

The Roots of our Freedoms

There was much debate both written and spoken concerning the methods being used to detain and handle the terrorists who have declared war against us. Civil rights groups were concerned that some of the liberties we have struggled so long to win and keep seem to be at risk. Several peoples from the Middle East and South Asia who wear turbans are perturbed that we as a people don't seem capable of differentiating one type of headgear from another, with the result that they feel they are being persecuted.

[This article was written soon after those persons apprehended after 9/11 were incarcerated in the naval facility at Guantanamo, Cuba. Since then many years have passed with a large percentage of the detainees being held without being formally charged and as it turned out, subjected to torture. I personally can't subscribe to either of these, as they go beyond the point that I wish to make – that the reactions to threats to our existence have not changed since the earliest of our days.]

My argument here is that this same type of reaction during times of war has always been with us. During WWI, the German-Americans were subjected to unfair treatment in this country, but after the war relations went back to normal with no permanent strains put upon our Constitution and the freedoms spelled out in it. The case of the reaction against the Japanese-Americans during WWII is perhaps better remembered. Our government, as recently as the first year of the 21st century, was still making financial settlements with some of those who had been wronged. Not that any financial payments could heal the wounds that were brought about by the treatment they received during the war years of the 1940s, but the admission that we acknowledged the fact that they had been loyal citizens was the most our government could do. Now it seems the Muslim-Americans are bearing the brunt of the eye of scrutiny in this latest war with foreign terrorist groups. I don't see this scenario as an example of our not being able to learn from one period of war to another; rather it points up the fact that we really have no other meaningful way to respond, given the insidiousness of what we are faced with.

My intent here is to familiarize you with the methods decided upon by the very men to whom we give credit for spelling out the Laws of Liberty that we hold so dear as they fought against the desperate odds imposed on them by the great War of Independence. I believe that reading the laws enacted by the Connecticut General Assembly can allay a certain degree of concern as to the apparent dangers of losing some of our Constitutional guarantees during times of war. Here then are some laws enacted in Hartford in May 1777: (This is a mere four months prior to Gen. Burgoyne's surrender at Saratoga, when the outlook seemed to be very bleak for the Patriots.)

“An act to prevent traitorous conspiracies against this and the United States of America.” “Whereas many persons inimical to this and the United States of America, do wander from place to place with intent to spy out the State of the Colonies, from traitorous conspiracies against the state, and give intelligence to the enemies thereof, to the great danger and prejudice of the inhabitants of said state. Therefore:

Be it enacted that no person or persons in any character or capacity whatever (except persons well known and esteemed to be friendly to said states, military commissioned officers on their march to or from the army, or in defense of this or the said United States, and soldiers in company with, and under the command of such

officers) shall be allowed to travel or pass from town to town without a proper permit, signed by some assistant or justice of the peace, general or field officer, selectman or committee of inspection, certifying where the bearer belongs, the place to which he is to travel, and that he is reputed friendly to the United States.”

“And be it further enacted that it shall be the duty of every assistant and justice of the peace... to seize every suspected person traveling within this state. And if such suspected person apprehended shall not produce a proper certificate or otherwise satisfy such officer, that he or she is friendly to this and the other United States, such officer is hereby authorized and directed *with or without a warrant* [all parenthesis are mine] to apprehend such suspected person and to bind him or her to goal, there to remain until delivered by due order of law, as the nature of the case may require.”

Another law was directed at specific foreigners: “An act for preventing foreigners trading with, and corrupting the Indians; and carrying on other evil and dangerous designs in this colony.” “Be it enacted that it shall not be lawful for any Frenchman, Dutchman or any subject or vassal of any foreign prince of state, to trade with any Indian or Indians, within the limits of this colony, endeavoring to corrupt the Indians with false, dangerous and seditious principals; and to alienate and estrange their minds from the government; or to search and spy out the country, or if they are *suspected* to be carrying on such designs in this colony may be taken up by order or warrant from any assistant or justice of the peace, or if the necessity of the case require it, by any sheriff or constable *without warrant*, and brought before the governor.

And upon their *appearing* to be guilty of any of the matters aforesaid, or to be justly *suspected* to be dangerous persons, the governor is empowered and authorized to give such orders, and to take and use such means and methods as may effectually prevent the dangers and mischiefs that might otherwise arise from such foreigners and *suspected* persons.

Another law restricting the free movement of citizens reads as follows: “Be it enacted by the governor that no person or persons shall, under any pretence whatsoever, depart from any port, harbor, bay, creek, river or any other place whatever within this state; in any boat, skiff, canoe or any other small craft, without liberty in writing, first had and obtained from one or more of the selectmen of the town from whence such person or persons would depart. If any person or persons attempt to depart any of the aforesaid ports, or any other place along the seacoast, will, upon conviction, pay a fine of 40 shillings [about \$10.00] to the treasury of the town in which the offence took place.”

As soon as the peace treaty was signed in Paris during 1783, ending hostilities (at least for a short time) with our parent country, these restrictive laws were abandoned. My point here is merely to place in perspective what seems to be our national reaction to people or events that seriously threaten our basic liberties.

I have enough confidence in our people and our government to believe that whenever irregularities arise during troubled times, eventually the Constitution will prevail.