



Frontiersman

Caveat Lector April 1996

Probable Cause

by Sam Aurelius Milam III

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

—Fourth Amendment U.S. Constitution

The Fourth Amendment to the U.S. Constitution contains two provisions:

1. It states that people shall be secure from unreasonable searches and seizures, and
2. it describes a set of prerequisites for and characteristics of search warrants.

The proximity of these two provisions in a single sentence creates the appearance of a relationship between them. However, there is **no language whatsoever** in this amendment that requires a search warrant as a prerequisite for a search and seizure. The amendment only says that people shall be safe from unreasonable searches and seizures and that if a warrant is obtained for a search and seizure, it shall satisfy certain conditions. These are two separate provisions each of which stands alone and neither of which requires the other. It is as if I said, "Delta Burke will sleep well tonight, and so will I." Each statement may

The Power to Choose vs. The Power to Tax

by Sam Aurelius Milam III

The power to tax is the power to destroy.¹ However, there are ways to make taxation less destructive. Here's a suggestion. When the taxpayer makes out his check, allow him the option of directing the payment to any government agency or to any government supported institution. Thus, instead of Pay to the Order of

¹ McCulloch v. Maryland, 4 Wheaton 316, 407 [1819]

Confiscation Advisory

by Sam Aurelius Milam III

The Supreme Court recently upheld the power of prosecutors to confiscate private property, ruling that such confiscation doesn't violate due process or constitute the unlawful taking of private property. The ruling rejected the appeal of a Michigan woman who was trying to recover the car that her husband had used to patronize a prostitute.²

Thus, the U.S. government is not only the world's premier perpetrator of armed robbery, it is also the world's foremost advocate of hypocritical self deception.

² The News Hour with Jim Lehrer, Monday, March 4, 1996

do with one another.

Here is a statement of the Fourth Amendment as people incorrectly imagine it to be:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized; and no such search or seizure shall ever be conducted without such a warrant.

—the Mythical Version of the Fourth Amendment

The writers of the Fourth Amendment may or may not have intended that a warrant is required as a prerequisite for a search and seizure, but they didn't put it in writing. Therefore, the Fourth Amendment doesn't require a search warrant.

Even if we accept the necessity of putting up with warrantless searches, the Fourth Amendment still doesn't provide much protection. It prohibits only **unreasonable** searches and seizures. It doesn't say what's unreasonable and it doesn't say who gets to decide. There are no guidelines at all. In practice, the cops and the courts decide. Since these are some of the main sources of abuse against which the amendment should have provided protection, the amendment is utterly worthless.

CONTRACT....

Construction and interpretation in reference to contracts. The intention of the parties is the pole-star of construction; but their intention must be found expressed in the contract and be consistent with rules of law. The court will not make a new contract for the parties, nor will words be forced from their real significance....

—from Bouvier's Law Dictionary

the IRS, he could write Pay to the Order of the National Endowment for the Arts, or Pay to the Order of the Bureau of Land Management, or Pay to the Order of the U.S. Navy, or Pay to the Order of whatever he wishes to support. The IRS could simply log the tax as paid and forward the check to the indicated recipient. The power to choose, in the hands of taxpayers, is the power to determine the budget and to control the government.

The Power to Whine vs. The Power to Work

by Sam Aurelius Milam III

You don't have to whine to be in a labor union, but it does seem to help. An example is the recent strike at the G.M. plants in Dayton, Ohio. To protect their jobs from potential competition, these people went on strike. Apparently, it didn't occur to them to protect their jobs by learning to do them better and more cheaply than the potential competition. The next time you wonder what's wrong with America, ponder the G.M auto whiners in Dayton, Ohio.

(Variations on a Theme)

The one pervading evil of democracy is the tyranny of the majority, or rather of that party, not always the majority, that succeeds, by force or fraud, in carrying elections. —John Emerich Edward Dalberg-Acton, Lord Acton (1834-1902)

I hear many condemn these men because they were so few. When were the good and the brave ever in a majority? —Henry David Thoreau (1817-1862)

Proportional Representation

by John H. Webster

<http://www.vikora.com/CWS/jwebster/>

In California (and in Washington DC) we have two “houses” of representatives that are both based on **district “Winner take all”** elections. The result is a legislature that does a fair job of representing the **majority** of each district only on **questions of regional importance**.

The Failure

Many of the most important questions that our legislature faces have nothing to do with regions, but instead have to do with philosophy and values. Examples abound: Death Penalty, Abortion, Drug laws, Government control of the market place, etc.

As an example, say that 30% of the population is against the Death Penalty. Since this issue has very little to do with regions, approximately 30% of the voters **in each district** would be against the Death Penalty. During times that this issue was a “Hot topic” each candidate would be forced to come down on one side or the other on it, and all that represented the minority view in each district would be defeated. The result would be that **no candidates would be elected that represented the minority view**.

Minority Representation

by Sam Aurelius Milam III

Suppose that in a hypothetical election, a Democratic candidate received 40% of the vote for a particular office, a Republican candidate received 30% of the vote, and the Independent and Libertarian candidates received 15% each. Since the Democratic candidate wins the election, sixty percent of the voters don't even get represented.

Suppose that every candidate for an office was always elected. The number of offices would not change but each would be filled by several officials instead of one. The purpose of the election then would be to apportion the power of representation between the candidates. Thus, in the above example, the Democrat would cast 40% of a vote in

County Representation

by Sam Aurelius Milam III

In politics, people have a vested interest in making things as complicated as possible so they can justify their jobs. Consider electoral districts. They've been modified, revised, and gerrymandered so that some of them remind you of spaghetti, snakes, or worms. There's a better way.

Every state in the U.S.A. is already divided into counties (or parishes or whatever). These counties are the next political unit smaller than the state, somewhat like the states are the next political unit smaller than the Union. Instead of voting by electoral districts, why not vote by counties? The people of each county can elect a number of state assemblymen proportional to the population of the county. The county board of supervisors can appoint two state senators

The State Legislature would then proceed to make laws concerning this critical issue with **not one representative** voicing the view of 30% of the people.

The Solution

One of the houses in the Legislature can be by proportional representation. For example, each major group that had a different political view would form a political party that would run state wide. Then when some group/party got 10% of the vote state wide, they would end up filling 10% of the representatives of that house of the Legislature thereby at least getting a voice in the legislative process. The elections would no longer be “Winner take all” and more people would vote their conscience rather than for the lessor of two evils.

I would further propose that before any bill would become law that it would have to get a super-majority (two thirds) in one house of the legislature, and only have to get a simple majority in the other. In practice this would mean that a bill of regional significance would have to do well in the house elected “by district”; a bill of philosophical significance would have to do well in the “proportional” house. ∞

the legislature, the Republican would cast 30% of a vote, and the Independent and Libertarian would each cast 15% of a vote. The 60% of the voters who wouldn't be represented under the present system would be represented under my proposed system. Coalitions of fractional votes might easily outvote the so-called majority. Also, there would be more representatives in the legislature, several for each seat. Hopefully, this would make it more difficult to pass laws. A final advantage is that the system need not cost the taxpayers any more. The Democratic can get 40% of a paycheck, the Republican can get 30% of a paycheck, and the Independent and Libertarian can each get 15% of a paycheck, all according to the will of the voters. 🐿

from each county. Then the people of the counties will be represented in the state assembly and counties will be represented in the state senate. There's no need for electoral districts.

As with most good solutions to a problem, this one has benefits beyond the immediate situation. In this case, the change will also tend to cause the state government to become a federation of politically independent counties. This decentralizes authority and moves the power closer to home. I like it. 🐿

- My thanks to Running Bear, of Colorado Springs, for the procurement of a replacement printer for this newsletter.
- My thanks to Mars, of Silicon Valley, for procuring, repairing, and maintaining the newsletter copier. The improvement in print quality in recent months is entirely due to his efforts. —editor

I'm printing this letter to the editor from Dianne Feinstein not to give space to Dianne Feinstein, but because we all need to know the enemy — and what she is trying to do. —editor

Dear Mr. Milam:

Thank you so much for writing me about terrorism in the United States. I appreciate your taking the time to share your thoughts with me regarding this important issue now so prominently, and tragically, in the news.

As the cowardly and reprehensible bombing of the Alfred P. Murrah Federal Building in Oklahoma City, in addition to the 1993 World Trade Center bombing, made all too evident, our nation is clearly vulnerable to terrorist attack. I am pleased to report that the Senate took a major step in the effort to protect Americans from the threat of terrorism when it passed the "Comprehensive Terrorism Prevention Act of 1995" (S. 735) on June 7, 1995 by a bipartisan vote of 91-8. I joined with a majority of my colleagues in supporting this legislation because I strongly believe that it will go a long way toward reducing the risk of terrorist attacks on our citizens and national landmarks.

In the aftermath of the Oklahoma City bombing, President Clinton called for "swift, certain, and severe" punishment for the perpetrators of that vicious crime. This five-year, \$2.1 billion plan to combat terrorist acts will help to achieve that goal. More specifically, this legislation would:

- hire additional new law enforcement personnel to investigate, deter and prosecute terrorist activity;
- create a new "terrorism court" made up of federal judges to help ensure that the United States can expeditiously deport alien terrorists without disclosing vital national security secrets;
- amend federal law to allow military experts to help civilian authorities investigate crimes involving weapons of mass destruction, including biological and chemical weapons, as they currently may do for cases involving nuclear weapons;
- allow the FBI to gather more information about potential domestic terrorists through better surveillance techniques and access to credit reports and telephone records in terrorism cases pursuant to court order; and

Donald Cormier wrote the following article in response to Dianne Feinstein's letter. —editor

Dominator/Anti-Dominator

By Don Cormier
In her book, *The Chalice and the Blade*, anthropologist Riane Eisler talks about two types of society — the "dominator" society, and the "partnership" society. "Dominator" societies tend to be rule-oriented, hierarchical, and violent. "Partnership" societies tend to be flexible, egalitarian, and peaceful. According to Eisler, the "dominator" model has prevailed in Europe since the last ice age — but the "partnership" ideal has never been completely suppressed.

From her recent comments in support of various anti-terrorism efforts, it is apparent that Senator Dianne Feinstein subscribes to the "dominator" model of society. She sees more laws and more inequalities of power as the solutions to our current ills.

About a century ago, a very different feminine voice was raised in support of the "partnership" way of life. From across the years, "Red" Emma Goldman supplies this response¹ to the notions embodied in Senator Feinstein's letter:

"Unfortunately there are still a number of people who continue in the fatal belief that government rests on natural laws, that it maintains social order and harmony, that it diminishes crime, and that it prevents the crafty man from fleecing his fellows. I shall therefore examine these contentions.

"A natural law is that factor in man which asserts itself freely and spontaneously without any external force, in harmony with the requirements of nature. For instance, the demand for nutrition, for sex gratification, for light, air, and exercise, is a natural law.... To obey such laws, if we may call it obedience, re-

¹ From *Anarchism*, by Emma Goldman.. *Anarchism and Other Essays* (Indore: Modern Publishers, n.d.). pp.43-62.

- increase the penalty to a mandatory minimum of 10 years for transferring a firearm or explosive knowing it will be used in drug trafficking or a violent crime.

I am pleased to report that S. 735 also includes two "common sense" amendments I offered to help combat terrorism. The first would give the Treasury Department the authority to require companies producing explosive materials to include microscopic pieces of colored plastic, called "taggants," which can make it easier for law enforcement officials to trace the source of bombs used for violent or criminal purposes.

My second amendment would prohibit the teaching or distribution of printed materials about bomb-making techniques by any person who knows the information will be used for criminal purposes. I am confident that these initiatives will help reduce the risk of terrorism in this nation.

I also strongly supported the inclusion of comprehensive habeas corpus reform as part of the counterterrorism bill. Under the current appeals process, convicted criminals are able to delay the imposition of their sentences for years, and sometimes even decades. In fact, since the death penalty was reinstated in California in 1978, more prisoners on death row have died of natural causes than have been executed.

I believe the habeas corpus provisions included in S. 735 strike an appropriate balance between the need to ensure due process to those convicted of both capital and non-capital crimes and the need of any rational judicial system to bring cases to closure.

Please be assured that I read your comments with interest and understand your concerns. I expect that this subject will remain high on the Senate's list of priorities and, as the discussion continues, I will bear your concerns in mind.

Once again, thank you for writing. I value your opinion and hope that you will continue to share your thoughts with me. If I can be of further assistance, please do not hesitate to contact David Long in my Washington, D.C. office at (202) 224-3841.

With warmest regards.

Sincerely,
Dianne Feinstein, United States Senator

quires only spontaneity and free opportunity. That governments do not maintain themselves through such harmonious factors is proven by the terrible array of violence, force, and coercion all governments use in order to live. Thus Blackstone is right when he says, 'Human laws are invalid, because they are contrary to the laws of nature.'

"Unless it be the order of Warsaw after the slaughter of thousands of people, it is difficult to ascribe to governments any capacity for order or social harmony. Order derived through submission and maintained by terror is not much of a safe guarantee; yet that is the only 'order' that governments have ever maintained....

"The most absurd apology for authority and law is that they serve to diminish crime. Aside from the fact that the State is in itself the greatest criminal, breaking every written and natural law, stealing in the form of taxes, killing in the form of war and capital punishment, it has come to an absolute standstill in coping with crime. It has failed utterly to destroy or even minimize the horrible scourge of its own creation.

"Crime is naught but misdirected energy. So long as every institution of today, economic, political, social, and moral, conspires to misdirect human energy into wrong channels; so long as most people are out of place doing things they hate to do, living a life they loathe to live, crime will be inevitable, and all the laws on the statutes can only increase, but never do away with, crime."

It's a shame that Senator Feinstein's education apparently did not include heavy exposure to the works of Emma Goldman. ∞

Frontiersman
435 South White Road
San Jose, California 95127
Produced at Mere Keep



Nation in Distress

You've come a
long way
baby...



...in the wrong
direction.

NOW GO BACK!

Dear Frontiersman

Regarding your article concerning rubbing pot over baggage at airports to foul up the system¹, this is both faulty logic and poor planning. I surmise that what you are trying to do is to prove the dogs are worthless, thus getting rid of them. Instead, what you would accomplish is increasing the number of dogs, increasing the number of agents, and delaying your flight if not missing it altogether, because you would be in jail. You would ultimately increase the size of government. What I propose is to smear the bags and other locations at the airport with the secretions from a dog in heat. Since most airport dogs are males, the result would be embarrassed agents forced to remove the love juices from your bags plus messing the dog over making him useless for the entire day.

—R. B.; Colorado Springs, Colorado

I'm not trying to prove that the dogs are worthless — they're very effective. I'm trying to find a way to make them worthless. The logic of my plan is that the Gestapo can't afford to always make everybody miss his flight. However, your idea has a big advantage. My idea wouldn't work unless a lot of people did it. Your idea would work if even one person did it, at least until the Gestapo switched over completely to female dogs. Maybe we should do both plans. Do you suppose that we could find somebody to synthesize eau de chien and package it in spray cans? —editor

¹ *Counter-Attack in the War on Drugs*, March 1996

Buck Hunter Shoots Off His Mouth

Dear Buck

I see all those TV commercials just the same as everybody else does, but what's **really** the quickest way to get rid of gray hair?
—Forty Something

Dear Forty Something

Scissors, hair clippers, or tweezers.

Smitten With Embarrassment Dept.

by Sam Aurelius Milam III

In the March issue, I printed a short article (*The Measure of Evil*, page 1) in which I mentioned Saddam Hussein. I "played it safe" by using his first name only, because I didn't know the correct spelling of his last name and I didn't want to take the time to find it. Sadly, I misspelled his first name. Drat!

Pro Gun Testimony

Late on the night of March 14, I confronted an intruder who was on the roof of my house. He was up there using binoculars to spy through my neighbor's window. I aimed my rifle at him and ordered him to leave. He didn't move. I climbed onto the roof and when I got there, he was gone. Stay armed — it works. —editor

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—Sam Aurelius Milam III, editor