

## American Minute with Bill Federer Judge Learned Hand "What then is the spirit of liberty?"

"A conservative among liberals, and a liberal among conservatives," he was not consistently conservative enough for Republican President Warren G. Harding and he was not consistently liberal enough for Democrat President Franklin Roosevelt.



As a result, he was passed over several times to be a nominee for the U.S. Supreme Court.

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# ENDANGERED SPEECHES



HOW THE  
ACLU, IRS & LBJ  
THREATEN  
EXTINCTION  
OF FREE SPEECH

William J. Federer



His name was **Learned Hand**, who served as a judge for over 50 years, first on **New York's District Court**, then on the **U.S. Court of Appeals**.

**Judge Hand's** legal decisions were so respected they were referenced in **U.S. Supreme Court Cases**.



Though a political progressive, he



COLUMBUS (OHIO) DISPATCH  
 FEBRUARY 10, 1937  
 From the holdings at the FDR Library

was an advocate of **judicial restraint**, stating:

"(he could not) frame any definition that will explain when the Court will assume the role of a **third legislative chamber** and when it will limit its authority."

In 1934, Judge Hand ruled in *United States v. Schechter Poultry* that Franklin Roosevelt's "New Deal" federal law did not apply to a poultry firm which operated only within the State of New York.



In 1937, Judge Learned Hand condemned **Franklin Roosevelt's** attempt to **pack the Supreme Court** with as



many as 15 justices in order to get the Court's approval of his power **usurping big government programs.**

In this, **Judge Hand** was in agreement with **James Madison.**

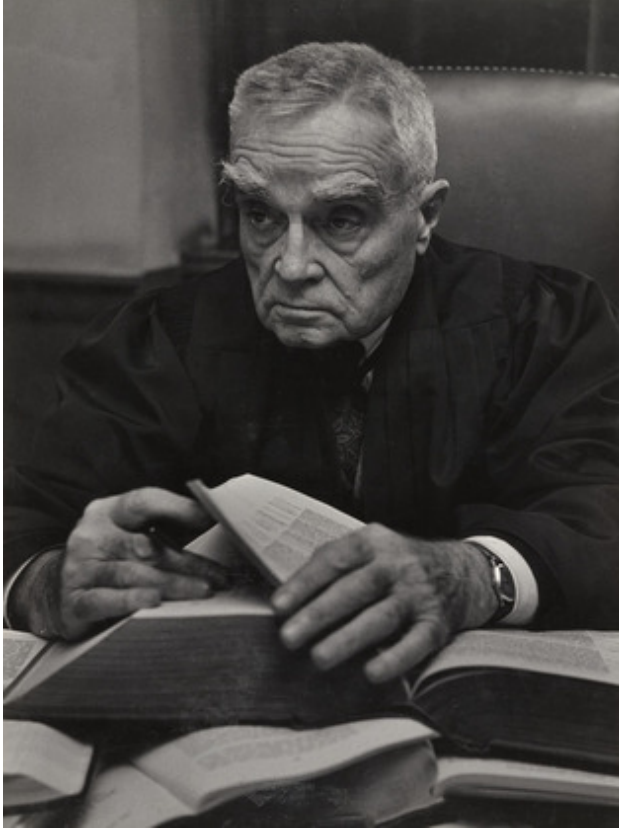


**Madison** explained to Congress in 1794, that just because something needed to be done, it was not the Federal Government's job to do it:

"The government of the United States is a definite government, confined to specified objects. It is not like the state governments, whose powers are more general. **Charity is no part of the legislative duty of the government.**"

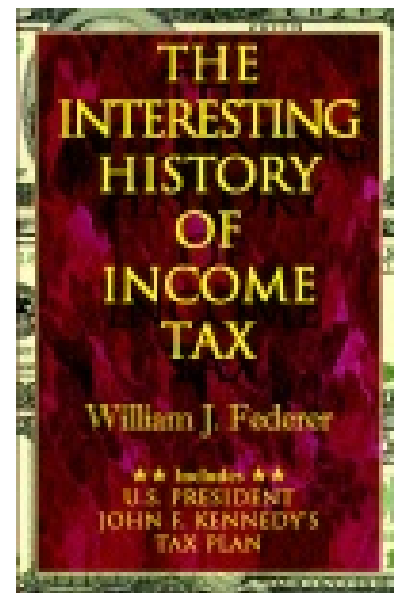
Regarding taxes, **Judge Hand** wrote in *Gregory v. Helvering* (2d Cir. 1934):

"Anyone may **arrange his affairs** so that his **taxes** shall be **as low as possible**; he is not bound to choose that pattern which best pays the treasury.



There is **not** even a **patriotic duty** to **increase one's taxes** ... Nobody owes any public duty to pay more than the law demands."

## [The Interesting History of Income Tax](#)



Similarly, **George Orwell** warned in a letter to H.J. Willmet, May 18, 1944:

"Everywhere the **world movement** seems to be in the direction of **centralized economies** which can be made to



'work' in an economic sense but **which are not democratically organized** and which tend to **establish a caste system.**"

**George Orwell** wrote in *The Observer*, April 9, 1944:

**"Collectivism leads to concentration camps, leader worship, and war."**

## **COLLECTIVISM:**



## **Marx's "best idea"**

Dick Morris made a parallel observation in his article titled "A New Venezuela Is Born," (DickMorris.com 6/20/22):



## **A New Venezuela Is Born**

By DICK MORRIS

Published on [DickMorris.com](http://DickMorris.com) on June 20, 2022

Columbia, long America's best ally in Latin America, has left the ranks of the free world and elected a communist president in June 19th's election.

**ignored**, and the **president governs by decree**, backed by **secret police** imported from Cuba."

A comparable statement was made by The National Endowment for Democracy (2/4/16) regarding Turkey's President Erdogan:

Democracy is like a train,  
said Mr Erdogan once; you  
get off once you have  
reached your destination

GETTING OFF THE TRAIN  
Turkey special report



"Early in his career Mr Erdogan made a telling remark he was later to regret, *The Economist* notes: "**Democracy is like a train**," he said, "**You get off once you have reached your destination.**"

Now many of his party's critics fear that Turkey's president may be getting close to that goal ...

It is not just that Mr Erdogan wants to **rewrite the constitution to award himself executive presidential powers**. The trouble is that he hardly needs them.

Sometimes overtly, but often by **stealth** and **dissimulation**, the AK party has spread its tentacles across Turkish society.

**The courts, the police, the intelligence services, the mosques, the public education and health systems**

"The precedent in **Venezuela** is that **once the left wins an election, there are no more free elections.**

The will of Congress and the Judiciary is

and the media are all, in one way or another, **subject to the party's overweening influence.**"



**Judge Learned Hand** wrote to Justice Felix Frankfurter, March 24, 1945, warning:

"I confess it seems to me that **we are pretty plainly headed** for some fairly **comprehensive collectivist ordering** of industry; **people don't want it ...**

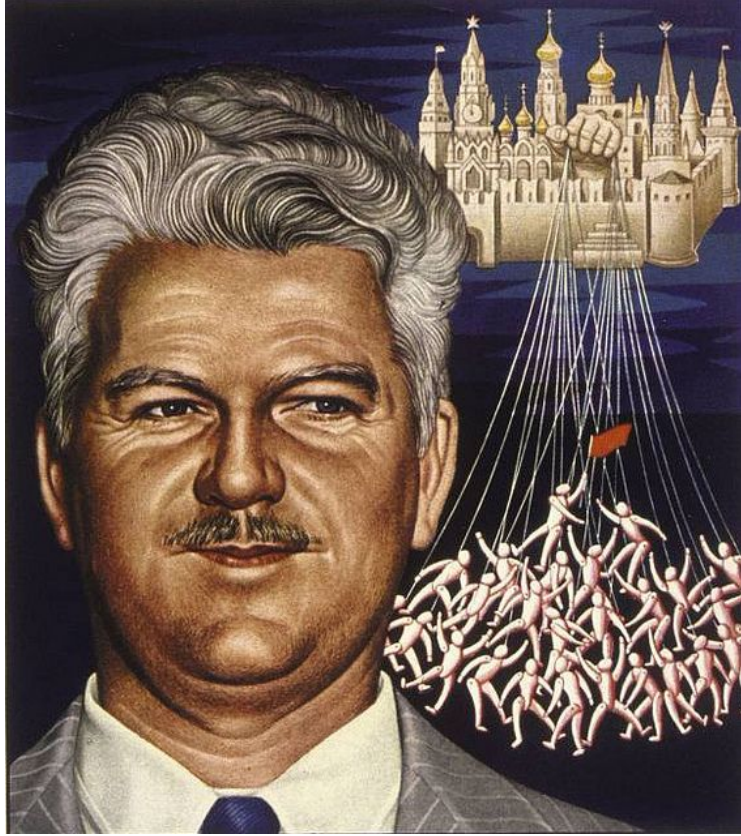
Can you have a **collectivist** democracy? The future has all sorts of **creatures** in its womb ...

There seems to me great obstacles; a society in which the **individual's fate** is completely **in the hands of the government** can scarcely manifest itself as a succession of resultants of '**pressure groups**' -- it won't stand up."

In *Dennis v. United States* (183 F.2d 201, 213, 2d Cir. 1950), a plurality of Supreme Court Justices adopted **Judge Learned Hand's** view that Eugene Dennis, General Secretary of the **Communist**



**Party USA**, did not have a First Amendment right to free speech if **his goal in organizing Antifa-style protestors was to overthrow the Constitution** and set up a government which would not allow free speech.

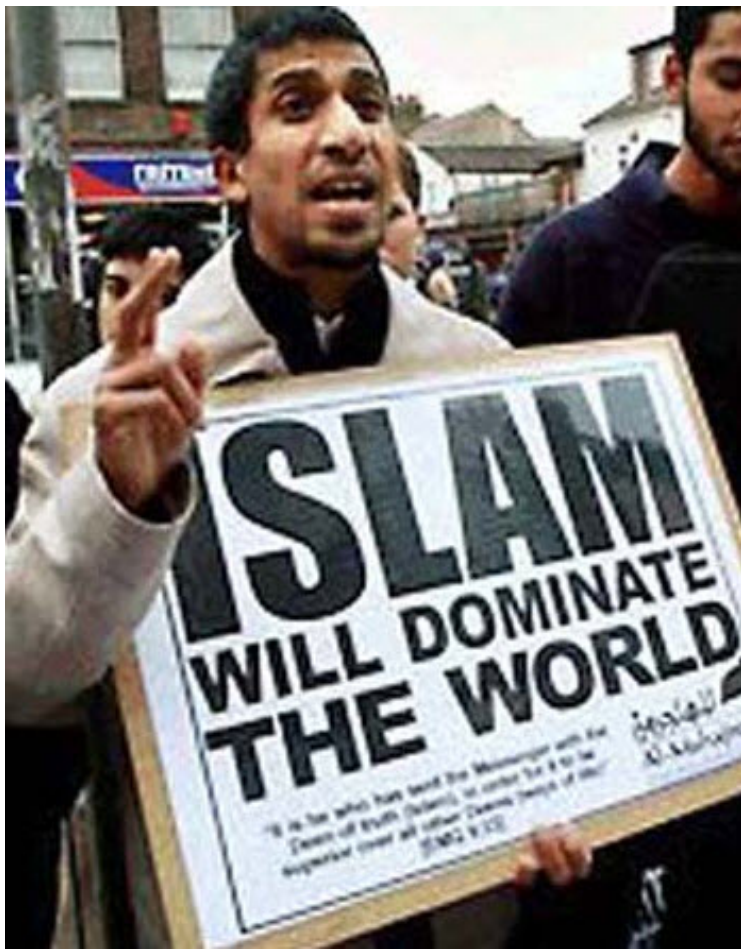


In agreement, **Dwight Eisenhower** stated in the *TIME Magazine* article, "Eisenhower on Communism," October 13, 1952:

**"The Bill of Rights** contains no grant of privilege for a group of people to **destroy the Bill of Rights.**"

A group - like the **Communist conspiracy** - dedicated to the **ultimate destruction of all civil liberties**, cannot be allowed to claim civil liberties as its privileged sanctuary from which to **carry on subversion of the Government.**"

This interpretation may also be applied to modern-day **Islamists** whose expressed intentions are to subvert the Constitution to establish **totalitarian Islamic Sharia Law**.



Comparing **Communism** with **Islam**, Judge **Learned Hand** wrote in the decision:

"By far the most powerful of all the European nations (**Russia**) had been a convert to

**Communism** for over thirty years; its leaders were the most devoted and potent **proponents of the faith**; no such movement in Europe of East to West had arisen **since Islam.**"

A similar statement was made by **Supreme**

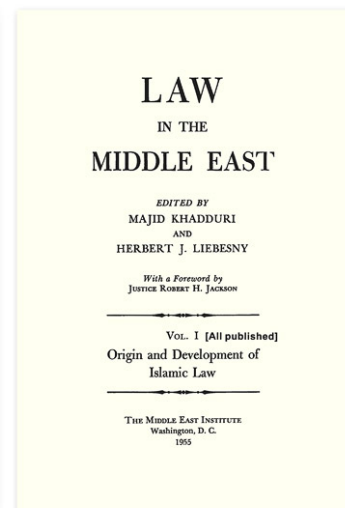
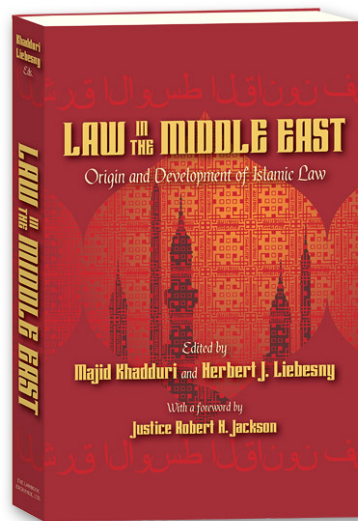
## Court Justice Robert H.

**Jackson**, who had served as U.S. Attorney General under Franklin Roosevelt, and Chief U.S. Prosecutor at the Nuremberg Trials.



Justice Robert Jackson wrote in the foreword of the book *Law in the Middle East* (1955):

"In any broad sense, **Islamic law** offers the American lawyer a study in **dramatic contrasts**.



Even casual acquaintance and superficial knowledge – all that most of us at bench or bar will be able to acquire – reveal that its **striking features** relative to our law are not likenesses but **inconsistencies**, not similarities but **contrarities**.

In its source, its scope and its sanctions, **the law of the Middle East** is the **antithesis of Western law.**"



**Judge Learned Hand** commented on the **danger** of allowing **political correctness** to **intimidate people** from voicing their opinions for **fear of it being labeled "hate speech"**:

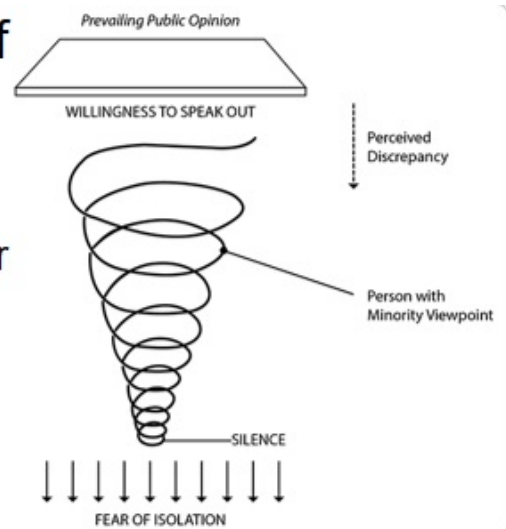
"That **community** is already in the **process of dissolution** ...where faith in the eventual supremacy of

reason has become **so timid** that **we dare not enter our conviction in the open.**"

German political scientist Elisabeth Noelle-Neumann discovered the "spiral of silence," that people will self-censor their views if they think they are in the minority.

### Spiral of Silence

People self-censor views if they think are in the minority.



This is premised on human pride and people's cowardly fear of being rejected by a group.

British philosopher **Thomas Hobbes** wrote in *Leviathan* (1651, part 1, ch.

11):

"They that approve a **private opinion**, call it an **opinion**;

but they that mislike it, **heresy**: and yet heresy signifies **no more than private opinion**."



# LEVIATHAN

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## THOMAS HOBBES



Along the same lines, **George Orwell** wrote in his novel **1984**:

"The Party told you to reject the **evidence of your eyes and ears**. It was their final, most essential command.

His heart sank as he thought of the enormous power arrayed against him, the ease with which any Party

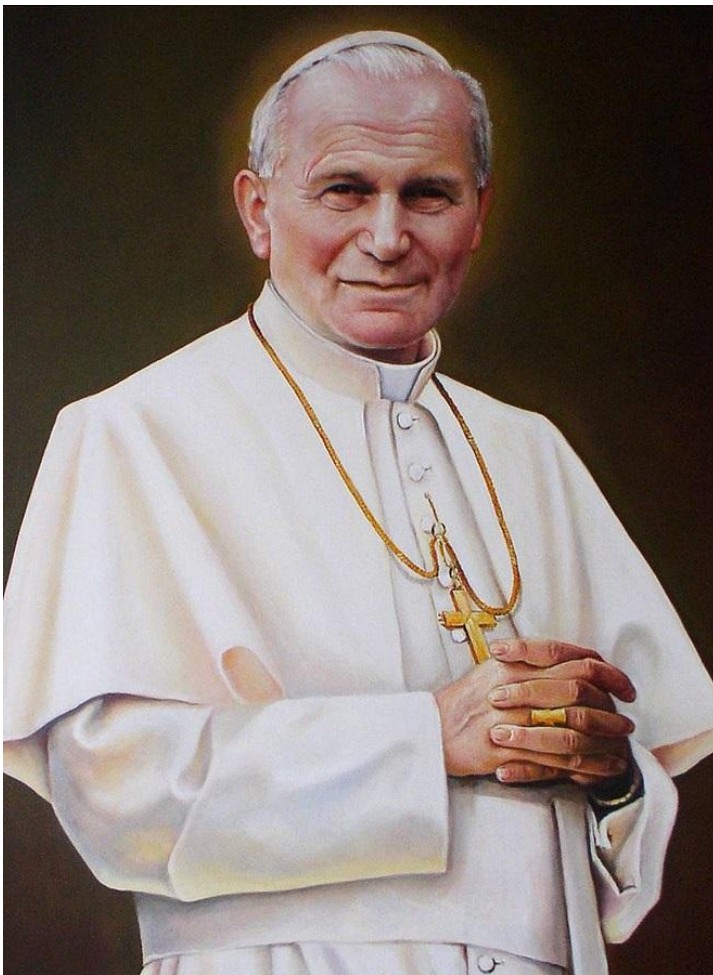
intellectual would overthrow him in debate, the subtle arguments which he would not be able to understand,

much less answer."

Will and Ariel Durant wrote in the *Lessons of History* (Simon & Schuster, 1968, p. 77):



"Ignorance ... lends itself to manipulation by the **forces** that **mold public opinion.**"



Pope John Paul II stated August 15, 1993:

"Vast sectors of society are confused about what is right and what is wrong and are at the mercy of those with the power to '**create**' **opinion and impose it on others.**"

On May 21, 1944, **two weeks before the D-Day invasion** in the last year of World War II, **Judge Learned Hand** was catapulted to national



prominence when he gave a speech to **the largest crowd ever assembled in New York City** to that date.



Nearly one and a half million met in Central Park for the annual **"I Am an American Day,"** including **150,000 newly naturalized citizens** about to make their **oath of allegiance to the United States.**

To become a **United States citizen,** immigrants have to **study the Constitution.**

As a result, many **legal immigrants** have a **better understanding of the U.S. Constitution** than many **Congressman.**

The **Oath** to become a legal citizen after 1929 required that **immigrants** swear:

"I hereby declare, on oath, that I

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### US Citizenship Test - Could You Pass?

An important part of the application process for becoming a US citizen is passing a civics test, covering important U.S. history and government topics. There are 100 civics questions on the naturalization test. During the interview process, applicants are asked up to 10 questions and must be able to answer at least 6 questions correctly. Here is a sampling of what may be asked. How would you do?



absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen;



that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same;

that I will bear arms on behalf of the United States when required by the law (added 1950);

that I will perform noncombatant service in the Armed Forces of the United States when required by the law (added 1950);

that I will perform work of national importance under civilian direction when required by the law (added 1952);

and that I take this obligation freely, without any mental reservation or purpose of evasion; **so help me God."**

On May 21, 1944,  
after comments by  
**New York Mayor  
Fiorello  
LaGuardia,**  
Senator Robert  
Wagner and  
clergymen of



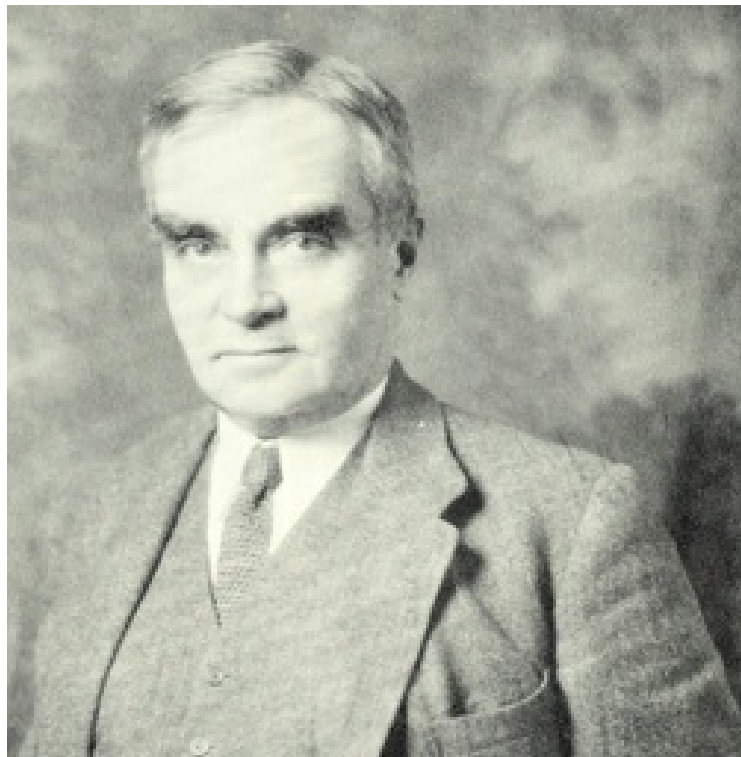


Protestant, Catholic and Jewish faiths, **Judge Learned Hand** gave his short speech, "**The Spirit of Liberty.**"

It was so well received that it was reprinted in *The New Yorker*, *The New York Times*, *Life Magazine* and *Readers Digest*.

In it, **Judge Learned Hand** stated:

"We have gathered here to affirm a faith, a faith in a common purpose, a common conviction, a common devotion.



Some of us have chosen America as the land of our adoption; the rest have come from those who did the same ...

We sought liberty; freedom from oppression, freedom from want, **freedom to be ourselves ...**"

**Judge Hand** continued:

"I often wonder whether we do not rest our hopes too

much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes.



Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it ...

And what is this liberty which must lie in the hearts of men and women?

It is not the ruthless, the unbridled will; it is not freedom to do as one likes. That is the denial of liberty, and **leads straight to its overthrow.**

A society in which men recognize no check upon their freedom soon becomes a society where freedom is the possession of only **a savage few**; as we have learned to our sorrow ..."

He added:

"What then is the spirit of liberty?

I cannot define it; I can only tell you my own faith.

**The spirit of liberty** is the spirit which is not too sure that it is right;

**the spirit of liberty** is the spirit which seeks to understand the mind of other men and women;

**the spirit of liberty** is the spirit which weighs their interests alongside its own without bias;

**the spirit of liberty** remembers that not even a sparrow falls to earth unheeded;



**the spirit of liberty** is the spirit of **Him** who, near **two thousand years ago**, taught mankind that lesson it has never learned but never quite forgotten; that **there may be a kingdom where the least shall be heard and considered side by side with the greatest.**"

**Judge Learned Hand** ended, after which he led everyone in the Pledge of Allegiance to the Flag:



**"In the spirit of that America** which lies hidden in some form in the aspirations of us all;

**in the spirit of that America** for which our young men are at this moment fighting and dying;

**in that spirit of liberty** and of America I ask you to rise and with me pledge our faith in the glorious destiny of our beloved country."



**Judge Hand's** speech echoed an earlier view from noted British writer **G.K. Chesterton**, who penned in "What is America" (*What I Saw In America*, 1922):

"America is the **ONLY NATION IN THE WORLD** that is founded on creed.

That creed is set forth ... in the **Declaration of Independence ...**

that all men are equal in their claim to justice, that governments exist to give them that justice ...

**It certainly does condemn ... atheism**, since it clearly names **the CREATOR** as the **ultimate authority** from whom these **equal rights are derived.**"

**Judge Learned Hand**, who was nicknamed "**the tenth Justice of the Supreme Court,**" died **AUGUST 18, 1961.**

He wrote:

**"The use of history** is to tell us ... past themes, **else we should have to repeat**, each in his own experience, the **successes** and the **failures** of our forebears."

--

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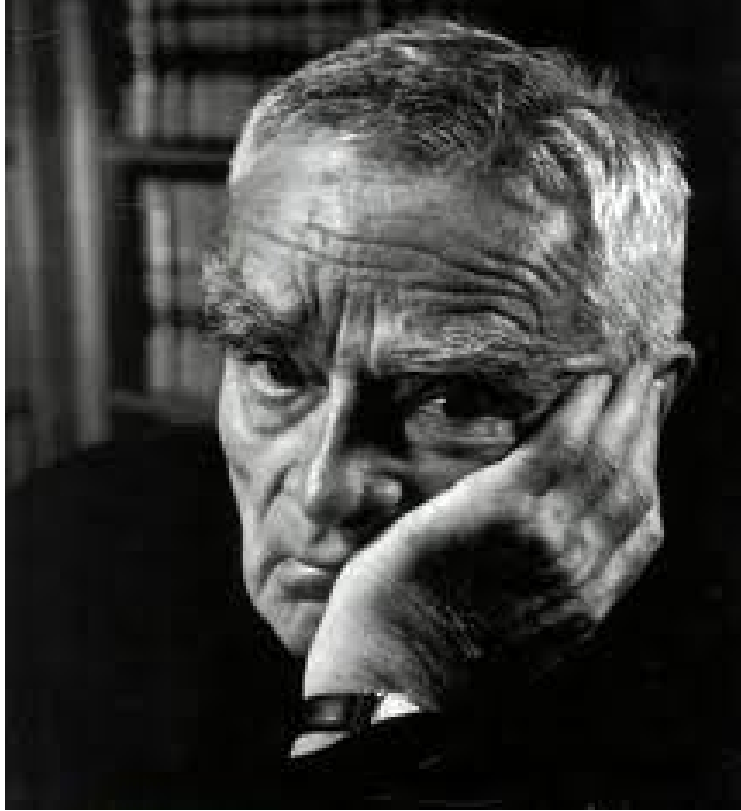
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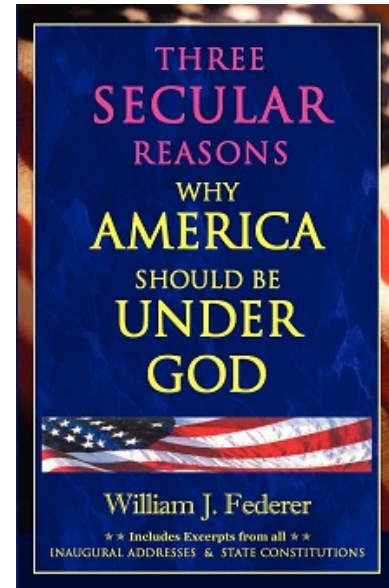
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