears that running the whole planet is an American prerogative!

Another pundit has said, within the space of a couple of years, that the U.S. was threatened by Iran, then North Korea, then China. Is there any country that *doesn't* threaten us? And it isn't just foreign governments we have to worry about. We're also facing the amorphous threat of "terrorism," which requires us to give the government new "anti-terrorist" powers to abridge our freedoms. There is no place on earth where we don't have to defend ourselves. And when we aren't defending ourselves from some hypothetical direct attack, we're defending our "vital interests" in this or that "region." Our interests, as you may have noticed, become vital on very short notice.

The common denominator of all these threats, dangers, and crises is that they require an increase in the power of our government, which means primarily an increase in its power over *us* — including new exemptions from our knowledge, criticism, and control.

"Defense" always includes secrecy in the name of national security. And secrecy by definition means building new walls between the government and the people. Obviously our government can't keep secrets from foreign enemies unless it also keeps them from us. So any alleged foreign threat becomes an occasion for reducing our own traditional freedoms. By this logic we must finally destroy democracy in order to save it.

What I've described may sound like a cunning design to deprive us of our freedoms. But in fact there is no great design, and whatever cunning is involved is of a very low order. We recently got a vivid glimpse behind the scenes of the sort of people who actually whittle away at our freedoms when we took a gander at the sort of men who had been illicitly handling confidential FBI files. And I don't have a lot of faith in whoever is handling them licitly.

Lord Acton said that power tends to corrupt. True, but there is an even more basic truth. All power tends to accumulate. Power is a dynamic thing. It's extremely hard to control. Those who have it tend to want, and get, more of it. This is a blind instinct. Bill Clinton, Bob Dole, and for that matter Craig Livingstone don't have any discernible philosophies. But put a little particle of power in front of them, and they'll go for it the way a hen pecks at a grain of feed.

The U.S. may have been "conceived in liberty," but it didn't stop there. Nobody in 1776 could have foreseen the possibility of an American global empire, because nobody could imagine the telegraph, let alone computers, jet engines, nuclear weapons, and the other forms of technological progress that would give political power new dimensions.

The men who went to Philadelphia by horse and boat in 1787 to revise the Articles of Confederation didn't plan a world empire. Most of them were wary of domestic centralization. Their generation was haunted by the danger of what it called "consolidation" — the breaking down and assimilation of smaller units of government by larger ones.

We no longer consider consolidation a danger; in fact we consider it so normal that we no longer use the word. Since the nineteenth century the educated classes of the West have generally taken it as an article of faith that centralized power is as "progressive," as surely an improvement in the human condition, as electric power. A twentieth-century statesman said: "It goes without saying that only a planned economy can make full use of a nation's resources." That was Adolf Hitler. But it might as easily have been Joseph Stalin or Franklin Roosevelt — or any number of intellectuals.

Our problem is not that so many intellectuals believe in the centralized state; it's that men like Clinton and Dole take it for granted. Neither of them has the slightest interest in returning to the system the Framers of the Constitution designed. True, Mr. Dole carries a copy of the Tenth Amendment in his pocket; but he apparently hasn't found time to read it through. He takes pride in having helped the Democrats pass any number of federal laws that fly in the face of the Tenth Amendment. He doesn't even

know there's a contradiction. As far as the two major parties are concerned, the Constitution isn't on the ballot this year. It hasn't been for a long time.

I don't mean to make an idol of the Constitution. I think Lysander Spooner's argument against its very legitimacy is hard to answer.\* But it *is* the idol of our government. Our rulers vow to uphold it, and stake their own legitimacy on it. Spooner said it was a contract on which he was unable to find his own signature; but our rulers, at any rate, *have* signed it. It's certainly *their* contract, and they should be held to it. That would be a big improvement, and one we ought not to despise.

In theory, "We the People" wrote the Constitution to tell our rulers what they could and couldn't do. It conferred power, but it also set limits. (It seemed like a good idea at the time.)

So what happened? Our rulers decided that it was their privilege to decide what the Constitution meant. They gradually gave their own judiciary the sole authority to decide what their powers were. And guess what? Their Supreme Court has made a habit of ruling in their favor. It has decided that the Commerce Clause gives them countless powers mentioned nowhere else in the Constitution. It has decided that the Fourteenth Amendment strips states and localities of powers they'd always taken for granted. And it has declared the Tenth Amendment more than a "truism."

The truism, according to the Court, is that "all is retained which has not been surrendered." An interesting choice of words. The Court didn't say that powers had been "delegated" to the federal government; it said they'd been "surrendered." What is delegated can be revoked; a delegate is the servant of those who make the delegation. But what is surrendered is gone forever, and the word implies the superiority of a conqueror. The Court was implying that the federal government had conquered the American people, its nominal masters.

Which is pretty much the case. Every dispute over the federal government's constitutional powers is now decided by — the federal government itself! And the American people, though they don't exactly like this arrangement, are unable to detect a fallacy in it.

In a recent TV interview, Judge Robert Bork suggested, not for the first time, that the Tenth Amendment is dead and gone. He said, "In Article I, Section 8 of the Constitution, [the Framers] listed the powers of Congress, which were somewhat general, but definite enough. And in the Tenth Amendment they said they really meant it, that powers not granted remained

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\* Lysander Spooner, *No Treason: The Constitution of No Authority*.

with the states or with the people. That was a system that began to break down almost at once.”

He added: “I think the idea of enumerated powers through which the federal government is limited is an unrealistic idea and never had a chance of working.... The Tenth Amendment and the enumeration of the federal powers ... have become passé. The federal government has assumed plenary power, and it is too late to turn back.”

Now, I respect Judge Bork’s judgment on this. It deserves to be taken seriously. For if he is right, the Anti-Federalists were right when they said it would be a mistake to ratify the Constitution.

As you may recall, the chief Anti-Federalist argument was not that the Constitution granted too many powers to the federal government, but that there would be no way to confine it to its enumerated powers. There would be no effective barrier to the usurpation of powers never granted.

The Tenth Amendment was supposed to reassure a wary public by emphasizing that all powers not delegated to the federal government were retained by the people and the states. And it did help. But in the long run the constitutional restraints broke down. The U.S. not only joined the worldwide movement toward centralized government; it became an empire into the bargain. The same dual development, under the slogans of “socialism,” “unification,” “fascism,” and so forth, was occurring in England, France, Germany, Italy, Japan, Russia, which soon became the major players in the most gigantic wars in history.

Internal consolidation and imperialism go naturally together. They may be hypothetically separable, but in practice they seem to abet each other.

When Soviet Communism collapsed, liberals hoped that America’s Cold War swords could be beaten into plowshares. What they didn’t understand was that the welfare state owed much of its legitimacy to the belief that the government was defending us from foreign threats. Many conservatives subordinated their opposition to socialist programs to the overriding purpose of defeating the Soviet Union. As long as they saw the federal government as a global savior, they were willing to put up with its domestic excesses. If the U.S. military establishment were ever reduced to the scale required for genuine defense, in the absence of a plausible foreign “threat,” the American people might demand similar reductions in the welfare state. Already we see that many Americans who recently seemed superpatriotic have come to regard their own government as their chief enemy — a like a mean watchdog that is no longer needed to protect the house and keeps biting the children. Now that we know the KGB isn’t going to get us, we’re looking a little differently at the IRS.

So the establishment can be expected to keep finding uses for the military. The legitimacy of the post-constitutional regime, which came into its own with Franklin Roosevelt, depends on the myth that it saved us from foreign monsters — Japanese, German, and Russian. So the search for new monsters — the Serbians, the Iranians, “terrorists” — will go on. Otherwise the ordinary tax-paying American might start asking himself what good the government does him in return for the ten thousand dollars or so it annually extorts from him.

Gandhi was once asked his opinion of Western Civilization. He said it would be a wonderful idea. That’s what I think of constitutional government: it would be a wonderful idea. It would confine the federal government to a handful of specific powers — “few and defined,” as James Madison put it — and forbid it to raise armed forces except for *defense*.

Madison also assured his readers that the powers remaining with the states would be “numerous and indefinite.” But wouldn’t that permit tyranny at the state and local levels? Yes, it would. In fact, in many respects, it did.

But here I come to what I think is blind spot among many libertarians. It’s better to have state and local tyranny than federal tyranny. There is never going to be a perfect government, or — with all due respect to you anarchists out there — a perfect absence of government. Power is always going to exist, and it’s always going to be abused. The best we can hope for is to confine it to small territories. Make power compete with power. The more options people have, the less any government can afford to oppress them. If they can flee to a relatively free neighboring state — as black people used to flee slavery and segregation, as business still flee local taxes — it’s at least hard for the local government to grow very much.

That is why collectivists typically want not only centralization but territorial expansion. It’s why Communist countries arm their borders not against invaders, but against would-be *emigrants*. It’s why Hillary Clinton wants *national* health care, not *state* health care. The freedom to migrate is very precious, but it’s devalued when governments form cartels that make it pointless to leave one place in search of a better one. You can think of the Tenth Amendment as an anti-trust act for government.

So how did the federal government wind up with a monopoly? It’s a long story, but it couldn’t have happened without the supine acquiescence of most Americans, who have been content to let rulers define their own powers. And so the carefully wrought Constitution, whose checks and balances, enumerated powers, and Bill of Rights were supposed to limit the federal government, has been, incredibly, turned into a crude *carte blanche* for federal power.

Maybe Judge Bork is right. Maybe we can't restore the Tenth Amendment. If so, constitutional government itself is a lost cause. But I don't think we can afford to give up just yet. After all, every tyranny has to make some show of legitimacy. And at the very least, we can keep reminding people that this government isn't playing by its own rules. 📌