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Are you losing your property rights in liberty?

By Nat Hentoff

<http://www.JewishWorldReview.com> | Dick Arney, former House Majority Leader, is a conservative libertarian who has become an adviser and occasional organizer for the tea partiers. They have no maximum leader, but their guiding light, they proclaim, is the Constitution. In a Wall Street Journal interview (Nov. 20), Arney says that:



"One of the most heartening things he has seen in the birth of the tea party is that 'more people have come to see that document as the best arrangement for limiting government and extending liberty ever devised.'"

He left out the key word: INDIVIDUAL liberty.

Among other Americans looking into the Constitution are airplane travelers citing the Fourth Amendment in self-defense as -- anxious and angry -- they approach airports and the pat-downs by overreaching government agents who also underreach into what used to be considered our "private parts."

While our Constitution -- still a "wonder" for those around the world struggling to be free -- is reaching more American adults, it's largely absent in our schools -- a crucial failure seldom even mentioned by the diverse array of battling education reformers.

Were I teaching again -- whether visiting elementary schools (I've taught the Bill of Rights to fifth-graders) or evening classes for adults -- I would, early on, focus on what James Madison, a primary architect of the Bill of Rights, emphasized as the essence of "property rights" in this constitutional republic. ("The Founders' constitution," Volume 1. Chapter 16, Document 23, University of Chicago Press).

Madison begins with defining "property" as "that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual."

Obviously, he continues, "a man's land, or merchandize, or money is called his property."

Then, here comes what should be taught in all of our schools, media and recurring remedial education classes for all members of Congress. And with particular attention to the executive branch:

"A man (also) has property," Madison continues, "in his opinions and the free communication of them. He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them."

As in atheist, I would add: A man has property in his right to have no religious opinions -- and not be penalized thereby.

And, James Madison further deepens the American definition of "property": "He has a property very dear to him in the safety and liberty of his person."

If I had a car (I don't drive) my large bumper sticker (credited to James Madison) would read:

"As a man is said to have a right to his property, he may be equally said to have a property in his rights."

Madison could not specifically foresee the extent and depth by which these liberty rights would be abused by future American governments and courts. But he had studied the degree of liberty in many countries and accordingly, he warned:

"Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions."

At this point, if I were teaching who we are, I'd refer to such dark excesses of power in our history as the Alien and Sedition Acts of 1798 that imprisoned Americans -- seven years after the ratification of the First Amendment -- for their opinions, including speech that would bring the president or Congress "into contempt or disrepute,"

And I'd not only bring J. Edgar Hoover into our discussion but also the present FBI head, Robert Mueller who, along with then Attorney General Michael Mukasey, Congress and presidents George W. Bush and Barack Obama, gives his agents the authority to investigate any of us without any articulable suspicion of criminal activity -- and without a warrant from a judge.

Our present U.S. attorney general, Eric Holder, agreed with that decidedly unMadisonian FBI reach during his confirmation hearing: "The guidelines are necessary because the FBI is changing its mission from a pure investigative agency to one that deals with national security."

The security of the Constitution is thereby suspended -- with no outcry since from members of Congress, the White House or the citizenry.

And in the fusion centers (run by Department of Homeland Security and Justice Department around the country), the FBI, along with local and state intelligence units, secretly collect a "massive amount of information...without oversight (on) members of the public that pose no threat to national security (and) unknowingly are entered into a database as terrorists threats." (examiner.com, Chicago)

Says the ACLU's Michael German, a former FBI anti-terrorism special agent, the fusion centers' "erroneous, misleading information...pollute the entire system that local, state and federal law enforcement is relying on."

These fusion centers also pollute the legacy of James Madison and, of course, the Constitution. Madison warned us: "Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power knowledge gives."

Will a 2012 Republican administration retain the (Michael B.) Mukasey-Mueller FBI guidelines for warrantless surveillance of us? Will it keep the fusion centers as they are? Will it bring civics classes back into the schools?

Are you guarding your own property rights in your "opinions and the free communications of them" when you go to vote or use your First Amendment right "to petition the Government for a redress of grievances?" The Constitution needs your help.