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RANGE REFLECTIONS

“THERE IS NO DECLARATION OF RIGHTS”

How different the opinion of the United States Supreme Court in *Heller* which recognized our guaranteed right to keep and bear arms might have been if there had not been a Second Amendment to the United States Constitution. The Court’s decision might well have begun with the phrase “there is no declaration of rights” had there been no Second Amendment recognizing and guaranteeing the natural right of all Americans to keep and bear arms.

Without the Second Amendment our rights would not be guaranteed but would be open to interpretation. Without the Bill of Rights there would be no right to keep and bear arms, no freedom of religion, no freedom of the press, no freedom of speech, assembly or any other right which we all take for granted. Although it is commonly considered as being just a part of the Constitution the process of how the Bill of Rights came to be a part of the Constitution is seldom studied and little known. The United States Constitution in its form as adopted by the states did not include a Bill of Rights. The Bill of Rights is not integral to the Constitution but was adopted after the Constitution and our Federal system of government a year later. One thing which differentiates our government from the other countries populated by English speaking people is our Federal Constitution and a Bill of Rights. The other English speaking people of the world, Great Britain, Canada and Australia do not have a Constitution such as ours and do not have the protection for our unalienable civil rights found in the Bill of Rights.

If the *Heller* decision had been written in any of these other countries the decision would be entirely different and could very well begin with the phrase “There is no declaration of rights” and proceed to hold that the individual citizens do not possess the right to keep and bear arms.

Should you have any question about this compare the draconian firearm restriction which exist in all three countries.

At the time of the drafting of the Constitution the unalienable rights protected by the Bill of Rights were actually taken for granted and the drafters of the Constitution did not believe an enumeration of rights was necessary. Those concepts were widely accepted as being the rights of all men. Your attention is directed to the furor over the definition of marriage which now stands at the center of the gay marriage debacle. It was also not thought necessary at the time of drafting the Constitution to define the institution of marriage because there was only one definition. To have proposed to the Drafters of the Constitution that it would be necessary to define marriage as being between one man and one woman or that the absence of such a definition would give rise to the concept of a single sex marriage, plural marriage and interspecies relationships would be met with derision and disbelief. But we now see that imaginative legal minds now contend that that which is not specifically defined and prohibited must be permissible.

America stands alone among the other nations of the world in its protection of individual rights despite the incessant assaults on those rights by forces outside of the U.S. and from those within. So the question should arise in your mind: How did we come to have the Bill of Rights?

The Bill of Rights is a part of the U.S. Constitution due to the tireless efforts of one man. Often you will hear the lament that there is not anything I can do, one person cannot make a difference so why bother. That is not true and the story of how the Bill of Rights came to stand between us and tyranny is proof of that. One man can make a difference. Were it not for the stamina, tenacity and determination of one man we would now be no different from Great Britain, Canada or Australia. America stands alone and one American stood alone to ensure that the U.S. Constitution was amended to protect those rights.

No one of the Founding Fathers was more influential in the formation of the United States of America than the man who brought us the Bill of Rights nor more of a paradox. One of the greatest patriots who ever walked is also one of the least well known. His image can be seen by thousands who tour the United States Capitol every year but hardly anyone recognizes his portrait. His marble portrait is among those depicted as the givers of the law above the gallery doors to the United States House of Representatives. His portrait hangs in the company of other great men including Hammurabi and Moses. His contribution was well known in his time but with the passage of time he has faded into obscurity.

He was George Mason, not a household name and not one displayed prominently in history as a founding father. He was also an individual who was highly regarded by all who knew him. Thomas Jefferson considered him an inspiration and a mentor. In his Autobiography, Jefferson praised Mason as “a

man of the first order of wisdom among those who acted on the theater of the Revolution, of expansive mind, profound judgment, cogent in argument, learned in the lore of our former constitution, and earnest for the republican change in democratic principles.” James Madison wrote that it was “to be regretted that, highly distinguished as he was, the memorials of his accomplishments on record or perhaps otherwise attainable are more scanty than of many of his contemporaries far inferior to him in intellectual prowess and in public service.”

He was a delegate to the Constitutional Convention who spoke on almost every topic and addressed the Convention as much as any other single delegate but who dreaded public speaking so much that he almost fainted when he did so.

George Mason’s interest in a declaration of rights began with the Virginia Bill of Rights. He was the guiding force behind the drafting and adoption of the Virginia Bill of Rights on June 12, 1776. A brief evaluation of the provisions of the Virginia Bill of Rights will quickly reveal that Thomas Jefferson was inspired by it when he drafted the Declaration of Independence. The first paragraph of the Virginia Bill of Rights is revealing:

That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

The Virginia Bill of Rights has been commended as “a condensed, logical and luminous summary of the great principles of freedom inherited by us . . . The extracted essence . . . Distilled and concentrated through the alembic of Mason’s own powerful and discriminating mind. There is nothing more remarkable in the political annals of America than this paper.”

One of the most important effects of Mason’s work was the inspiration with which it ignited other brilliant minds. The Constitution of Virginia and the Virginia Bill of Rights prepared by Mason formed the model for the constitutions adopted by the other states as well as the Federal Constitution. The U.S. Constitution is the bylaws of how our government operates, the Declaration of Independence embodies a credo of lofty principles and sentiments, in essence the mission statement. The Bill of Rights, that unique declaration found in no other country, fulfills the aspirations of the Declaration of Independence as a continuing effective limitation on the power of government and as the promotion of individual and group freedom, liberty and opportunity. This combination is the essential nature of the American system of government and society.

George Mason represented the state of Virginia at the Constitutional Convention, an action which was out of character, with the hope and aspiration of replacing the Articles of Confederation. Despite his high hopes and aspirations he was not able to convince his fellow delegates to include a Bill of Rights. When

it came time to affix his signature to the new proposed Constitution without a bill of rights he refused and stated that he “would sooner chop off his right hand than put it to the Constitution as it now stands.” George Mason’s primary concerns about government, both that of Virginia and the nation were aimed at preserving the rights and liberties of individuals above all. Despite the influence of the Virginia Constitution and the Virginia Bill of Rights Mason’s motion to include a Bill of Rights into the proposed Constitution was defeated. George Mason began to formulate his misgivings about the Constitution when he turned the printed report of the Committee on Style over and began simply “There is no Declaration of Rights” and from there proceeded to list what he called his “Objections to this Constitution of Government.”

Mason drafted his “Objections” first in handwritten form and then as a printed pamphlet which began to circulate first among the political circles and then into the general public. It began to appear in newspapers from one end of the country to the other. Mason personally mailed a copy to George Washington. He also sent a copy to his close friend and political ally, Thomas Jefferson, then at his diplomatic post in Paris, explained that “These Objections of mine were first printed very incorrectly, without my Approbation, or Privity; which laid me under some kind of Necessity of publishing them afterwards, myself. You will find them conceived in general Terms; as I wished to confine them to a narrow Compass.” Jefferson was struck by Mason’s argument regarding the Declaration of Rights and wrote to James Madison that he was alarmed by the omission of a bill of rights and to John Adam’s son in law wrote “Were I in America, I would advocate it warmly till nine states should have adopted, and then as warmly take the other side to convince the remaining four that they ought not to come into it till the declaration of rights is annexed to it.”

Mason argued at the ratification convention for Virginia against ratification and while he did not succeed in his calls against ratification the delegates did condition their ratification on amendment to supply the deficit he complained of. Although he was not successful in his strategy of holding a second Constitutional Convention he was successful in forcing the Federalists to abandon their intransigent position and to include a bill of rights. Madison and the Federalists had opposed the inclusion of a bill of rights as being unnecessary.

By not signing the Constitution and leading the Anti-Federalist movement to block ratification Mason prevailed on the principles of individual liberty and rights but he lost many friends. His opposition to the Constitution caused an estrangement between him and George Washington that never healed. He and his good friend, James Madison, found themselves on opposite sides and the gulf between them remained until Madison himself introduced a bill of rights to Congress in September of 1789. Mason surely regretted the tensions which resulted from his positions but his struggle gave us the country we live in today. Without him and his insistence on individual freedoms there would be no Bill of Rights. And without the Bill of Rights we would have no guaranteed individual rights and specifically no Second Amendment rights.

So who was this man who did not seek the spotlight, shunned public office, alienated the political elite of his time on the basis of principle and refused to compromise those principles. He never backed up, never gave up and never gave in until our rights were protected.

George Mason was a reluctant politician, he never seemed to enjoy it, he avoided confrontation and chafed at the perpetual speechmaking and oratorical demonstrations involved in the process of compromise and consensus required to form a new form of government.

In order to understand the character of the American Revolution we must understand the character of the American Revolutionaries, the men who risked everything for the elusive concept of America. It must be understood that the Founding Fathers were not professional politicians as we now know them. In the present day we see political office as an occupation to be occupied for term after term with the incumbent going from humble origins to multi-millionaire status as a result of not only substantial compensation but also contributions from supporters and suitors. The political professional as we now understand it did not exist in the eighteenth century. The Founding Fathers were amateurs. There was no compensation that accompanied election to the Constitutional Convention, the assemblies of the individual states or the Continental Congress which declared independence from Great Britain. That is a concept which is difficult to comprehend today. None of these men performed their services with an eye toward compensation resulting from service. All of the Founders did so out of a sense of honor and commitment. History is replete with instances when members of the Continental Congress and the state assemblies had to withdraw from public life and return to his private affairs. It was not to engage in sober reflection it was to attend to the business matters that allowed them to involve themselves in public service. Public service was a drain on the personal fortunes of all the founders. George Washington once stated that he could mark his financial decline from the day he took command of the revolutionary army. His service as the first President also came at a tremendous financial loss. Compare that thought to the image of our previous President, Bill Clinton, making millions of dollars from having served as a President. George Washington derived no such windfall from his public service nor did any of the men who formed the core of the American Revolution. Thomas Jefferson frequently had to withdraw from public service and return to Monticello. Alexander Hamilton was the father of our modern banking system but he never profited personally from its creation. Throughout his career he had to withdraw and return to his law practice to make a living. All of the founders had to do the same.

So the question arises, why did these men sacrifice so much for so little in return? No present day politician would do the same. Can you name a single politician who lost a fortune after serving in public office rather than making a fortune at public expense? Probably not. So we see that the founders were amateur politicians who funded themselves to serve in public office. So what is

different about them, what set them apart from the men who would come later. The difference is character.

In order to grasp the character of the founders we have to understand the character of the eighteenth century America. At the center of society in the eighteenth century in both America or Europe was the sense of civilization. This was the Age of Enlightenment and the men of the Age of Enlightenment were concerned with politeness, a term which today implies an adherence to manners and decorum at the dinner table. Politeness had a different and more expansive meaning then referring to socialability, social cultivation, refinement in thought and expression. Civilization was considered to be a result of its root word, civility. Civilization is itself a social process that had reached its apex then with a move away from barbarism, a pushing back of the boundaries of ignorance and advancement of classical thought. To be civilized was to be and to comport yourself as a gentleman. A civilized man was a gentleman. To be a gentleman was to think and to act as a gentleman. It meant to be literate, articulate, reasonable, tolerant, honest, just, unbiased, frank, sincere and with the ability to take a larger view of human affairs. And they did take a larger view of human affairs and we are the beneficiaries of their vision. Although they walked the earth as men they viewed the earth from the vantage point of eagles. To be a gentleman had a social significance as well an intellectual one but it carried with it a moral obligation that was of greater importance and significance than the social aspect. A gentleman is guided by his moral sense of honor and duty.

Gentlemen were bound by their sense of honor to act in a disinterested manner. Disinterested is itself an interesting term which is not understood today. Disinterestedness is now considered a foreign concept which would be greeted with derision and ridicule today. But in the eighteenth century the term disinterested had a classical meaning and was a term well understood by society of the time. Disinterestedness was a most familiar term to the founders and was synonymous with the classical concept of virtue, duty, honor and obligation; “superior to regard for private advantage; not influenced by private profit”. As we have discussed in past editions the founders used words articulately and precisely, an ability unpracticed today. Unalienable rights are not synonymous with inalienable. Disinterested is not synonymous with uninterested meaning ‘indifferent or unconcerned.’ Due to our cynicism it is difficult of conceiving of someone making the conscious decision to not act in his own personal interest or profit but who is capable of rising above a pecuniary interest and not being selfish. Indeed not being selfish but acting and thinking in an unselfish or impartial manner when his own pecuniary interests have been impacted by his being in public service to start with but to make decisions because they are the right and moral decisions to make even though such decisions may be costly to him. The founders believed that only independent free minded, free thinking, individuals free of interested ties and paid by no masters could practice the virtue needed.

The founders, the revolutionary leaders, the men who gave us America

were not modern men. They were motivated by a high moral obligation to lead their lives in service to mankind. They did not conceive as politics as a profession or occupation or of office holding as a career.

Thomas Jefferson wrote that men “believed in a virtuous government, public offices are what they should be, burthens to those appointed to them, which it would be wrong to decline, though foreseen to bring with them intense labor, and great private loss.” Public office was not a reward, it was a noble obligation required of gentlemen because of their intellect, talents and independence. Such an expression of moral obligation would today be met with derision and sarcasm. We have lost much since the days of the Revolution.

Never allow any one to tell you that one person cannot make a difference, one man made a difference in the character of an entire nation. He gained nothing from it and lost much but he stood on principle and now because of his efforts and fortitude you can stand as an American, proud, strong, armed. You make a difference. Every one of us touch people every day, make it a positive experience for yourself and all you come in contact with. Be the American the Founders made this country for.

Always remember that but for the efforts of one man who stood on principle the decision in *Heller* could have begun “There is no declaration of rights.”

Thank God each day for the gifts he has bestowed upon us, this day, for life and for the efforts of extraordinary individuals like George Mason who have given us the world we enjoy. Let us beseech God to grant each and every one of us with the strength to emulate them and to, each day, touch the lives of others to make the world better for the present and more importantly for those who will follow in the future. Men like George Mason have shown us the way let us continue in the path blazed by such pioneers. Pass along the blessings of Americanism to all you touch.

May God continue to bless us and protect us. And may we continue to protect ourselves. Live each day as if it is your last and you will always live in the best day of your life. End each day without regrets, only hope for the day that will follow for those who follow you.

With best personal regards,

I am

Cordially yours,

ALBERT W. BLOCK, JR.

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