

# TRADE AND STATE

By Ernest D. Kossler

The separation of church and state having been generally regarded as successful under the constitutional provisions quoted below, may it be worth while to consider the effect of adoption of amendments as indicated by the black faced type substituted for those in italics in the same texts so that there may also be a separation of trade and state?

## Constitution of United States Article I of Amendments

"Congress shall make no law respecting an establishment of *religion* (business), or prohibiting the free exercise (operation) thereof;"

(Note: The free exercise of religion does not sanction such rites as burning widows alive nor casting children into sacred rivers; and we may be fully assured the new article would not legalize services in barn burning, nor operating gun-men's employment agencies.)

## Constitution of Pennsylvania Article I of Declaration of Rights

"Sec. 3. All men have a natural and indefeasable right to *worship Almighty God* (earn their livings) according to the dictates (necessities) of their own consciences (bodies); no man can of right be compelled to attend, erect or support (patronize, construct, or contribute to) any place of *worship* (business) or to maintain any *ministry* (management) against his consent; no human authority can, in any case whatever, control or interfere with the rights of *conscience* (industry), and no preference shall ever be given by law to any *religious establishments or modes of worship* (business institutions or manner of occupation)."

## Separation of Church and State

The first demonstrations of the separation of church and state were

Roger Williams; and were made in America. The Virginia statute for religious freedom, written by Thomas Jefferson, is an outstanding expression of the principle. They have been considered valuable contributions to the science of government. Apparently, we have not had faith enough in our archbishops to entrust them with control of our government or disposal of its funds; but we have had such complete confidence in our multimillionaires that they have been given charge of practically the whole establishment. There was a time when the good bishops could conceive of no sensible purpose of government except the salvation of souls per their holy creed; and now it seems the almost as good captains of industry regard government as having but one sensible purpose, the promotion of business per their just code.

## The Power To Coerce

The essential function of government is the application of force; the employment of tax collectors, policemen and soldiers. It is the sole institution that assumes the absolute right in the community to resort to violence against any person to execute its will. In a democratic country the majority supposedly declares that will. But it cannot fairly be claimed that a majority, merely because it is a majority, democratic, aristocratic, plutocratic or proletarian, can rightfully decree that an innocent man must be hung or imprisoned, or his goods destroyed, or even confiscated. Resort to violence by a majority does not change a wrong into a right. Especially to those whose freedom of life or action is molested, it will always seem that the act of coercion by one man or bloc upon another calls for a clear warrant in defense of person or property, not in assertion of disputed superiority or benevolence. The notion of resistance, active or passive, to the aggressions and pretensions of the state has gone in very respectable company for many centuries. The impulse to resist will always smoulder or blaze

rights have been invaded or his earnings confiscated by a political outfit. This is no worked up sentiment. It is the innate love of freedom. It need be sustained by no cult. It is implicit in the right of self defense, an instinct not a theory: biological before juridical. So the use of coercive force, governmental or otherwise, should always have a clear justification, an occasion other than the mere wants of politicians. Justice, the rule of equality before the law, and defense, not exploitation, should be the objectives of government.

### The Strong Arm In Business

But the essential function of business is acquisition; the accumulation of profits, property and power. Competition forces the pace. Want and fear are the eternal goads, the primal and ineradicable urges of all animal life, conspicuously present in competitive commercial activities.

These prime factors must be reckoned with in any attempt to regulate or forecast human conduct, individual or collective. It is idle to assume the evolution of the race has progressed so far that the mass of people will presently understand and deliberately control these urges. The chief interest in government on the part of hundreds of thousands is as something from which to satisfy their wants by the least exertion, regardless of expense to other people.

When the proprietors of a business learn that it may be protected, privileged or hampered by governmental action, that is by the application of force under legal direction, that moment they become concerned for the control or extension of the powers of government for the benefit of their enterprises, or against their competitors.

### Business Aims and Democratic Ideals

The object of business, in politics and out of politics, is to make money, and more money. It aims at swift conquest of all competitors, fixed and permanent elevation above the sweating masses in upper strata where ease and comfort and power to indulge all desires seem secure. Business seeks every gain and advantage, the greatest profits the glorious and mag-

nificent expanse. Swine rush into the trough to fill their stomachs, and stop when they get enough; but the human never gets enough. What greed, inherent in all animals, man included, lacks in savagery and intensity, the competitive urge in trade completes. Our strong business men are not in business except to win, and the sky is the limit, regardless of consequences to competitors or public. Theirs is not the attitude of self restraint that should control the use of force, and dictate the conduct of the individual in his civil relations; but it is one of fierce determination to overcome all interference, to demolish every obstacle in their way. Conquest and subjugation are just the things democracy seeks to prevent. It is more than dangerous to commit the powers of government and confiscation into the hands of these fiercely arrayed contestants to use against their neighbors. Mammon worship, and even balance of the scales of justice are incompatible. With business adversaries showing their teeth, one dare not quibble too long. It is to win, by the rules of the game if possible, but to win. We do not have democratic steel mills. For efficiency they have one boss, and his word is law. What goes in the shop is stark and unqualified command, not independence and parley, but order and discipline, quick obedience and top-notch output based thereon. And such dictatorship is what must be involved in the importation of triumphant and glorified business supermen and methods into governmental operations.

### Politics and Economics

Government and business are separate concerns. To be effective in enforcing law and justice, government must be irresistible in its own strength and sphere. Justice can not defer to trade policies, tentative, experimental, always changing to meet new conditions, inventions, styles, and seasons; nor be servant to such interests. It must move on a different plane; and must have absolute supremacy, within its strictly limited jurisdiction, to control the actions of all people in that they shall obey the minimum requirements, the rule of non aggression of equality before the law

Therefore government should follow a straight and narrow line, not meddling in all interests of life where it can intrude, but confining its activities to defense of its citizens from trespass and molestation of the wrong doer. Business has a different purpose. It must employ its forces to their utmost to accomplish its varying commercial and industrial programs, everything giving way to all expediences for the always doubtful outcome of business undertakings.

As it continues to take over politics, we can not expect business to lose its acquisitive nature, nor expect the intense concentration of power in its chief executives to decrease. Especially for a democracy is the assimilation of politics by business disastrous. Always the more business the less democracy we shall have in government. Their purposes conflict; business inherently acquisitive and self-serving; democracy intended to be essentially restrictive of selfish actions, and for defense of the rights of individuals, downtrodden and oppressed. The methods and objectives of big business, centralized control, instant execution, defeat of competition, mass production, wealth, power, magnificence, grandeur, supermen, do not encourage governmental checks, balances, restraints and discussion; nor promote such ideals as equality in the rights, privileges and opportunities of all people, importance of the personality and individuality of the obscure citizen, concern for justice to minorities, or majority rule. If government is to be conducted to serve business, we soon may hear it is necessary to do away with democracy entirely.

The more business the government undertakes, the more intricate will become the operation of the parliamentary machine, the more bewildered the honest statesmen, and the more precise, assured and determined the politicians who know exactly what they want. That depredatory breed in the species will have its perfect environment to flourish and wax fat.

#### State Operation Of Business

If we phrase it the other way around, and assume that politics or the state takes over business, we

exchange the names, but do not escape the essential conditions; we do not remove the same human factors sure to enter into the exercise of the power of the state in all its activities: 1. The ungovernable urge of politicians as well as business men for feed, with the instinct to get it the easiest way; this also is biological. Job hunters will always swarm like the lice of Egypt, and devour and breed, and breed and devour until checked by outside agencies. Perhaps nine out of ten of all patriots, surely of all politicians, remain afflicted with the age old itch to take charge of other peoples' affairs, the louder the protestations of patriotism, the more intense the itch. They can be depended upon to procure the maximum incomes with the minimum exertion. With such service the state must always feed its hangers on and conduct its operations. No business that fails to lop off the leeches ready to suck its substance from every pore can exist a year. To establish a predatory class in charge of all the law making and business of the state, is bound to finish it. 2. The very human proclivity to domineer. Glory hunters can bedevil the land as much as gold hunters. From schoolboys to elder statesmen, parade of authority, publicity, prestige, rank and supremacy are the most eager concerns of countless partly civilized, unhappy unless on top, afraid some other Hector will dominate the field. We cannot reform them in a thousand years. Our Neanderthals and Cro Magnons have windpipes and arms as strong as any of us. We can only hope for some means or implement to keep or beat them off, to stop these throwbacks from using their clubs, night sticks, and shooting irons upon us too freely for their own gratification, for their vulgar truculence and show, and to the terror of the feeble and defenseless.

If politics controls business, it is inevitable all factions that can be organized and consolidated upon any basis, religious, racial, social, fashionable, military, trade, fraternal, geographical, or otherwise, professing to be purely political, will organize openly or covertly to operate the big game. Sticking to one's faction in every foray, right or wrong, is called

loyalty; and celebrated as the highest virtue. The consequence is sure combination of powerful groups for exploitation by political means against the unprotected who must suffer when economic interests are put up as political stakes.

In any rational study of politics or economics it must be taken for granted that each person's interest is primarily for himself. Exceptions are rare. It does not take very shrewd politicians to see the gain to their gang, therefore to themselves, in finding a job for another effective recruit on the payroll,—the more guards, the more comrades, the more remote the possibilities of ouster. If there is no necessity for more politicians and political services, they will legislate or promulgate a seeming necessity. Witness how they require every business from banking to banana peddling to be licensed, and now to have a money deposit to guarantee strict obedience to discipline, law and order, in the Italian fascist state; then contemplate the fascist partisans interpreting and executing such orders as to independent and competing operations. The political craft, in America as well as in Italy and Russia, is sure to seize every power within reach. The first act of every dictator, if we ever have one here as they have had abroad, will be to create an overwhelming establishment of retainers to execute his dominating will; and each one of his retainers will be on edge for all the pickings he can pry loose, and to extend his reach.

#### Normalcy

At normalcy, political factions are groups with gang instincts to seize all governmental powers that can be used for taking and carrying away all gains and portables in sight. The greater the number to be inspired with factional zeal, the lower the level of the appeal necessary to accomplish the inspiration. Normalcy boys are moved by disturbances of the stomach, not of the conscience. When business and politics are one, successful appeal must be made not above the basis of food to eat, clothing to wear, houses to live in, etc., and how the boys shall get them; it can not be made on the basis of such abstractions as justice, liberty,

straint. For the stomach-activated a sharper line is needed to stop their stampede upon their neighbors' preserves.

The typical performance of the political faction is that its leading head-hunters and feed-hunters bind themselves together under some shibboleth, almost any shibboleth, to seize and hold the governmental ramparts for such use as they can make of them, admitting such colleagues as are able to force themselves in or such as they think necessary for their own security, and ejecting such as they can safely cut off from division of the spoils. No qualification is permitted of the main purpose, first to satisfy the wants of the operators, it being assumed by them that any consideration of public interest or fair play in the proceeding is absurdly sentimental. Generally speaking, to them politics means practically nothing but chiseling for offices or spoils. The part of the public is only to furnish the jobs, fees and incidentals. These depredations are just as natural as the breaking of young colts thru a brush fence into a corn field. It is perfect normalcy, and let the public eternally beware. It is for the public to protect itself. Where shall it command "halt?" Is there any plainer line than the line that demarks trespass? Children can see it, and even courts can usually find it without unendurable pains. It was stated on one of the flags of our Continental Armies: "Don't tread on me."

#### Separation of State from Both Church and Trade

Formerly there was such confusion of thought as to morals, ethics, religion, and government, that no separation of church and state could be conceived. Now there is such confusion of thought as to social duties, economics, business and government, it seems no separation of trade and state can be conceived. But it may yet become generally understood that government in its last analysis means the use of force; and that force may only be used justifiably in defensive measures. In this day of subdivision of function it may be expedient to minimize the activities of that agency in the community

and very specific function of protecting the rights of all in their common law equality; and, it may not be advisable to extend the use of force for promoting the plans and control by all business projectors able and eager to seize and exercise the enginery of state for their personal programs. Perhaps establishing of justice, suppression of crime and racketeering, efficient maintenance of peace and good order, and protection of freedom on the basis of equality before the law may be about enough to employ all the powers of the state, at least to require all the power that it is safe to grant to any organized party of its citizens. Maybe the outlawry of war, which is organized violence in international affairs, would be more readily attainable if the use of the powers of governments in their internal affairs in industrial and commercial promotions, were also outlawed. If the application of force were restricted to the defense of equal rights and opportunities for all, and restitution for wrongs done, and not extended to building up special business institutions for particular interests, the administration of law and justice would be much simplified; and decent business might be as much benefited as true religion was by its separation from politics and the power to coerce.

### Illustrations.

Instances in which combination of politics and economics has been disastrous are without number:

### Ancient Examples

We have some knowledge of what time out of mind has been done to the suffering body politic by application of governmental power thru economic institutions by autocracies and theocracies of the past: by imprisonments and tortures on whim and pretext without warrant, writ of habeas corpus, or trial by jury, by convictions and sentences in drum-head and star chamber courts and inquisitions, by monarchical prerogatives, and by titles of nobility and laws of primogeniture, by agents provocateur, secret police, searches and seizures and confiscations of property without compensation, by suppression of speech, press and assembly, by bills of attainder, alien

and sedition laws, by quartering of troops and disarming of citizens, by chattel slavery, feudalism, serfdom, peonage, enforced religious establishments, worship and professions, taxation without representation, subjection of women, bolshevism, fascism, etc., etc., ad infinitum;—all at behest and on behalf of political exploiters and their acquisitive supporters. Regardless of this incessant drive of rulers, commissars and privileged of the state to break down all destructible rights of the individual, the path of progress has been hewn through such oppressions to a modicum of civil liberty.

### Modern Methods

But we do not seem so clearly to realize what is now being done by various legal institutions in operation of similar exploitation by modern but not less effective methods: by preemptions under ancient title laws and seizure in the occupancy and use of land, thereby extracting from the common wealth for privileged land proprietors ever increasing charges of ground rents not earned. (If the state leased the lands or locations and collected the ground rents, it could meet all its expenses, and provide great utilities and improvements besides, without any taxation or compulsion whatever; and it could not be said in these United States, where all are supposed to be born free and equal, that some are endowed at birth with multimillions of property, and others have nowhere to set their feet, except on the highways and in the wilderness; also cause and excuse for unemployment and economic dependency might be at an end. In America we have triumphantly abolished lords and titles of nobility, but they cut small figure anywhere compared to landlords and titles to choicest reservations of the earth's surface so far as their charge and burden upon the earnings and produce of the underlying public is concerned. Freedom of contract for producers and laborers does not exist where all of nature's means of production and resources, fields, forests, mines, factory and building sites, are closed to them. Ready access to land has been a great factor in the economic development of the United States. There is no need at all that the state should

frontier should lose this benefit to the public. Recaption of ground rents for it by a tax equal to their value would open the lands, free the resources, and restore the benefits). Nor do we always realize what is done by vast public debts and military burdens and establishments, at home and abroad, by the power to provoke and prosecute war and to direct foreign invasions at the initiative of a single individual, possibly for protection of investments; by conscriptions, by extravagant pensions, salaries, perquisites, patents, inheritances, subsidies, and special privileges, by unconscionable corporate franchises and immunities (such as enable great and perpetual monopolies of resources and markets to be acquired and unlimited profits to be extracted, accumulated and used competitively against ordinary individuals, through the aid of all the long established services, facilities, arts and achievements of the whole of civil society, and to be exclusively, perpetually and secretly enjoyed by stockholders having no liability beyond their investments, and liberty to enter and withdraw at will from their organizations and from all obligations thereof), by banking advantages (such as the power to divert credit from rural sections and property into industries in urban centers and into commercial paper and listed securities; to exert pressure upon and discredit, if not to break, through political examiners, persons and enterprises disapproved; to inflate and deflate currency and credit, and manipulate markets; to compel and suppress the political activities of industrial enterprises, regions, and individuals; to collect from the people interest on government bonds and on the currency issued by the bondholding banks upon the same bonds, thereby making the public pay doubly and much profiting small groups of bank stockholders to create and perpetuate great public debts, and to have the people believe that government bonds and bondage are normal, and inescapable conditions); by extortionate tariffs, licenses and rate making regulations (economists estimating four or five billion dollars per annum as taken from one part of the public, principally farmers and workingmen, and turned over to another, particularly

profiteers and politicians, by the tariff alone); by retention of hordes of officeholders, by public contracts to favored and often fraudulent contractors, padded payrolls, fictitious stock and bond issues, by petty official restrictions on emigration, citizenship, residence, occupation, recreation, travel, traffic, and mails; by technicalities and delays in legal procedure, by inspections and prohibitions of various sorts; by enforcements and threatened enforcements of sedition and syndicalism laws; by intimidation through threats of summary commitments to prison on so-called contempts in and out of the presence of partisan and too often tyrannical courts; by wasteful and useless endowments, appropriations and appointments; and by vested iniquities, great and small, ad infinitum;—all these backed by the police and military power of the state. The power to do these things with other people's persons, earnings and property is acquired from the state, and is not, except secondarily, used for public service and benefit, as state functions should always be used; but is used primarily to support the private exercise and enjoyment of such legalized advantages. The most clear and direct course to just government, liberty and independence, may be in separating these politicians and privileges from their special state-created advantages, and in establishing equal opportunities for all. Is there a better test of what is right and wrong in government than equality before the law? Can there be a final appeal under democratic or common law principles to any other rule? And what better time or plainer cause to say "hands off" to the trespassing political manipulator than when he or his faction steps across the line of equal rights to seize earnings and dictate the affairs and conduct of other people not molesting him? And how is such limitation best to be expressed in legislation?

#### Excess Government Powers

If mass dependency and mass starvation haunt mass production we should not tie the commonwealth too tightly to its wheels. The tendency of business to annex the state, and to assume all its terrific

and crushing powers, to assert "I am the State," will seem less attractive if we contemplate the powers of state being taken over entirely by a compact Methodist, or Baptist, or Catholic, or Jewish, or Blue Sunday, or Klu Klux, or any religious bloc (instead of taken over as now by tariff-utilities-banking-industrial-and money-grabbing bloc), interested that all the doctrinally faithful shall have maintenance first. Those of us not in the governing would bewail the calamity. Not so the governors, whose praise must ever ring for the going concern. "We know that by this craft we have our wealth"—and honor; and by applause of the powers that be we have our jobs.

What difference to the individual, whose only desire may be to go his way in peace, whether he is pressed and hammered into mould and shape and helplessness by a fanatical church or by a Moloch state? The more our economic condition, that is business, becomes the charge of the state, the more the state becomes the bound and shackled servant of business and business methods aims and greed for gold, the more hardboiled and drastic the laws and severe the execution will become on behalf of zealots of mighty Mammon, as selfish and senseless and ruthless as any sort of religious fanatics that ever afflicted human kind.

#### Increasing Power of State

In reviewing the long list of prerogatives of the British Crown lost through Magna Charta, the Bill of Rights, the Habeas Corpus Act, the Toleration Act, and other reforms of the British Constitution, Blackstone, Com. IV. 441, says in summary, and in balancing these losses with "the vast acquisition of force arising from the riot act, and the annual expenditures of the standing army, and the vast acquisition of personal attachment arising from the magnitude of the national debt (petty in comparison with today's), and the manner of levying those yearly millions which are appropriated to pay the interest; we shall find the crown has, gradually and imperceptibly, gained almost as much in influence as it has apparently lost in prerogative." In his speech before the Pennsylvania Senate Judiciary Committee, in 1883, Judge Jeremiah S. Black said: "I

am able to maintain that all the corruption with which the earth is cursed grows out of this fatal proclivity of public servants to make a business of their duty." Can it be supposed when politicians are given more power they will show less greed? This vicious mixture of greed and force (power of officials over the lives of the people) has caused many great nations to be governed out of existence.

#### Cooperative Possibilities

It would be a pleasure to some old fashioned Americans to see the recall, including the recall of judges, in easy and active operation. Dei gratia, the politicians might be checked somewhat. A community supplied with consumers' cooperatives, dependent upon the voluntary patronage of an acceptably served public, but not especially protected nor privileged, nor at all empowered to coerce nor to levy tolls nor exactions upon it, could function as a business institution much more fully and freely than a steel-ribbed state. The qualities of sociability, generosity and mercy are exuberant growths of the human spirit where they have a chance to thrive; and when the compulsion to serve the powerful, the protected and the specially privileged, is removed, a thousand agencies of mutual helpfulness will spring up and perform in efficient and satisfactory way most of the services required by society to be collectively performed. Business establishments and monopolies empowered by legislative enactments and bureau or commission licenses or decrees to conduct their affairs and levy and collect their growing charges from the public according to the dictates of politicians, operate on vastly different principles. They have coercion back of them, and we know something of the use that has always been made of uncontrollable power to coerce held by any set of men over another. Consumers' cooperatives deal not only in commodities, but in services; and both their rationale and accomplishments deserve very serious consideration. But, except as they eliminate the profit motive, and modify the competitive spirit, substituting more civilized methods for cannibalistic commercial rules, they are on the positive as a condition

side of social enterprise; and are another story. The inquiries in this paper have concerned the use of force, and limitations and negations that should attend its employment.

Political experience since 1776 has shown we can not depend absolutely and always on the good will and good sense of the common people, nor on the serving and uplifting benevolence of politicians nor patrioteering leaders. True, in a democracy the taking care of one's liberties involves the taking care of the liberties of other people. But the stark law of self-preservation requires each individual to protect himself, if the public is to have complete protection. Liberty can no more be secured in a community overrun and browbeaten by blatant and unscrupulous politicians, than can health be secured in a community saturated by plague and putrefaction.

#### Eternal Vigilance

No doubt the place to begin building for security is at the foundation by voters' leagues in precinct meetings, or in local vigilance committees, or liberty leagues, periodically assembled for taking any desired general or local resolution, initiative or action; and rigidly excluding all officeholders and officeseekers and privilegees of the state from participation or control.

For permanent results, it is not safe to set a thief to catch a thief; probably not to set politicians to catch politicians. It is useless to hope for much public service from either political agents or business men except for what they can get out

of it. In his Republic, Plato carefully provided that the guardians of the state should not share in the allotment of the wealth over which they were to have disposition. When servants begin to rule they become masters, even though they make a point of calling themselves public servants. A government by the people, wherein the people select and direct their public servants, is a democracy. But a government of the people by self-styled public servants selected and retained by a ruling or proprietary class, immune during their terms of office from recall or ouster by their ostensible employers, the people, is something quite different. It is a condition constantly, cynically, and efficiently cultivated by the acquisitive and the domineering. It is correctly called plutocracy. One racket justifies another in the eyes of the *hoi polloi*. May it be better to separate all the frenzied go-getters, glory hunters, and feed hunters from the power to levy public tribute for their personal plans and promotions? May the separation of business and politics be just as vital or more vital to our safety than the separation of religion and politics? Why can not the separation of trade and state, which applies coercion, be made in the terms of the state and federal constitutions quoted above?

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