

American Minute with Bill Federer

The Supreme Court & Judicial Activism: Why Justices should NOT Usurp Power & Make Laws

Yale President Ezra Stiles stated in 1783:

"Most states of all ages ... have been founded in rapacity, **usurpation** and injustice ...

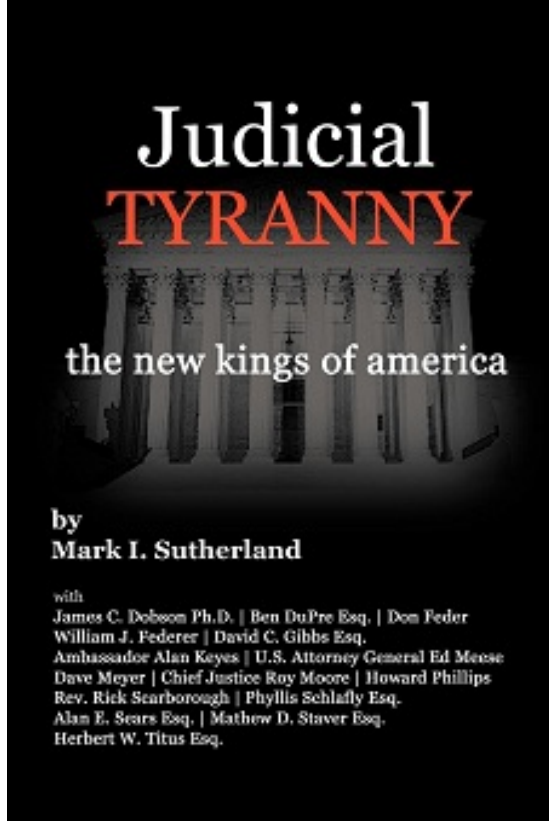
The **Nimrods** ... (were) the first invading **tyrants of the ancient ages** ... The spirit of conquest had changed the first governments ...

All succeeding ones have in general proved one continued series of **injustice**, which has reigned in all countries for almost 4,000 years."



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[Judicial Tyranny - the new kings of America?](#)



The first invention was the plow. The Bible tells of Cain being a "tiller of the soil."

Then people started hitting each other with and they turned into **weapons**.

British philosopher Thomas Hobbes, in *Leviathan* (1651), wrote of man in his primitive state:

"Every man is enemy to every man ... Men live without other security than what their own strength ... (There was) ... no culture ... no society ...

And worst of all, continual fear, and danger of violent death ... The life of man (was) solitary, poor, nasty, brutish, and short."

Insecurity for life and property caused people to **gravitate together for protection.**



When people who are threatened get together for mutual protection, one of them knows how to fight better than the rest, and everyone says, you be our **captain** to organize our defense.

The **Book of Judges**, chapter 10, gives an example of this:

"When the children of Ammon made war against Israel, the elders of Gilead went... unto Jephthah, '**Come, and be our captain**, that we may fight with the children of Ammon.'"

When a **captain** organizes people to fight and they win, everyone tends to show preference to **the captain's family.**



The **Book of Judges**, chapter 8, has the account:

"Then the men of Israel said unto Gideon, 'Rule thou over us, both thou, **and thy son, and thy son's son** also: for thou hast delivered us from the hand of Midian.'"

Over time, the **sons** and **grandsons** claim to be an **elite family, a political machine**, giving out favors to their supporters and ostracizing their opponents.

Inevitably, one family member begins to act as a **political boss, a gang leader, a despot, ... a king**.



Even if a **king** concentrates **power for the purpose of doing good more efficiently**, after he dies, that **power** is passed

on to his descendants who are tempted to use it **oppressively**.

The **Book of Genesis**, chapters 37-50, Joseph in Egypt helped **concentrate power** into the hands of the Pharaoh who **used it for good**, providing food for the children of Israel, giving them the best land of Goshen, and even employing them to care for his cattle.

But then there was a **new Pharaoh "who did not know Joseph,"** and he used the **concentrated power** to **oppress the children of Israel**, making them throw their sons into the Nile River.

Boasting of concentrated power, **King James I** told Parliament in 1609:

"Kings are not only God's lieutenants upon

earth and **sit upon God's throne**, but even by God himself they are **called gods ...**

Kings are compared to the head ... of the body of man ...

It is sedition in subjects to dispute what a king may do in the height of his power ...

The **king is overlord of the whole land**, so is he **master over every person** that inhabiteth the same, having **power over the life and death of every one** of them ... so the **power flows always from himself.**"



France's Louis XIV, the "Sun King," reportedly stated:

"It is legal because I wish it";

and

"I am the State" ("L'État, c'est moi").



Santa Anna declared himself Mexico's dictator-for-life and insisted he be addressed by the title "Most Serene Highness."

He wrote to U.S. minister to Mexico, Joel R. Poinsett:

"A hundred years to come my people will not be fit for liberty ... a **despotism** is the proper government for them."



Webster's 1828

Dictionary

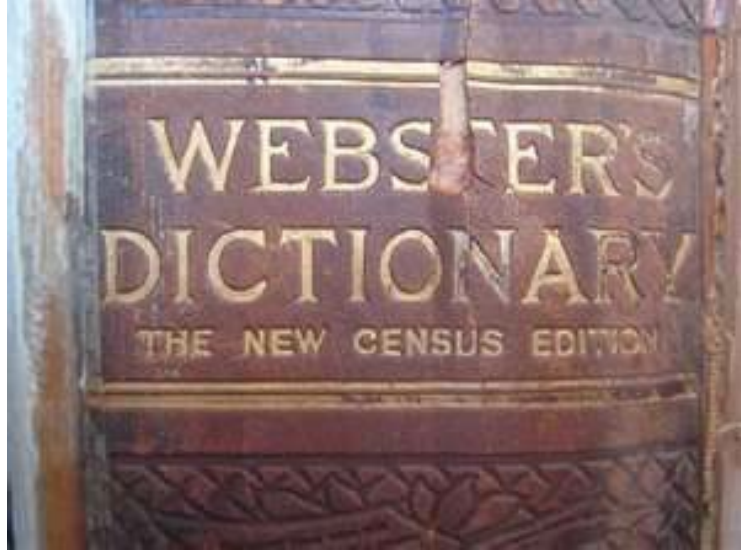
defines:

"DESPOTISM:

1. Absolute power; authority unlimited and uncontrolled by men, constitution or laws, and depending alone

on the will of the prince; as the despotism of a Turkish sultan.

2. An arbitrary government, as that of Turkey and Persia (Iran)."



Thomas Jefferson wrote to William Jarvis, September 28, 1820:

"You seem ... to consider the judges as the ultimate arbiters of all constitutional questions; **a very dangerous doctrine indeed**, and one which would **place us under the DESPOTISM of an**

oligarchy ..."

Jefferson continued:

"Our **judges** are as honest as other men, and not more so and **their power (is)**

the more dangerous,
as they are in office
for life and not
responsible, as the
other functionaries
are, to the elective
control.

The Constitution has
erected **NO SUCH
SINGLE TRIBUNAL,**
knowing that to
whatever hands
confided, with
**corruptions of time
and party,** its
members would
become **DESPOTS."**



**Thomas
Jefferson** wrote to
Abigail Adams,
September 11,
1804:

"Nothing in the
Constitution has
given them
(judges) a right to
decide for the
Executive, more
than to the
Executive to
decide for them ...

The opinion which
gives to the

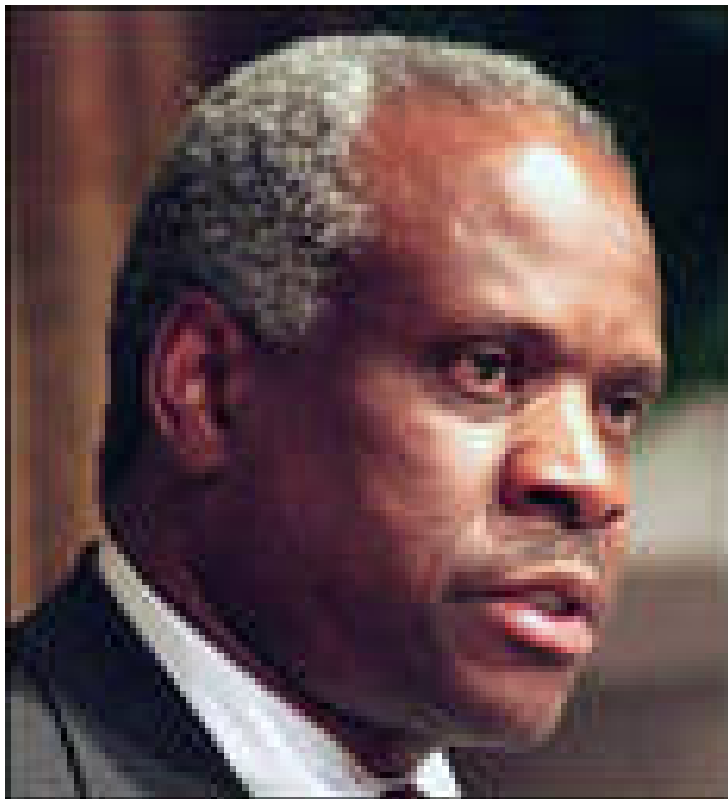
judges the right to decide what laws are constitutional ... not only for themselves in their own sphere of action, but for the legislature and executive ... would make the judiciary a DESPOTIC BRANCH."

On OCTOBER 15, 1788, **James Madison** warned:

"As the COURTS are generally the **last in making the decision**, it results to them, by refusing or not refusing to execute a law, **to stamp it with its final character.**



This makes the **Judiciary department** paramount in fact to the Legislature, **which was NEVER intended and can NEVER be proper."**



On OCTOBER 15, 1991, the U.S. Senate confirmed **Clarence Thomas** as a Justice on the Supreme Court.

When questioned during the hearings by Senator Thurmond regarding judicial activism, **Clarence Thomas** replied:

"The role of a judge is a limited one. It is to ... interpret the Constitution, where called upon, but **AT NO POINT to**

impose his or her will or ... opinion in that process."

Alexis de Tocqueville,
author of
Democracy in America, 1835,
warned:



"The **President**,
who exercises a limited power, may err without causing
great mischief in the State.

Congress may decide amiss without destroying the
Union, because the electoral body in which Congress
originates may cause it to retract its decision by changing
its members.

But **IF THE SUPREME COURT** is ever composed of
IMPRUDENT MEN or **BAD CITIZENS**, the Union may be
plunged into **ANARCHY** or **CIVIL WAR.**"



The Union was
plunged into a Civil
War by Democrat
appointed **Justice
Roger Taney**, who
gave the Supreme
Court's infamous
Dred Scott decision
in 1857 that slaves
were not citizens,
but property.

President

Abraham Lincoln
alluded to this
decision in his
First Inaugural
Address, March 4,
1861:

"I do not forget the
position assumed
by some that
constitutional
questions are to
be decided by the
Supreme Court ...



The candid citizen must confess that **if the policy of the Government** upon vital questions affecting the whole people is to be **irrevocably fixed by decisions of the Supreme Court**, the instant they are made ... **THE PEOPLE will have CEASED to be THEIR OWN RULERS,**

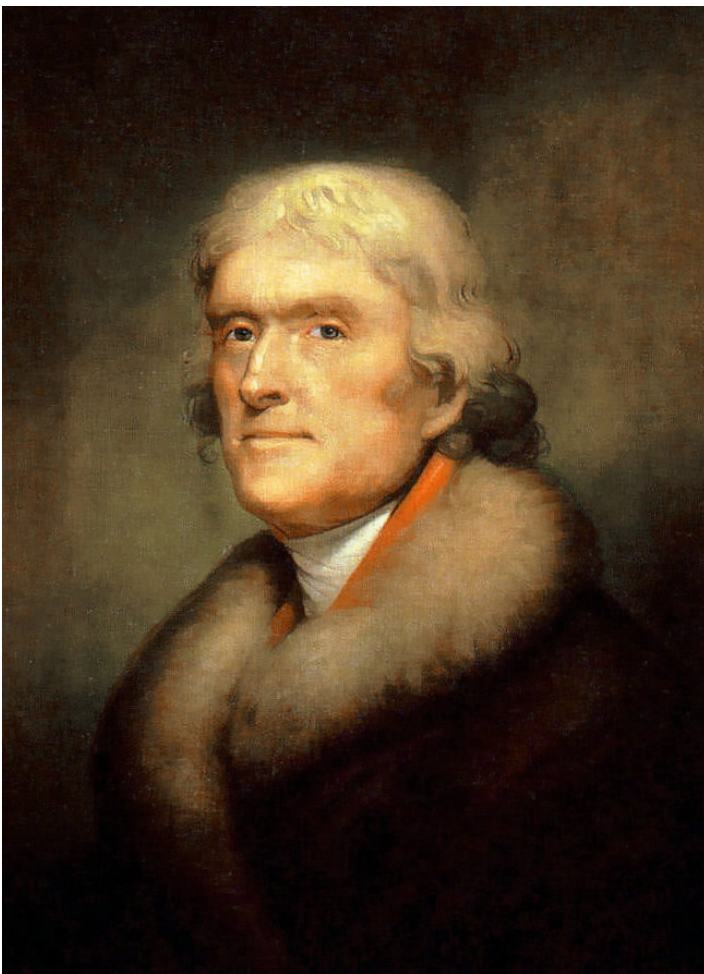
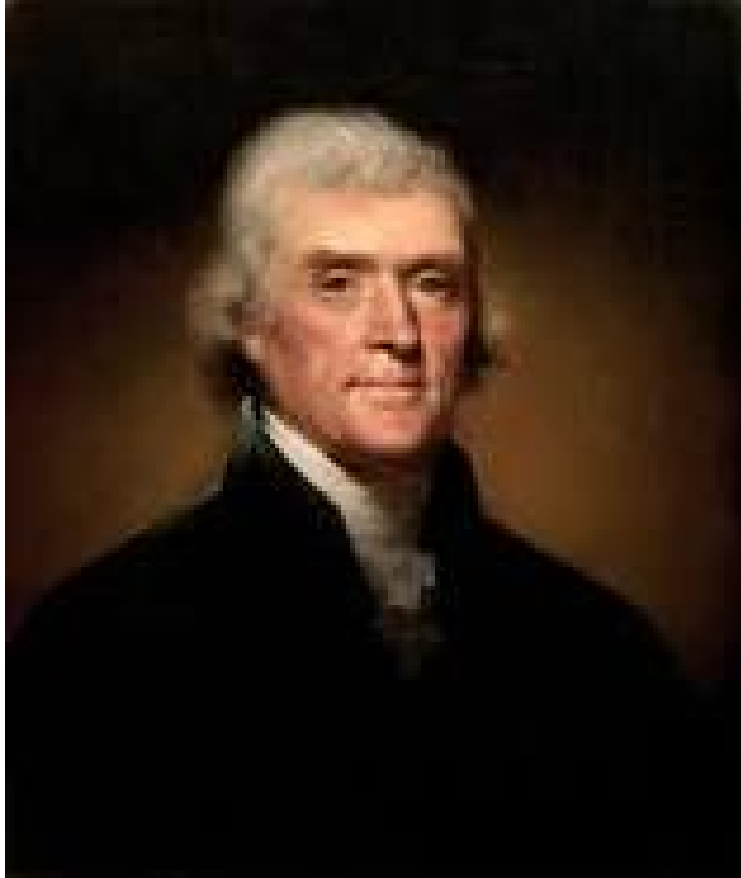
having to that extent practically **resigned their Government** into the hands of the **eminent tribunal."**

Jefferson warned
Mr. Hammond in
1821:

"The germ of
dissolution of our
federal
government is in ...
**the federal
judiciary;**

an irresponsible
body ... **working
like gravity** by

night and by day,
gaining a little
today and a little
tomorrow, and
**advancing its
noiseless step
like a thief, over
the field of
jurisdiction,** until
all shall be
**USURPED from
the States."**



Jefferson
lamented,
September 6, 1819:

"The Constitution is
a mere **thing of
wax** in the hands of
the **judiciary**, which
they may **twist and
shape** into any form
they please."

Jefferson explained
to Supreme Court
Justice William
Johnson, June 12,
1823:

"On **every question
of construction**, carry ourselves back to the time **when
the Constitution was adopted**, recollect **the spirit
manifested in the debates**,

and **instead of** trying what **meaning** may be **SQUEEZED OUT** out of the text, or **INVENTED AGAINST IT**, conform to the **probable one** in which it was passed ...

But the Chief Justice says, 'There must be an **ULTIMATE ARBITER** somewhere.' **True, there must ... The ULTIMATE ARBITER is THE PEOPLE.**"

Baron Montesquieu, the most quoted writer by the Framers of the Constitution, warned of the dangers of **uncontrolled judicial power** in his *Spirit of the Laws*, 1748:



"Nor is there liberty if **the power of JUDGING** is not **separated** from **legislative power** and from **executive power**.

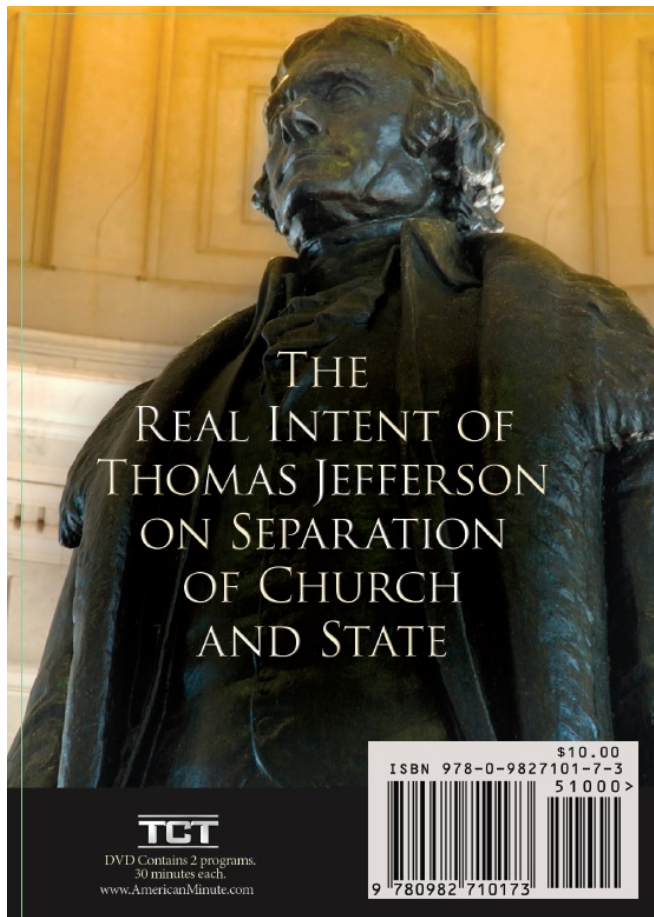
If it were joined to legislative power, the **power over life and liberty of the citizens would be arbitrary**, for the **JUDGE would be the legislator**.

If it were joined to executive power, the **JUDGE could have the force of an oppressor**.

ALL WOULD BE LOST if the same ... body of men ...

exercised these **three powers.**"

[The Real Intent of Jefferson's Separation of Church and State](#)



President George Washington stated in his Farewell Address, 1796:

"The spirit of encroachment tends to consolidate the powers of all the departments in

one, and thus to create, whatever the form of government, a real despotism ...



USURPATION ... though ... in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."



President James Monroe stated in his Inaugural 1817:

"When the **people** become **ignorant** and **corrupt**, when they degenerate ... they are **incapable of exercising the sovereignty.**

USURPATION is then an easy attainment, and an **USURPER** soon found."

President George Washington stated in his Farewell Address, September 17, 1796:

"And of fatal tendency ... to put, in the place of the delegated will of the Nation, the **will of a party** - often a **small but artful and enterprising minority** ...

They are likely, in the course of time and things, to

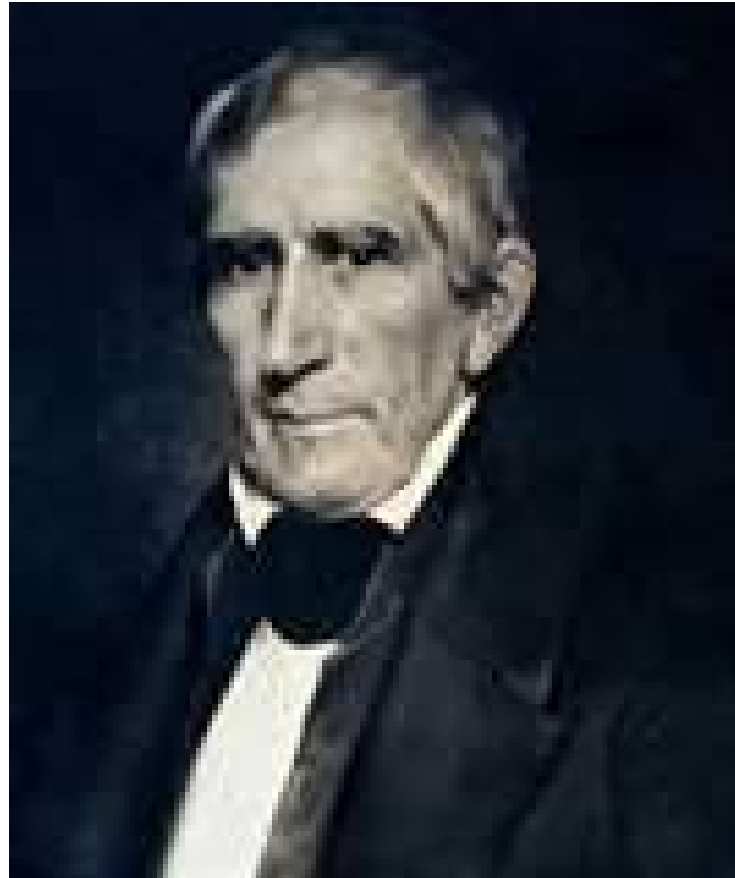


become potent engines, by which **cunning, ambitious, and unprincipled men** will be enabled to **SUBVERT** the POWER OF THE PEOPLE and to **USURP** for themselves the reins of **Government**;

destroying afterwards the very engines which have lifted them to **unjust dominion.**"

President William Henry Harrison warned in his Inaugural Address, 1841:

"The **great danger** to our institutions does ... appear to me to be ... the **accumulation in one of the departments** of that which was assigned to others.



Limited as are the **powers** which have been granted, still enough have been granted to constitute a **DESPOTISM if concentrated in one of the departments.**"

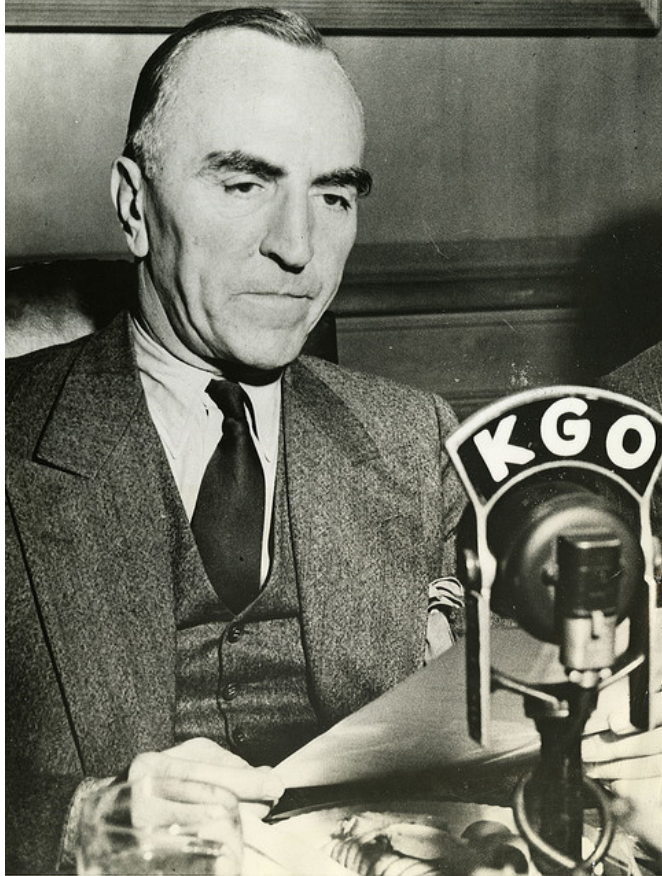
World War I fighter
Ace **Eddie**
Rickenbacker told
the Chicago
Economic Club in
1961 (*Eddie*
Rickenbacker: An
American Hero in the
Twentieth Century, by
W. David Lewis, The
John Hopkins

University Press,
2005):

"Every time the
liberals discover a
brand new
**misinterpretation of
the Constitution,**
every time they
invent a new way to
**circumvent the
constitutional limits
of the Federal
power,**

they pile up more
power in

Washington at the expense of individual liberty across
the land."



**President Gerald
Ford** told
delegates
attending the
Young Republican
Conference,
January 29, 1976:

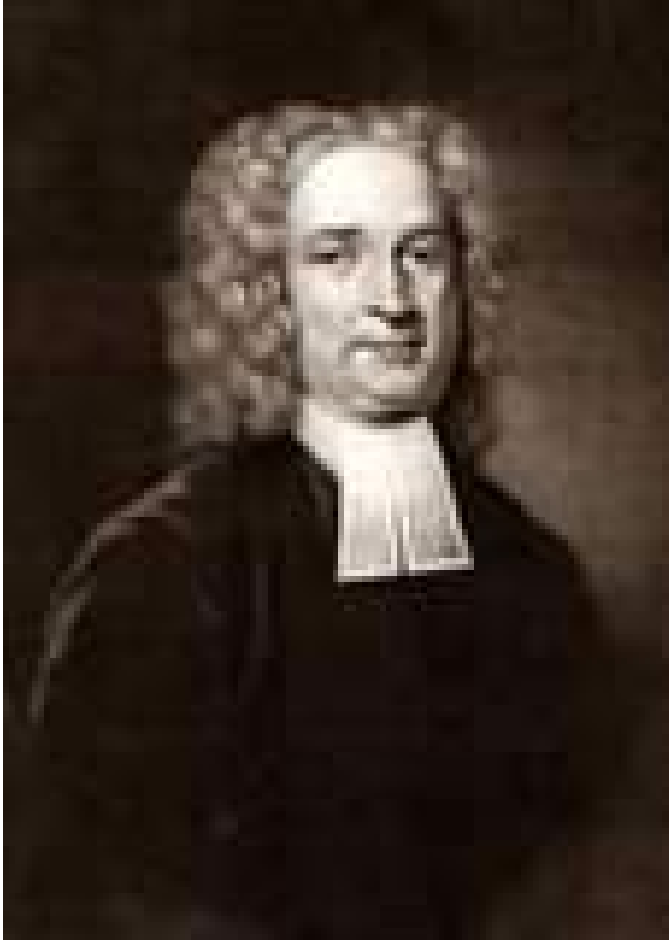


"In my time in the Congress there was always a drive ...
to **concentrate power** and authority in the **Federal
Government** ... that the Federal Government knew how
to do the job best and that it was better to **undercut the
role of locally elected officials** ...

We piled program after program after program on the
Federal Government ... We tried to control the lives of
individuals ...

People who promoted this idea ... never seem to

understand that a government big enough to give us everything we want is a government big enough to take from us everything we have."



Regarding the danger of concentrated power, Colonial leader **John Cotton** stated:

"For whatever transcendent **POWER IS GIVEN**, will certainly **OVER-RUN those that GIVE IT ...**

It is necessary therefore, that **all power that is on earth be limited."**

Mercy Otis Warren in wrote in *Observations on the new Constitution, & on the Federal and State Conventions*, 1788:

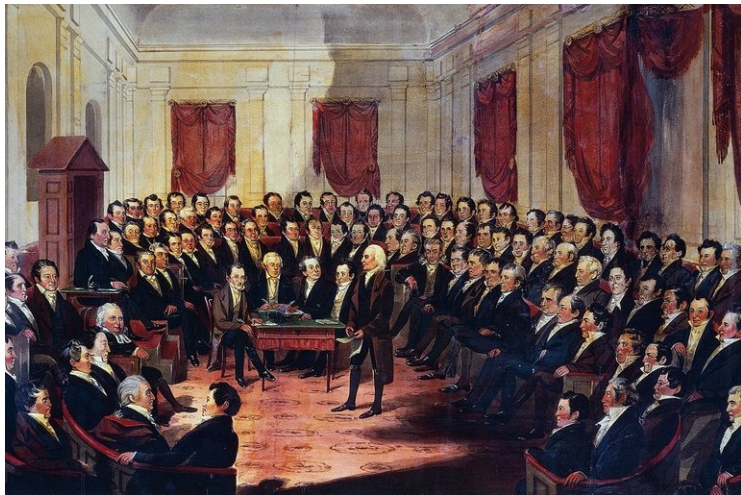
"The origin of all power is in **the people ...** They have an incontestable right to **check the creatures of their own creation ...**

And if **certain selected bodies of men** ... determine contrary to the wishes and expectations of their constituents, **the people** have an undoubted right to **reject their decisions.**"



James Madison stated at the Constitutional Convention, 1787:

"**All men** having **POWER** ought to be **distrusted.**"



John Adams wrote in his notes from an oration at Braintree, Massachusetts, Spring 1772:

"There is danger from all men.

The only maxim of a free government



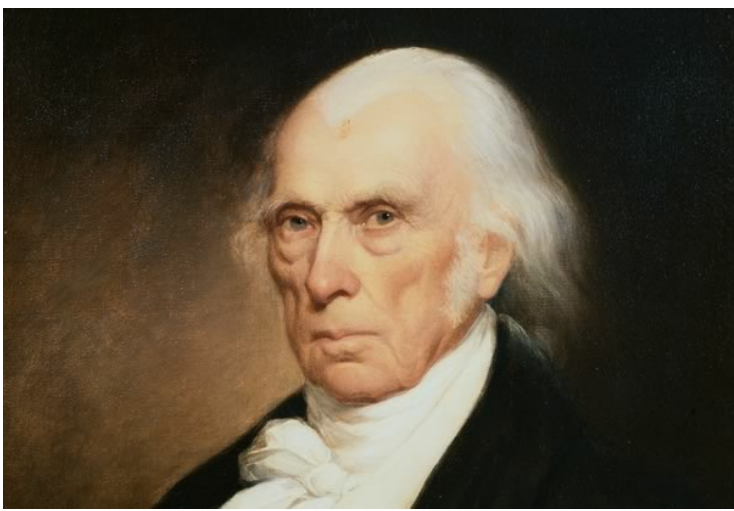
ought to be to **trust no man living with the power to endanger the public liberty.**"

President Andrew Jackson, July 10, 1832, stated in his Bank Renewal Bill Veto:

"It is easy to conceive that **great evils** to our country and its institutions might flow from such a **CONCENTRATION OF POWER** in the hands of a **few men irresponsible to the people.**



Mere precedent is a **dangerous source of authority**, and should not be regarded as **deciding questions of constitutional power.**"



James Madison summed up the dilemma in Federalist Paper #51:

"In framing a government which is to be administered by men over men, the

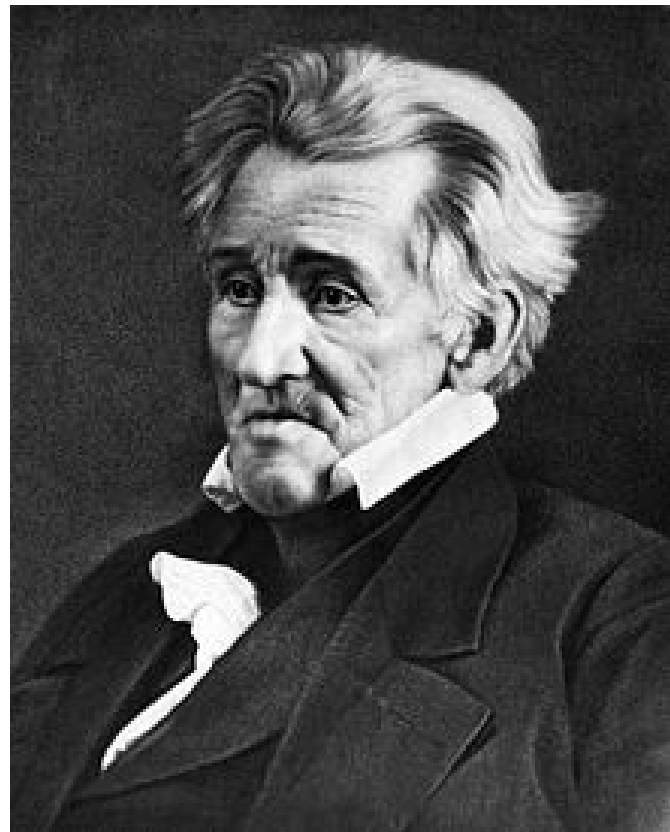
great difficulty lies in this:

you must first enable the government to control the governed; and in the next place **oblige it to control itself.**"

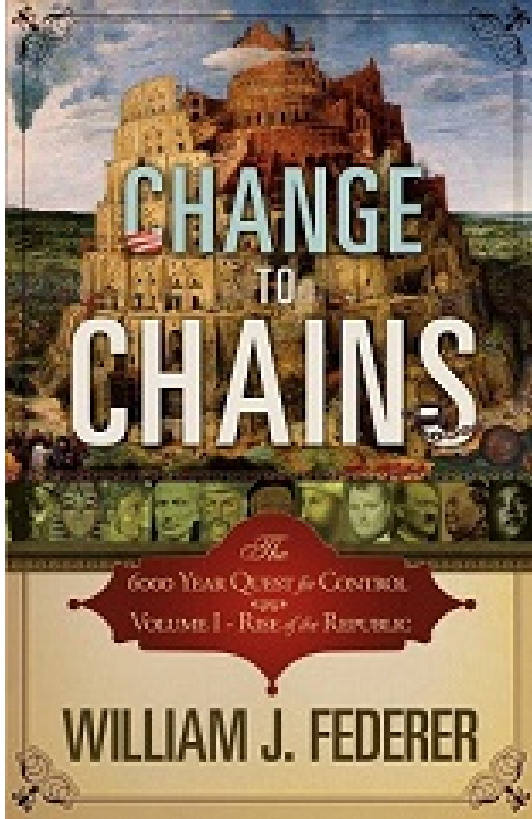
President Andrew Jackson stated in his Seventh Annual Message, December 7, 1835:

"All history tells us that a free people should be **watchful of delegated power,**

and should never acquiesce in a practice which will diminish their control over it."

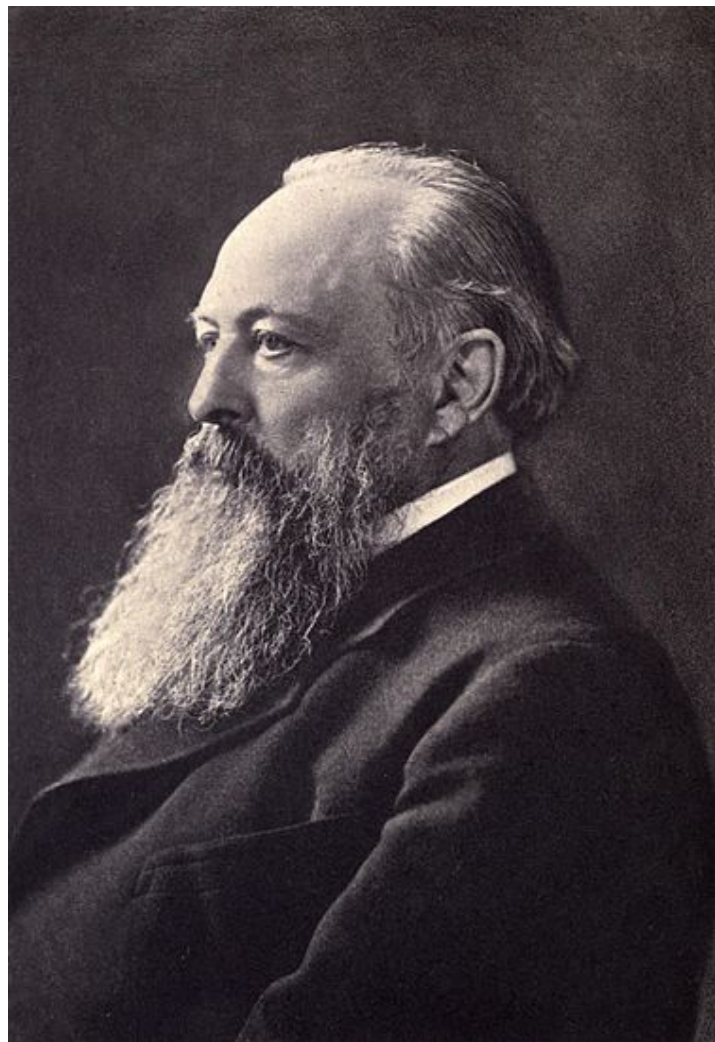


[Change to Chains - the 6,000 Year Quest for Global Power](#)



Lord Acton, April 5, 1887, wrote in a letter to Bishop Mandell Creighton:

"All **power** tends to corrupt and **absolute power** corrupts **absolutely**."



President Woodrow Wilson stated in 1912:



"**Concentration of power** always precedes the **destruction of human liberties.**"

Franklin Roosevelt stated of Union of Soviet Socialist Republics, February 10, 1940:

"The Soviet Union ... is run by a **dictatorship** as absolute as any other **dictatorship** in the world."



President Millard Fillmore, December 6, 1852, explained of America's founding freedoms:

"They were planted in the **free**



charters of self-government under which the English colonies grew up ...

European nations have had **no such training for self-government**, and every effort to establish it by bloody revolutions has been, and must without that preparation continue to be, a failure."

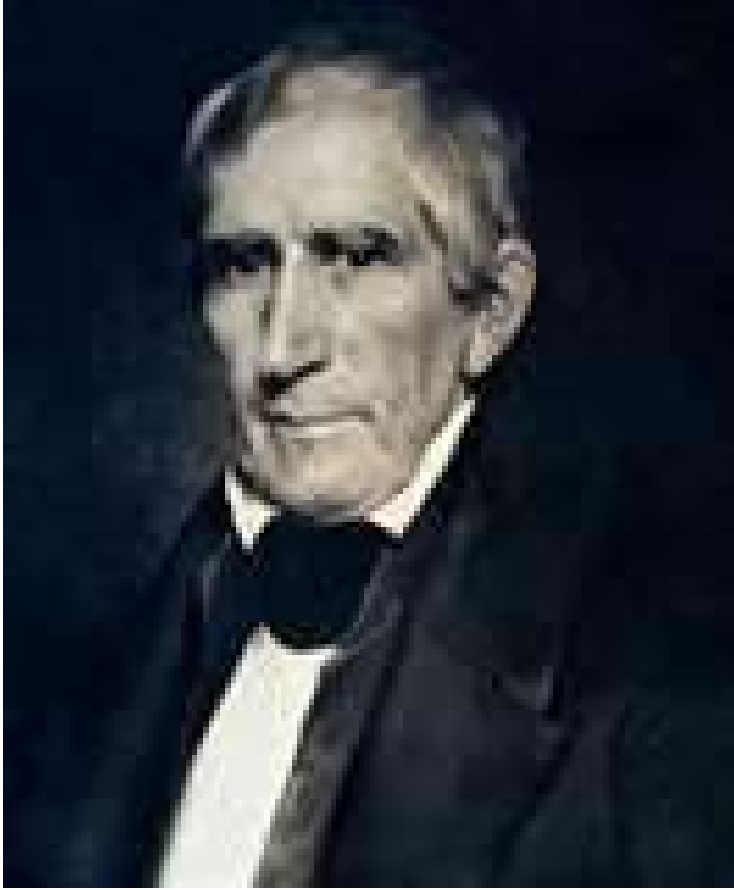
President Franklin Pierce stated in his Inaugural Address, March 4, 1853:

"The **dangers** of a **CONCENTRATION OF ALL POWER** in the General government of a confederacy so vast as ours are too obvious to be disregarded ...

Liberty rests upon a proper **distribution of power** between the State and Federal authorities."



President William Henry Harrison



stated in his Inaugural, March 4, 1841:

"The **tendency of power to increase itself ... would terminate in virtual monarchy.**"

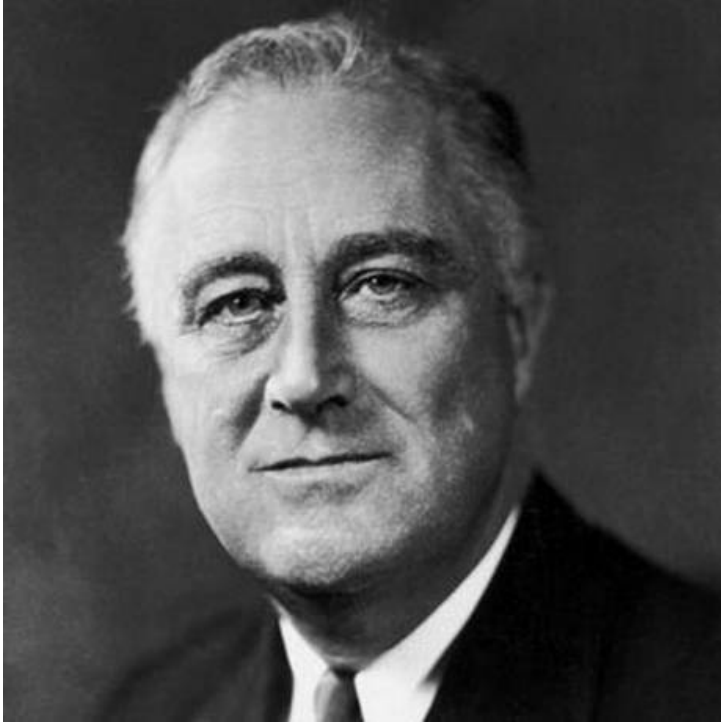
President Harry S Truman stated April 3, 1951:

"Without a firm moral foundation, **freedom degenerates** quickly into selfishness and ... **anarchy.**

Then there will be freedom **only for the rapacious** and ... **more unscrupulous** than the rank and file of the people."



Describing America's colonial founding, **President Franklin Roosevelt** stated in 1939:

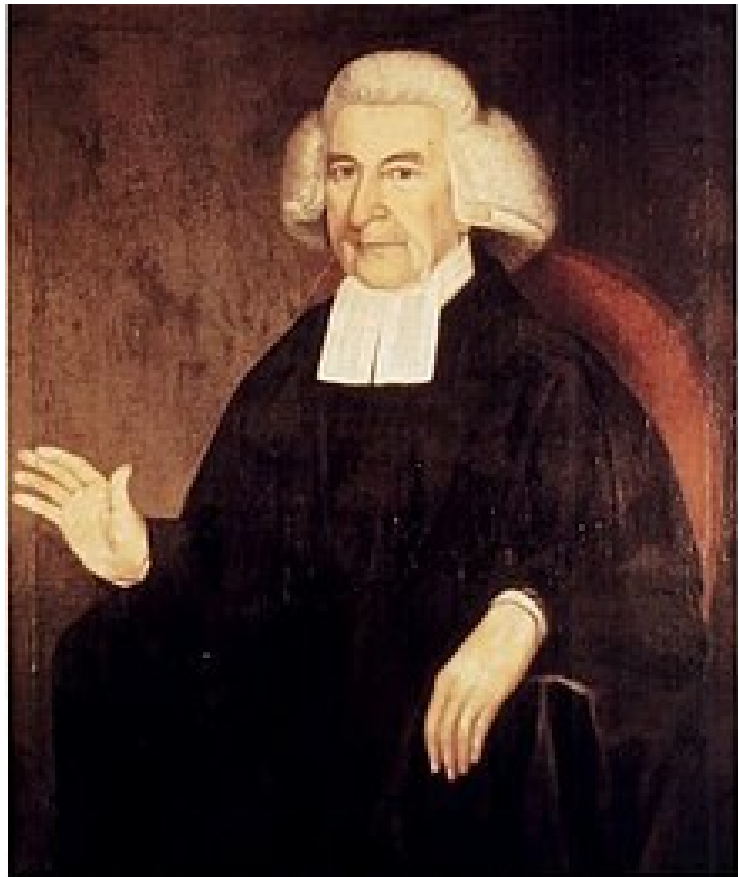


"Rulers ... increase(d) their power over the common men.

The seamen they sent to find gold found instead the **way of escape** for the common man **from those rulers."**

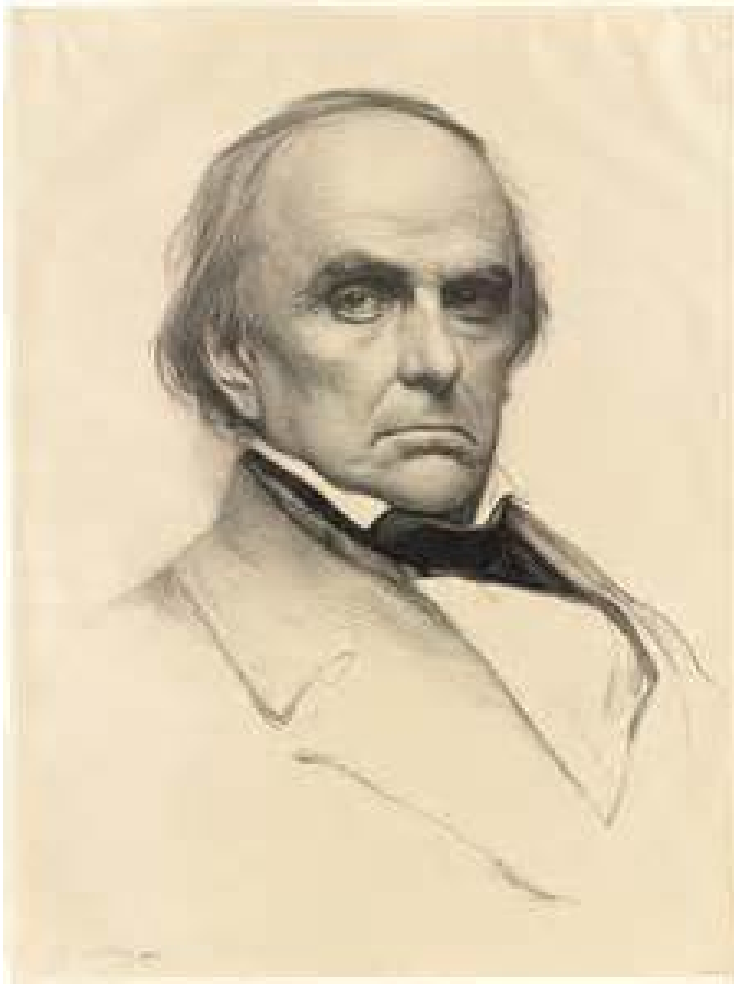
Yale President Ezra Stiles stated in 1783:

"All the forms of civil polity have been tried by mankind, except one: and that seems to have been reserved in **Providence** to be realized in **America."**



Secretary of State Daniel Webster stated in 1852:

"Are we of this generation so derelict, have we



so little of the blood of our revolutionary fathers coursing through our veins, **that we cannot preserve, what they achieved?**

The world will cry out '**shame**' upon us, if we show ourselves unworthy, to be the descendants of those great and illustrious ... men, who fought for their liberty, and

secured it to their posterity, by the Constitution of the United States ..."

Webster concluded:

"The Constitution has enemies, secret and professed ...

Friends of the Constitution must rally and unite ...



I hardly know ... the manner of **our political death** ...

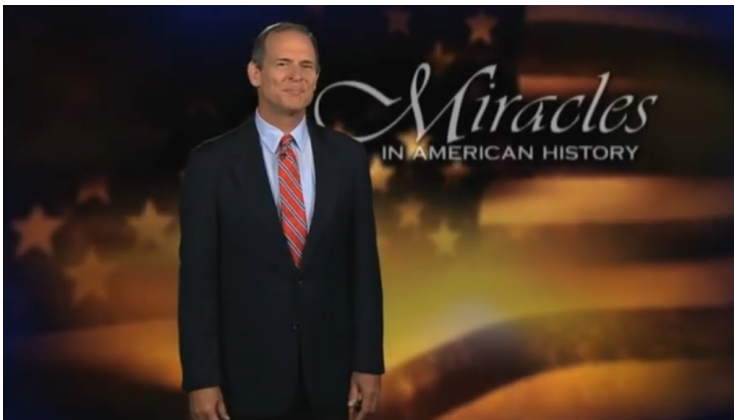
We shall die no lingering death ... An earthquake would shake the foundations of the globe, pull down the pillars of heaven, and bury us at once in endless darkness.

May I never live, to see that day!

May I not survive to hear any **apocalyptic angel**, crying through the heavens, with such a voice as announced the fall of Babylon."

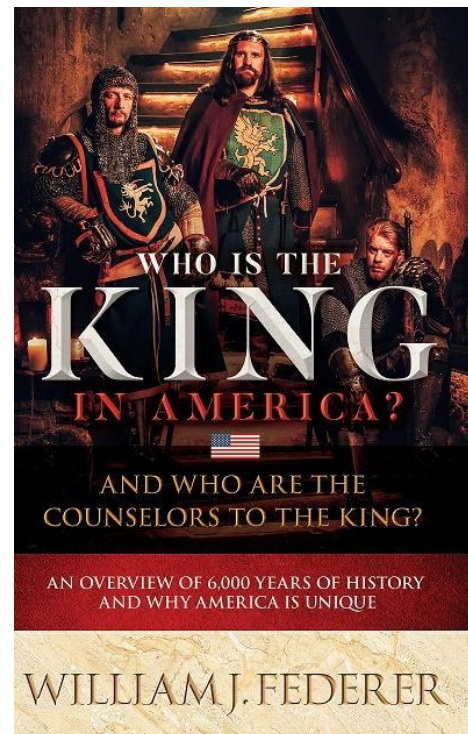
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