

Marquette University

e-Publications@Marquette

Bachelors' Theses

Dissertations, Theses, and Professional
Projects

7-1937

Backgrounds of the Declaration of Independence and the Constitution in Catholic Philosophy

Joseph Edward Dean

Follow this and additional works at: https://epublications.marquette.edu/bachelor_essays



Part of the [Philosophy Commons](#)

**BACKGROUNDS OF THE DECLARATION OF INDEPENDENCE AND THE
CONSTITUTION IN CATHOLIC PHILOSOPHY.**

Dedicated

to the Rev. By George H. Mahovald S.J.

Joseph Edward Dean

the Rev. Edward A. McGrath S.J.

without whose helpful direction

and numerous suggestions

my indebtedness is

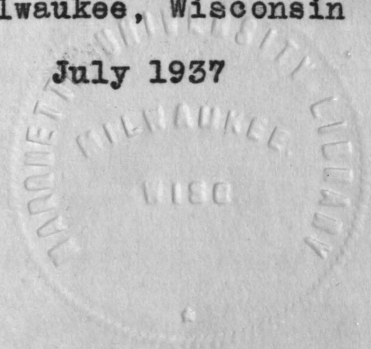
attempting this thesis

A Thesis submitted to the Faculty
of the
College of Liberal Arts of Marquette University
in
Partial Fulfillment of the Requirements
for the
Degree of Bachelor of Arts

Joseph Edward Dean

Milwaukee, Wisconsin

July 1937



The system of representative government heralded
in 1776 and conceived in 1787 by the Fathers of our
country was never under such universal attack as it is
at the present time. The attack is particularly insidious
because it is led, not by champions of other tried and
established forms of government, but by those who proclaim
themselves to be the real savors of democratic principles.
The greatest danger to democracy in America is the woeful
lack of interest in, and understanding of, the rights
safeguarded for us by the Constitution of the United States
of America. The rights which have been denied in other ages
have been denied, and in other countries they are now
being denied, and they must be guarded, unless we guard them
seriously they will slip from our grasp, and
completely ignored.

The aim of this paper will be to show to
the American Catholic that, under the Constitution of
the United States he has existent and developed a
peculiarly Catholic form of government. Since the varying
forms of governments in all ages have germinated originally
in the minds of philosophers and have been brought into
being by men of action guided by the writings and teachings
of those philosophers, the true interpretation of our
form of government would be derived from investigating
its philosophical background. For American Catholics

Joseph Edward Dean

reared in a Protestant country, it will be a surprise to learn that the ultimate roots of the ideas expressed by Jefferson, Madison, Adams and the other designers of

The system of representative government heralded in 1776 and conceived in 1787 by the Fathers of our country was never under such universal attack as it is at the present time. The attack is particularly insidious because it is led, not by champions of other tried and established forms of government, but by those who proclaim themselves to be the real saviors of democratic principles. The greatest danger to democracy in America is the woeful lack of interest in, and understanding of, the rights safeguarded for us by the Constitution of the United States of America. The fact that those rights in other ages have been denied, that in other countries they are now being denied, and that right here, unless we guard them zealously they will silently slip from our grasp, is completely ignored.

The aim of this paper will be to point out to the American Catholic that, under the Constitution of the United States he has existent and developed a peculiarly Catholic form of government. Since the varying forms of governments in all ages have germinated originally in the minds of philosophers and have been brought into being by men of action guided by the writings and teachings of these philosophers, the true interpretation of our form of government would be derived from investigating its philosophical background. For American Catholics

reared in a Protestant country, it will be a surprise to learn that the ultimate roots of the ideas expressed by Jefferson, Madison, Adams and the other designers of the Federal Government are found in the works of Catholic philosophers.

Several books have been written tracing the historical relationship between Jefferson and Cardinal Bellarmine. No attempt will be made here to enlarge on that phase. St. Thomas Aquinas in the Thirteenth Century expressing the viewpoint of the Catholic Church on numerous subjects and among them the nature of the state, will be a good modern starting point. His views were not so astounding at the time because they were advocated in Europe by the leaders of the Church. A parallel might be drawn to our own country where the rights of man as an individual and not as a unit of the huge state machine are taken for granted. Enlightened modern historians have shown that in the so called Dark Ages there was the development of more self-government than there is in Germany or Italy or Russia today. "Perhaps the most surprising phase of Thirteenth Century history is, that what is valued and most valuable in our modern laws, especially as they concern the fundamental rights of man, is to be found clearly expressed in the great law making ¹ of the Thirteenth Century"¹. We should recall that the

1. Walsh, James J. - The Thirteenth, Greatest of Centuries, p.350

revered charter of English liberty, the Magna Charta, was signed in 1215. During that century an actively functioning Parliament was developed in England. The Swiss Declaration of Independence took place in 1291. "---it will become evident that the foundations of our modern democracy were deeply laid in the Thirteenth Century, and that the spirit of what was best in the aspiration of people to be ruled by themselves, for themselves, and of themselves had its birth in this precious seed time of so much that is important for modern life." ² The universal Church stood out as the champion of the rights of man. Then there arose the greatest of modern blunders, the Reformation. Ambitious politicians saw an opportunity for great wealth and personal power in the destruction of the Church. They championed the causes of Luther, Knox, and Calvin and confiscated Church property. These politicians could never rest securely while the Church remained powerful enough to protect individual rights; so they rejected this hard won heritage and adopted philosophies more suitable to their purposes. The seeds of all absolute dictatorships from 1600 to our own Hitler, Mussolini and Stalin were sown in the Reformation.

Against this onslaught of force arose the voices of two humble members of the Society of Jesus. Against the bludgeon of absolute power wielded by their opponents, these Jesuits fought with the rapier of the pen inspired by principles of Catholic tradition. The

literary duel between Bellarmine and James I of England is a major phase of the background of the American Constitution, because it influenced all the philosophy of that period.

No attempt will be made here to link the principles behind the Declaration of Independence and the Constitution with a conscious appreciation of Catholic philosophy on the part of the Founding Fathers. Their opinion of the Catholic Church was for the most part colored by anti-Papist prejudices. But the Church had been the dominant intellectual force in Europe for a thousand years before the Reformation. When Protestants rejected the Papacy they did not immediately discard all of the benefits the Papacy had bestowed on the Western World. The principles of education developed under the tutelage of the Church remained in force until very recent times. All the European universities had been erected under Catholic auspices. When schools of higher learning were established in the colonies, they were copies of these older institutions. A recent book "The Education of the Founding Fathers of the Republic" by James J. Walsh reveals how closely Harvard, Yale, William and Mary, Brown, Princeton, and Columbia followed the course of study and the methods of teaching prevalent at the time of Thomas Aquinas. The theses presented at Commencement in the early colonial colleges

were identical in subject matter and form with theses that are being written even today in Catholic colleges and seminaries. They had the fundamental characteristics of Prime Matter and Form, Universals, distinction between essence and existence and the syllogistic method of argumentation. The propositions defended in an open forum were similar to those used in Catholic schools. "Prime matter is without form",³ "There are no innate ideas"⁴, "An object equal to human desire is necessarily infinite"⁵ are the titles of a few that were submitted at Harvard. Copies of the thesis were printed and distributed at Commencement and the graduate orally defended his proposition against all disputants in the same manner as it was done in the old European schools. "These theses, then, constitute an extremely important index of the education of the college graduates of that time. During the twenty five years immediately preceding the Declaration of Independence, the men who were to play the largest role in the securing of freedom from the mother country, in the organization of government of the people and for the people after the revolution, were being educated to powers of thinking by means of these theses as they were brought home to the minds of young collegians through the disputations."⁶ The Catholic Church was not an acknowledged influence, but its presence incognito through its educational

3. Walsh, James J.- Education of the Founding Fathers-p.15

4. Ibid-p.15

5. Ibid-p.17

6. Ibid-p.82

tradition allowed it to form effectively the minds of many of the colonial leaders. Just the reverse is true in this country today. Many Catholics educated in state schools are staunch supporters of their faith, yet they have a background of Protestant philosophy which is responsible for many inconsistencies and conflicts in their actions and their ideas.

In Europe Scholastic philosophy had to struggle with religious intolerance, jealousy, national bitterness and many other inheritances of generations of civilization. In the New World it could develop more freely because these conflicting forces were not so prevalent and most of the early colonists had consciously abandoned them to get a fresh start among vigorous clear thinking fellow adventurers. The American colonies, therefore, should have given added life and fuller development to a sound philosophy and the results show that they did perform that very function. "The revival of interest in the modern time when there is so much confusion of thinking, has brought with it the realization that the Colonial Fathers builded better than they knew when they thus continued in their colleges the study of the old fashioned philosophy and accepted the teaching that had been handed down in the European universities for some seven hundred years."⁷

7. Ibid-p.293

When Jefferson, Madison, Hancock and the other leaders in the establishment of our government were in college, the dominant interest of their lives and the subject closest to their hearts was politics. It is logical that in their philosophical discussions and in the subjects of their theses, political principles and the rights of man should be the favorite topic. The titles of these early theses prove this to be correct. It is not idle theory, then, that the marked similarity between the Declaration of Independence and the Constitution and the fundamental tenets of Catholic philosophy was not mere coincidence. The well rounded phrases that characterize these documents; the succinct, definite quality of the wording, point out that considerable discussion had developed such clear cut ideas. Where is there a more logical source of this discussion of fundamental principles than in the disputations characteristic of the Schools? The drafters of these documents had defended the very theses upon which they were based while they were students. Or they had entered into the discussion surrounding such a defense.

"This was the education received by the men to whom we are indebted for the securing of independence which has meant so much for the opportunity of the United States to develop apart from European reactionary influences and which has secured the opportunity for

8. 1814-p. 59
 9. St. Thomas Aquinas, II Sent., d. 7. liy. c. 1, a3 ad 1
 10. Bellarmine - De Libertate, c. 7. Rager-Democracy and
 Bellarmine, p. 114.

life, liberty and the pursuit of happiness for a whole people better than that purpose has ever been accomplished before in history. They were deeply influenced by the old fashioned philosophy which it had taken some five hundred years to develop and which had then been in use as an instrument of education for some five hundred further years at the time that it proved so efficient in molding the minds and hearts of the men who were to be members of the Continental Congress and who after the Revolution was over, were to demonstrate their calibre further in the writing of the Constitution of the United States and of the constitutions of the various states which made up the American republic."⁸

The Declaration of Independence starts out with the much tortured phrase "that all men are created equal". This blanket doctrine that has been the watchword for so many destructive philosophies, is truly Catholic and has its roots in Catholic philosophy. Going back to St. Thomas Aquinas we find the statement, "Nature made all men equal in liberty, though not in their natural⁹ perfections." Cardinal Bellarmine elaborates on this idea. "Men are born equal not in wisdom or grace or qualification, but they are equal in their fundamental nature and as human beings."¹⁰ The true nature of 'Equality' is expressed by these philosophers.

8. Ibid-p.58

9. St.Thomas Aquinas, II Sent., d x liv. q.1, a3 ad1

10. Bellarmine - De Laicis, c.7; Rager-Democracy and Bellarmine, p.114.

Today when we see in the strongly nationalistic European states that man is valued only so far as he is useful to the state, it is refreshing to observe how well the doctrine of "inalienable rights" is pegged to Catholic philosophy. Bellarmine continues, "From this equality we correctly conclude that no man has a right to dominate or tyrannize his fellowman. Man dominates over beasts, he rules the fishes of the sea, the birds of the air, and other animals by despotic rule, but his fellowman he merely governs or directs politically".¹¹ "Political right is immediately from God and necessarily inherent in the nature of man."¹²

'Liberty' was the tocsin of the French Revolution and the excuse for many abuses. It is listed as one of the inalienable rights of man in our Declaration of Independence. Catholic philosophy guards liberty with sane and stable qualifications. "It consists in this, that one is free to choose the good and to reject the evil. The law is manifestly not repugnant to true liberty; for its purpose is, not to impede the choosing of good and rejection of evil, but to promote the exercise and enjoyment of liberty. The law can rightly be said to be the opponent of servitude and the protector of liberty."¹³

Our founding fathers expressed their idea of the purpose of the state in the phrase "that to secure

11. Rager, p. 114

12. Rager, p. 48

13. Rager, p. 109

these rights, governments are instituted among men, deriving their just powers from the consent of the governed."¹⁴ We can look back many hundred years and relearn that "therefore the making of a law belongs either to the whole people or to a public personage who has the care of the whole people."¹⁵ The fundamental principle that the powers of government are derived from the people themselves and are exercised for their benefit is emphatically a tenet of Scholastic philosophy. Whether it was consciously copied from that source or not, we have the wonderful assurance that it is included in the foundations of our government. The principle is again expressed by Bellarmine, "It depends upon the consent of the multitude to constitute over itself, a king, consul, or other magistrate. This power is indeed from God, but vested in a particular ruler by the counsel and election of men."¹⁶

During the reign of James I when kings were declared to rule by Divine Right, as today, when we want to modernize our own democratic state, the right and power to change the structure of government received great attention. The Revolutionary War was declared by the ultimatum "that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a 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."

14. Declaration of Independence.

15. St. Thomas Aquinas, Part II, First Part, q. 90, art. 3

16. DeLaicis c.6; Rager p.53

Rousseau or Hobbes and the philosophers of their period did not foster such a doctrine. They might have advocated the right to change from a particular form of government to the special brand which they supported, but their confidence in their own pet theory prevented them from advocating the right to change as a perpetual principle. Nazis, Fascists or Communists today stamp out any indication of a desire for change with great despatch. So many of the philosophers of the past or present get lost in admiration of the state and they cannot see beyond to the greater qualities in man. Thomas Aquinas was the first Thomas Jefferson. "If any society of people have a right of choosing a king, then the king so established can be deposed by them without injustice, or his power can be curbed, when by tyranny he abuses his regal power."¹⁷ Bellarmine challenged the claims of James I with this doctrine. "For legitimate reasons the people can change the government to an aristocracy or democracy or vice versa. The people never transfers its power to a king so completely, but that it reserves to itself the right of receiving back this power."¹⁸ It is remarkable that in the days when kings were most powerful and the Protestant James I of England was proclaiming the Divine Right of kings, Catholic Bellarmine and Suarez were the only prominent philosophers who came out boldly to defend the principles of democracy.

17. De Reg., Lib.I. Cap.VI; Rager p.104

18. DeLaicis c.6; Rager p.53

In their plan for a well ordered state these Catholic Doctors urged division of power. Since monarchy was the prevalent form of government at that time, they expressed the divisions as restrictions on the absolute monarchs. "There are three forms of good government; monarchy, aristocracy, and democracy."¹⁹ "On account of corruption of human nature we consider as more useful for men at this time, a monarchy tempered with aristocracy and democracy, rather than simple monarchy."²⁰ "With the assistance of the best men of the land the monarch may procure wise counsel. Since it is impossible for one man to superintend all parts of the state and to perform all duties, to have all knowledge, all prudence, all wisdom, all foresight, all counsel, and best judgement a distribution of power is most advantageous."²¹ If in place of the word 'monarchy' we would insert the word 'dictatorship' how modern would be this defense of democratic government! The government of the United States is the only one established from the beginning with division of power as a fundamental part of its operation. The trend throughout the world today is directly contrary to this principle expounded by the Scholastic philosophers. It would be well for us to remember that we live in one of the few countries where division of power has been exercised successfully and where with proper caution it can continue to be in force.

19/ DeRom.Pont.Eccl.Monarchia, Lib.I,Cap.III;Rager p.40

20. Ibid p.35

21. Ibid p.40

The Constitution divides government into the executive, legislative, and judicial branches, each serving as a checkmate for the other. The very divisions that we enjoy are mapped out in Scholastic philosophy. "Such a mixed and more useful government would, therefore, first, embrace one supreme head and possess all the good qualities attributed to monarchy; order, peace, power, stability, efficiency; second, provide such minor heads as governors of provinces, legislators, and judges, who on the one hand would be in harmony with the supreme head, and on the other hand independent enough to govern not as the property of another, but as their own, thus making the best qualities of an aristocracy also possible; third, contain such democratic elements as should reasonably insure the commonwealth against incompetent rulers and secure the highest degree of popular right, liberty, approval, self-expression, participation and welfare."²²

We see outlined in a short paragraph all of the elements of government contained in the Constitution of the United States. Catholic philosophy does not advocate one form of government more than another. The form used depends on the country and the people. But we may rejoice that all of the leaders of Scholastic philosophy have looked with particular favor upon the type of government we enjoy in this country. In another sentence we discover that

22. De.Eccl.Mon., Cap III; Rager p.43

24. De.Eccl.Mon. Cap VI; Rager p.43.

the principle of election to office was approved. "If the supreme head and the minor heads acquire office not by hereditary succession, but by consent of the people, then democracy too has found its representation in this mixed form of government."²³

The field of government is necessarily an interest of the Church because government is a major influence in the life of man even in his relationship to God. "First it is to be observed that political power considered in general, and without entering into the question of monarchy, aristocracy, or democracy, proceeds from God alone; for it is necessarily annexed to human nature and emanates from Him who made that nature. Moreover, this power exists by the natural law, since it does not depend upon the consent of man, for whether they will or not they must be governed by someone lest they be willing to perish, which is not human."²⁴

Understanding this close relationship between the aims of the Church and the aims of the state we can be encouraged by the knowledge that the spirit of the Catholic Church is truly expressed in democratic forms of government.

The Constitution of the United States led the way in the adoption of constitutional governments, but very few of the copyists adopted the spirit behind the original. At the present time the people of the United

23. Ibid p.42

24. DeLaicis Cap VI; Rager p.48.

States are engaged in a struggle which threatens to smother that spirit. It is possible that the sudden prevalence of government by a man or by the mob has blinded us to the fact that ours is a government by law. When we assail the Supreme Court we must remember that it is our only safeguard to government by law. Many European nations have had and pretend to have now, a democratic government based on the executive and legislative branches advocated by Bellarmine, but they have failed, because they ^{have} forgotten that third and most necessary division, the court. It is only when there is a court established with power equal to that of the executive and legislative branches that there is a proper safeguard for government by law. It is true that public opinion has often been the champion of just government. But public opinion is only effective in clear cut issues of national scope. The rights of insignificant minorities can never command the power of public opinion. And demagogues of great persuasive power can and often have influenced public opinion so that the people have sacrificed cherished rights before they fully realized the significance of what they were doing. The nation as a whole cannot be expected to understand or appreciate the fine points of law or justice. They must put their faith in men devoted to the application of law. A study

of the development of English law is a tracing of the fight between the courts, Parliament, and the King for prominence and control. During the course of centuries the English courts had definitely established certain principles of justice that even the most powerful king of Parliament could not abrogate. Approximately one half of the men who convened at our Constitutional Convention had been trained in the practice of English law. They had great respect for the courts as safeguarders of human rights and they established the United States Supreme Court as such a guardian. We were also fortunate in having Chief Justice Marshall who maintained and developed the Court as a branch of our government equal to the other two. Cardinal

Cardinal Bellarmine fully realized the value and necessity of this balance. "If a people be ruled by the judgment of a king, it will be necessary to have the very best kind of kings at all times; if it be ruled by laws, however, it will suffice that at one time, at least, there were wise and good regents. Good laws, once made, remain; a good king will die. Laws are generally the combined judgment and experience of several wise men; the king's command is the judgment of one man and it may be rash. Legislators are less exposed to favoritism or bias; a ruler may be influenced by friends, relatives, bribes or fear. The judgment of law is the verdict of reason; the judgment of a single man is the result of

reason and passion. The decision of a ruler, although just, is seldom above suspicion, envy and opposition; the law does not labor under those handicaps. A government by law remains constant for a considerable time; the mind of an individual may change easily and frequently. Government by law may be reduced to an art. Government by a monarch may lead to despotism. In general, the government of a regent himself is considered better than that of a vicar or agent; but government without laws requires many vicars who judge according to the mind of the ruler; a government by law, however, reflects the judgment of the supreme authority directly." ²⁵

The Church has been the staunchest advocate of law and order. After the barbarian hordes had destroyed Roman Civilization, the Church by the peaceful words of the Gospel conquered the very tribes that had broken the power of Rome by the sword. Under the tutelage of the Papacy the Holy Roman Empire established a unity in Europe which all of the civilizing forces of the twentieth century expressed in the League of Nations have been unable to duplicate. Today if we observe the countries where there is the most strife and disorder we discover a striking parallel in the corresponding increase in hatred for and attacks upon the Catholic Church.

25. DeLaicis Cap.X; Rager p.66.

It is interesting to note how government established on the principles supported by Catholic philosophy and culture operated when it was put into effect. The first result of the exercise of our Constitution was the adoption of the Bill of Rights. At once we see the results of a well ordered democracy. Those early colonists who fought to establish an independent nation on the principle that men have 'inalienable rights' were going to make sure that protection for those rights would be the foremost duty of the new republic. When we stop and think of the great importance of these rights to us, we can get some small appreciation of the value of the background of Catholic philosophy and culture which permeated all the European schools and from them was carried to our early colonial colleges. The Founding Fathers were surrounded with a Scholastic tradition in school that was in many respects more genuine than that in many of our Catholic schools of today. Moorhouse Millar refers to this subject in a recent article on the natural law and Bills of Rights. "Thus with the present dangerous trend towards pragmatic collectivism, when, in the name of democracy, many are inclined to react overhastily to the futilities of a hybrid liberalism, it is well to be reminded in the first place that by itself democracy, be it even Jeffersonian or Jacksonian,

does not guarantee the maintenance of any group of liberties for the individual and that on the other hand, our constitution with its checks and ~~and~~ Bill of Rights is founded on principles which, as originally understood, are far more solid than our present day historians and even most lawyers are prepared to allow."²⁶

In an editorial in the Milwaukee Journal as recent as May 7, 1937, we find the following. "When the fog about the court packing plan clears away, some good will have come of it. A people accustomed to taking for granted the security and liberty it enjoys has been reminded that unless there is watchfulness, a heritage of liberty slips away. Young people especially will study the checks and balances of our system as they have not been studied for generations."²⁷ In their study the young people can turn to a group of articles compiled by the American Bar Association fifteen years ago. Without foreseeing any of the heat of the present situation, a prominent judge contributed an article particularly to the point. "Constantly it is urged that the courts should have no power to pass upon the constitutionality of the acts of the coordinate branches of government. The power of the courts to declare laws and delegated legislative action void for unconstitutionality is a unique feature of American constitutional

26. Millar, Moorhouse, The Modern Schoolman, p34

27. The Milwaukee Journal

law. The exercise of this authority stabilizes our institutions and checks the transitory ebullitions of a temporary majority. The courts thus safeguard the rights of life, liberty, and property which are included in that pursuit of happiness for which governments are instituted among men. So long as the power remains, it is to be exercised and not abdicated; exercised not arbitrarily, but as a check and balance on arbitrary power and with the breadth and comprehension of statesmen dealing with the supreme law, not with the meticulousness of an inferior judge construing a city ordinance." ²⁸ Scarcely a better definition of the office of the Supreme Court can be found or a finer standard for the exercise of its power.

It is perhaps more important for our future welfare that the government established by the Constitution should offer adequate protection for our 'natural rights' than that it should be based on any particular design for operation. In reality the whole plan laid out is centered about the preservation of these rights rather than a fixed and static form of government. We can measure the effectiveness of these safeguards by their conformity with the principles of 'natural law.' "Our government, with its Declaration of Independence and its Constitution, is rooted in the Natural Law from whose principle declaring the duty of giving obedience to those clothed with divine authority, it derives its power to

29

enact preceptive laws binding in conscience." We have tried to illustrate the similarity between the structure of our government and the principles of government as advocated by Catholic philosophers. The whole scheme of government in its principle and operation is centered around the Natural law. "That natural rights are admitted in the Declaration of Independence is evident from the words 'inalienable rights' among which are the rights to life, liberty and the pursuit of happiness. In the body of the Constitution individual rights are protected in the provisions against the suspending of the writs of habeas corpus, against enacting bills of attainder and ex post facto laws and laws impairing the obligation of contracts. However, the citizens' natural rights find their chief protection in the Amendments to the Federal Constitution and in the different State constitutions."³⁰

The adoption of our governmental decalogue, the Bill of Rights, as the first exercise of the Constitution, is a final illustration of Catholic tradition in government. The theory of the natural rights of man has received strenuous punishment both in ancient times and at the present. The Bill of Rights does all that a formulated standard of governmental principles can do, to preserve them inviolate for American citizens. "It will be wholesome for many moderns to find the Scholastic doctrine of the natural law accurately defined and its provisions

29. The Modern Schoolman, Herbert Noonan, p.35

30. Ibid p.36.

carefully enumerated in the Bill of Rights by which this none too Christian state was formed and is even now administered. Especially salutary is the consideration of the judiciary of the United States in which, through the venerable principle of judicial precedent, our deepest rights are secured from aggression." ³¹

It is well that the designers of the Constitution immediately incorporated the Bill of Rights into it as an integral part of our government. Their foresight has not always prevailed among our political leaders and it seems to be generally lacking throughout the world today. The very first amendment guarantees freedom of religious worship. Those who had fled from religious persecution in Europe wanted to end it over here. Even though most of the revolutionary philosophers who influenced that period insisted on the necessity of a state religion so that there would be no friction between state and church, the most valuable lesson of experience prompted those Colonial leaders to insist on religious freedom. And the founding fathers did not ignore the importance of religion; they recognized its preeminence in good order. "God was a reality for most of them, and whoever conceives of a real God must logically conclude that He not only imposes natural duties on man, but also upholds man's dignity by guaranteeing him natural rights which render him immune

32
from chattelship to the political clique of the day." Freedom of speech, of the press and of assembly are always necessary to preserve us from demagogues. How little are these rights worth in modern Germany, Italy, of Russia? Security of person and property are preserved from encroachment by the Federal government in contradistinction to the theory so prevalent that all men and all goods belong to the state. The Boston Tea Party, the levying of the Stamp Acts, the forcing of American seamen to work in British ships were abuses that impelled the colonists to fight for freedom. The bland promises and pretty pictures offered by the contemporary proponents of an absolute state had little appeal to the practical and self reliant colonists.

All of the legal protection developed in the English Common law through the course of centuries was expressly included in the right and heritage of American citizens. "Without due process of law" has echoed in courtrooms for one hundred and fifty years. Time and time again it has prevented arbitrary invasion of the rights of 'life, liberty, or property' by the federal and state government. Trial by an impartial jury is included in the fundamental rights. The 'speedy justice' of Russia, Germany, and Mexico has shocked us with pictures of how far unlimited power can go in civilized countries. The possibility of the old but ever

new terrorist methods so widespread today was foreseen when unlawful search and seizure was forbidden. Perfect justice can be administered only by God; but as near as human wisdom can provide for it, the framework of securing justice for the guilty and the innocent is set up in the American Constitution.

The last two articles in the Bill of Rights are the bulwark of our defense from an absolute state. They are worded in very general terms, and their importance was probably not nearly so well appreciated at the time they were enacted as that of the previous eight, which were aimed at very definite evils that had already been experienced. But those men, having suffered tyranny, a bitter war with their mother country, and then the disheartening petty quarrels and lack of unity in the colonies under the Confederation, looked forward to future generations that had not been so tried. They understood that a generation always possessing these rights might lose sight of their importance. So, as a final guarantee, they slipped in the last two articles of the Bill of Rights. All the rights not enumerated in the Constitution were to remain in the people, and they were not to be limited by those rights already preserved.

From these two articles we can turn right to our present Constitutional difficulties. Since they were

enacted we have added only ten amendments. Widespread discussion and serious thought went into the adoption of each addition. A democracy necessarily moves slowly. Adictatorship can be manipulated with much greater ease and efficiency. But it is like the old race between the tortoise and the hare. In the long race of life the hare makes many brilliant starts and ends in panting defeat; the slow moving tortoise outstrips its spectacular rival and is the only one that arrives at the goal. Imbued with twentieth century efficiency and speed, we have tried to remake the country overnight. For three years we proceeded at a merry pace toward state absolutism and then the hastily enacted, all inclusive legislation was stopped by the Constitution. Impatient for rapid progress we are restive under constitutional restraints, but before we throw the Constitution overboard let us examine its history and the reason for its existence. If we comprehend the treasury of governmental balance the Constitution has reserved for us, especially for Catholics, we may be more willing to slacken the pace and provide social legislation in an orderly constitutional manner.

The difference between the liberties we enjoy and those enjoyed by people in modern dictatorships is so obvious and commonplace that the comparison loses some of its strength. Perhaps as an illustration of the Catholic

character of our American government we should compare it with the principles advocated by a philosopher who is credited with a profound influence on the founding fathers. "The Social Contract" of Jean Jacques Rousseau was the bible for many a revolutionary of the eighteenth century, but Divine Providence preserved us from adoption of the plan he advocated.

Rousseau appealed to the colonists because he was the foremost champion of liberty. "Man is born free and everywhere he is in chains"³³ is the keynote of his philosophy. Rousseau was embittered by the tyranny and poverty prevalent under the Bourbons in France. He beheld great wealth and magnificence for a few, and the bulk of the nation ground down by oppressive privilege and taxes. Observing the miserable ignorance of the poor he lost faith in individual man and turned to men in a group as the important consideration. Through his study of the Works of Plato and Aristotle, the early Grecian state became a background for his ideals. "The subordination of the individual to the State, which was the dominant feature of those ancient polities was also, as we shall see, the leading characteristic of Rousseau's own theory. In Hellas or in Rome the citizen had but few personal rights; his conduct was largely subject to public censorship, and his religion was imposed by state authority."³⁴ The designers of the Federal government appreciated Rousseau's desire for

33. Rousseau - The Social Contract, translation -Tozer p.4

34. Ibid p.3

liberty, but having greater faith in individual man, they restricted the power of the state. Rousseau's ideal was based on small states like Athens, or Sparta, or the Swiss cantons. He failed to observe that a social contract establishing an absolute government in a large state could be just as tyrannical and oppressive as the government of any French king.

Rousseau established his ideal state upon a contract entered into by all men. "The act by which a people becomes a people is the foundation of society and on this first and unanimous convention rests the obligation of the minority to submit to the majority"³⁵ "Each of us places in common his person and his whole power under the supreme direction of the general will; and in return we receive every member as an individual part of the whole."³⁶ Rousseau attacked the absolute monarchies of his generation, but he failed to observe that in a large nation under his contract theory man could become just as cruelly subjugated by the huge state machine as he was by a tyrannical king. The aims of the modern Nazi or Fascist are strikingly similar to Rousseau's idea of the state. Because he didn't truly estimate the nature of man Rousseau unwittingly fell into the same error he was trying to remedy. "It follows from what precedes that the general will is always right and always tends to the public advantage; but it does not follow that the resolutions of the people have always the

35. Ibid p.43

36. Ibid p.43

same rectitude."³⁷ "As nature gives every man an absolute power over all his limbs, the social pact gives the body politic an absolute power over all its members; and it is this same power which when directed by the general will, bears as I said the name of sovereignty."³⁸ The 'social contract' can also be classified as the basis for Communism; "for the state with regard to its members is owner of all their property by the social contract, which, in the state serves as the basis of all rights."³⁹ No one can ever accuse the Constitution of identity with or even similarity to the 'social contract.'

If we glance at another of the prominent philosophers whose influence was widespread when our country was in its inception we shall discover the same lack of appreciation for the nature of man and consequently a false idea of the state. Hobbes in his "Leviathan" reveals faith in the individual man when alone, but not as a member of a group. Man when alone can develop to the greatest degree, but when he is in competition with other men this development is restrained and war is the result. Comparing men with insects Hobbes says, "First that men are continually in competition for Honour and Dignity, which these creatures are not; and consequently

37. Ibid p.123

38. Ibid p.123

39. Ibid p.115

amongst men there ariseth on that ground, Envy and
 Hatred, and finally Warre; but amongst these not so."⁴⁰

So to do away with war and strife Hobbes supports an
 absolute state. The state is 'established' by the common
 consent of men and is ostensibly for their own good, but
 every man must bow absolutely to its wishes. "I Authorise
 and give up my Right of Governing myselfe, to this Man, or
 to this Assembly of men, on this condition, that thou give
 up thy Right to him, and Authorise all his Actions in like
 manner."⁴¹ The consideration for the contract by each man
 is that the other men are giving up the same rights.

After the state is so established, by necessity,
 everything that it does is essential and for the good of
 the people. This is by necessity because if it is not
 taken as an absolute truth everything Hobbes advocates
 fails. "For though it is naturally reasonable, yet it is
 by the Sovereign Power that is is law."⁴²

Yet in this absolute state men are supposed to
 have liberty. Indeed it is liberty of a strange sort!
 "And generally all actions which men doe in Common-wealths,
 for feare of the law, are actions, which the doers had
 liberty to omit."⁴³ According to Hobbes, man is free
to do anything, but his reason will force him to do only

40. Hobbes - Leviathan; Everyman's Library No.691,p.88.

41. Ibid p.89.

42. Ibid Intro.p.XII.

43. Ibid p.111

what the state wants. It is like our modern Communist state or Nazi state or Fascist state. Men are free to do what they want, but they do what the state says is right or else.

A review of the other philosophers who influenced the early American leaders would reveal the same lack of appreciation of the essential nature of man. What a failure our democratic government would have been if the principles of Rousseau had been followed! The greatest feature of our Constitution is the preservation of our natural rights. Without this it would merely be another of the many plans for government. Because the natural rights are symbols of the spiritual nature of man, they are subject to concerted attack at the present time. Materialistic America is being sorely tempted to give up her birthright for a mess of pottage. It remains to the Catholics who have appreciation of man's spiritual nature to preserve this birthright.

If we turn to political conditions as they exist today, we find that the Catholic Church is being vigorously attacked in every country that has adopted state absolutism. The fact that each individual man has a soul and is only a step lower than an angel must be disregarded when man becomes a mere chattel of the state. It is a short step from the position of many an American

workman as only a chattel of his employer to becoming the chattel of the state, a condition so common in the rest of the world. The one step has inevitably led to the other. But the strange paradox has been that in each instance, it was to end the one condition that the other was adopted. We are in a period of severe economic unrest. Labor troubles plague us with increasing force. The President in a single effort to solve all of our ills has proposed very radical changes in our system of government. They appeal strongly to those who, worn out by the strife and uncertainty, would willingly transfer onerous liberty for security.

The time of the breakdown in our enthusiasm for governing ourselves, which the founders of our government foresaw, has arrived. Liberty has been the foremost characteristic of the American people and we held it aloft as a torch to all those coming from the old world. We eagerly exercised it; but we forgot the responsibility that it entails in our rush for material prosperity. Now the mocking emptiness of material success has left us discouraged and willing to try anything else. The Catholic Church brought culture to Western Europe. Wherever it has reached, people have received new courage and ambition, but always tempered by spiritual ideals and values. The greatest similarity between Russia, Germany, Mexico, Spain and even Italy when the state became supreme was an almost diabolical hatred for the

Catholic Church. This fact should arouse the American Catholic to his responsibilities and an appreciation of his privileges. It is obvious that the path of state absolutism has only one disastrous end. Let Catholics make a thorough accounting of the benefits of our present form of government. They are the only group remaining in modern America who have any consideration for spiritual values.

Our conclusion after reviewing the character of the government that we possess and comparing it with the teaching of the Catholic Church must be that the Declaration of Independence and the Constitution of the United States are certainly in accord with principles set forth by the most eminent Catholic philosophers. When we remember the dominant place the Church has had in European scholarship and the fact that the early Colonial colleges copied the European schools, we can understand the reason for the relationship between the Colonial philosophy of government and that developed by Scholastic philosophy. Protestantism had not been flourishing long enough to have developed a philosophical influence in the universities. We are only now reaping the fruits of Reformation philosophy in our materialistic state schools. Every modern educator is decrying the lack of spiritual ideals. The political principles of Scholastic philosophy were more readily understood and appreciated here in the

BIBLIOGRAPHY

Waller, James J. - The Thirteenth, Greatest of Centuries
 New World where conflicting traditions and prejudices
 were absent or at least not as strong. The Thirteen
 Colonies were an ideal experimental group for the
 application of the principles of Catholic philosophy.
 We are all aware of the vigorous thriving nation and
 sympathetic haven for the oppressed that resulted.
 Let us all cherish this heritage, particularly we
 Catholics who can cling to it as a product of our own
 Scholastic philosophy.

... survey of the prevalence
 of Scholastic traditions in the Colonial colleges and
 their influence on the Early American leaders.

Ragan, John G. - Democracy and Bellarmine

Qualityprint Inc., Shelbyville, Ind. 1936

An examination of Cardinal Bellarmine's defense
 of popular government and the influence of his political
 theory upon the American Declaration of Independence.

The Modern Schoolman - A Quarterly Journal of Philosophy

Published at St. Louis University

Volume XIV, Number 2 January 1937

BIBLIOGRAPHY

Walsh, James J. - The Thirteenth, Greatest of Centuries
Catholic Summer School Press, N.Y. 1907

An analysis of the contributions of the thirteenth century to Western civilization. The chapters on Law and on Political Principles were particularly helpful.

Walsh, James J. - Education of the Founding Fathers of the Republic, (Scholasticism in the Colonial Colleges)

Fordham University Press, N.Y. 1935

A most interesting survey of the prevalence of Scholastic traditions in the Colonial colleges and their influence on the Early American leaders.

Rager, John C. - Democracy and Bellarmine

Qualityprint Inc., Shelbyville, Ind. 1926

An examination of Cardinal Bellarmine's defense of popular government and the influence of his political theory upon the American Declaration of Independence.

The Modern Schoolman - A Quarterly Journal of Philosophy

Published at St. Louis University

Volume XIV, Number 2

January 1937

Pound, Cuthbert - The Growth of American Administrative Law
Mound City Press Inc. St. Louis

A series of lectures given before the Bar
Association of St. Louis

Tozer, Henry John - tr. The Social Contract; or Principles
of political right, by Jean Jacques Rousseau.

G. Allen and Unwin, ltd. 7th ed. London 1916

Hobbes, Thomas - Leviathan

Everyman's Library - No. 691

Aquinas, Thomas - Summa Theologica

translated by the English Dominicans

Burns Oates & Washbourne, Ltd London 1915

SUPPLEMENTARY READING

MARQUETTE UNIVERSITY
LIBRARY

The Political Theory of Suarez

James V. Kelly S.J.

Proceedings of the Tenth Annual Convention

Jesuit Educational Association 1931

J2440

The Social Theory of St. Thomas Aquinas

Clare Riedl Ph.D. Marquette University

Proceedings of the Ninth Annual Meeting of the

American Catholic Philosophical Association 1933

Catholic Origin of Democracy

Alfred O'Rahilly, Studies, March 1919

Sources of English and American Democracy,

O'Rahilly, Studies, June 1919

Democracy of St. Thomas

O'Rahilly, Studies, March 1920

The State and Church

John A. Ryan

Right of Self-Government

John A. Ryan

Approved

Edward A. McGrath, S.J.
Major Professor

H. J. Keegan, S.J.
Dean

Date _____