

An Important Supreme Court Case

Hale v. Henkel, 201 U.S. 43 at 47 (1905)

The sovereign individual paradigm is reflected by the following U.S. Supreme Court case:

The Supreme Court stated in summary:

"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no such duty [to submit his books and papers for an examination] to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land [Common Law] long antecedent to [long before] the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights." Hale v. Henkel, 201 U.S. 43 at 47 (1905).

Let us analyze this case. It says, "The individual may stand upon his constitutional rights." It does not say, "Sit on his rights." There is a principle here: "If you don't use 'em you lose 'em." You have to assert your rights, demand them, "stand upon" them.

Next it says, "He is entitled to carry on his private business in his own way." It says "private business" - you have a right to operate a private business. Then it says "in his own way." It doesn't say "in the government's way."

Then it says, "His power to contract is unlimited." As a sovereign individual, your power to contract is unlimited. In common law there are certain criteria that determine the validity of contracts. They are not important here, except that any contract that would harm others or violate their rights would be invalid. For example, a "contract" to kill someone is not a valid contract. Apart from this obvious qualification, your power to contract is unlimited.

Next it says, "He owes no such duty [to submit his books and papers for an examination] to the State, since he receives nothing therefrom, beyond the protection of his life and property." The court case contrasted the duty of the corporation (an entity created by government permission - feudal paradigm) to the duty of the sovereign individual. The sovereign individual doesn't need and didn't receive permission from the government, hence has no duty to the government.

Then it says, "His rights are such as existed by the law of the land [Common Law] long antecedent to the organization of the State." This is very important. The Supreme Court recognized that humans have inherent rights. The U.S. Constitution (including the Bill of Rights) does not grant us rights. We have fundamental rights, irrespective of what the Constitution says. The Constitution acknowledges some of our rights. And Amendment IX states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the

people." The important point is that our rights antecede (come before, are senior to) the organization of the state.

Next the Supreme Court says, "And [his rights] can only be taken from him by due process of law, and in accordance with the Constitution." Does it say the government can take away your rights? No! Your rights can only be taken away "by due process of law, and in accordance with the Constitution." "Due process of law" involves procedures and safeguards such as trial by jury. "Trial by jury" means, inter alia, the jury judges both law and fact.

Then the case says, "Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law." These are some of the rights of a sovereign individual. Sovereign individuals need not report anything about themselves or their businesses to anyone.

Finally, the Supreme Court says, "He owes nothing to the public so long as he does not trespass upon their rights." The sovereign individual does not have to pay taxes.

If you discuss Hale v. Henkel with a run-of-the-mill attorney, he or she will tell you that the case is "old" and that it has been "overturned." If you ask the attorney for a citation of the case or cases that overturned Hale v. Henkel, it is unlikely that there will be a meaningful response. A friend of mine has researched Hale v. Henkel. He reported:

"We know that Hale v. Henkel was decided in 1905 in the U.S. Supreme Court. Since it was the Supreme Court, the case is binding on all courts of the land, until another Supreme Court case says it isn't. Has another Supreme Court case overturned Hale v. Henkel? The answer is NO. As a matter of fact, since 1905, the Supreme Court has cited Hale v. Henkel a total of 144 times. A fact more astounding is that since 1905, Hale v. Henkel has been cited by all of the federal and state appellate court systems a total of over 1600 times. None of the various issues of this case has ever been overruled.

How does that compare with the other Supreme Court cases? Although a complete study has not been made, initial observations indicate that no other case surpasses Hale v. Henkel in the number of times it has been cited."

Personal Status: Freeman or Slave?

[This section is extracted from an article by Alfred Adask in the Nov/Dec 1992 issue of *AntiShyster*.]

- " On page 1238 of *Black's Law Dictionary (Revised 4th Edition)* we find the entry: "OMNES HOMINES AUT LIBERI SUNT AUT SERVI. All men are freemen or slaves. Inst. 1, 3, pr.; Fleta, 1. 1, c. 1, Sect. 2."
- This Latin dictum declares you must be either a "freeman" or a "slave." Mutually exclusive categories. No middle ground. If you're not one, you must be the other. It's an interesting notion, but does this obscure Latin phrase have any current relevance to you and me?
- Inst. 1, 3, pr." is a reference to *Justinian's Institutes*, a treatise on Roman Law compiled under the direction of Emperor Justinian, and first published in AD 533. This tells us that

the freeman/slave dichotomy dates back at least 1,400 years in Western civilization and legal tradition.

- The second reference - "Fleta, 1. 1, c. 1, Sect. 2." - refers to an ancient treatise on the laws of England, called *Fleta* and written during the reign of Edward I in the late 13th Century or early 14th century. So the 6th Century Roman dictum of "slave or freeman" was still honored 800 years later in *Fleta* and, presumably, in the law of 14th Century England.
- *Black's* defines "free" as: "Not subject to legal constraint of another. Unconstrained; having power to follow the dictates of his own will. Not subject to the dominion of another. Not compelled to involuntary servitude. Used in this sense as opposed to 'slave'... Enjoying full civic rights... "
- *Black's* defines "freeman" as: "A person in the possession and enjoyment of all the civil and political rights according to the people under a free government. In Roman law, it denoted one who was either born free or emancipated, and was the opposite of 'slave.' In feudal law, it designated an allodial proprietor, as distinguished from a vassal or feudal tenant. (And so in Pennsylvania colonial law. Fry's Election Case, 71 Pa. 308, 10 Am. Rep. 698.) In old English law, the word described a freeholder or tenant by free services; one who was not a villein [slave of a feudal lord]. In modern legal phraseology, it is the appellation of a member of a city or borough having the right of suffrage, or a member of any municipal corporation invested with full civic right." [An allodial proprietor or freeholder has an inalienable right to property. Someone whose property is subject to property tax is a vassal or feudal tenant.]
- "Full civic right" suggests a person who enjoys all political rights, including the right to hold all public offices. In America, today, only 0.3% of the population - lawyers - can hold office in the judicial branch of government and the other 99.7% of us are denied that civic right. Taken together, the definition of "freemen" and the Roman dictum of freeman/slave dichotomy suggests that the only legal "freemen" in America are licensed lawyers, and conversely, the other 99.7% of us are "slaves." Not a cheery thought. But what do lawyers have that we don't? Education. Knowledge. And what does the Bible say? "My people perish from lack of knowledge." Better start studying, folks.
- Interesting to see how the 6th Century Roman concept of freeman/slave moved right along through feudal times, to old English law, and on to colonial Pennsylvania. That means the Roman legal concept of "freeman" not only crossed Europe and eight centuries to reach 14th Century England. It later crossed the Atlantic and four more centuries to appear in Pennsylvania law somewhere around 1700.
- Article I, Section 2 of the Bill of Rights of the 1869 Texas State Constitution says, "All freemen, when they form a compact [voluntary agreement or contract], have equal rights; and no man, or set of men, is entitled to exclusive separate public emoluments or privileges." So the term "freeman" was still in use and clearly part of American Law, as far west as Texas and as recently as 1869 - just over a hundred years ago.
- [Article I (Bill of Rights), Section 2 of the Texas Constitution also states: "All political power is inherent in the people, and free governments are founded on their authority, and instituted for their benefit. The faith on the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform, or abolish their government in such manner as they may think expedient."]

- If the legal term "freeman" was sufficiently resilient to cross one ocean, two continents, and thirteen centuries, it doesn't take a great deal of faith or imagination to suppose the Roman freeman/slave dictum might still carry some weight in today's American legal system. Which means that ancient, obscure Roman dictum still has relevance to your life and mine.
- *Black's* defines "slave" as: "A person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another... One who is under the power of a master, and who belongs to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, have anything, or acquire anything, but what must belong to his master... "
- Are you a "slave?" Are you "wholly subject to the will of another?" Do you have "no freedom of action?" Doesn't seem so. You have, at least *some* freedom of action, don't you? Then again, are you "under the power of a master?" Is there a "master" in your life who can "dispose of your person" (do you have a draft card?), dispose of your "industry" and "labor" (do you pay income taxes?), without you "being able to do anything, have anything, or acquire anything, but what must belong to [your] master" (can the IRS take your property without due process?)?
- While it's clear that most of us are not "freemen," it's hard to admit that we're "slaves." Well, technically, I suppose we could admit, a little bit, that we're "slaves" to our government, but only a little, and besides this "slavery" is just another harmless linguistic legalism, right?
- Still, the Roman dictum persists, nags: freeman or slave, freeman or slave, one or the other, *nothing* in between. And if we're not free, we're not freemen, and if we're not freemen we must be... ? (Can't say it, can you?)
- To be free is hard work and no task for the lazy or unambitious. But if you want to live "easy," be a slave. It's simple. Just repeat after me, "Yass boss." If you're a traditionalist, say "Yass massa," or if you're a modernist, say "Yass, yer honor." Go ahead, say it. "Yass boss." See? That's all it takes. See how *easy* it is to be a slave? Don't need no dictionary. Don' need no law book. Don' nee' no studyin', teechers, or ha school educayshun! Aw you needs t' know is how t' say "yass." "Yass." "Yass boss!"
- Slavery's a snap. Slavery's easy. It's a perfect social order for those of us who are lazy, complacent, ignorant, and like it that way. To be a slave, to live "easy," all you gotta do is follow orders, accept the "benefits," and keep your eyes to the ground. All you gotta do is kiss your self-respect, your life, and the lives of your children and your country, goodbye.
- Do me a favor. Do yourself, your kids, and your country a favor. Buy some law books and a law dictionary, and start reading. Study the Declaration of Independence and the Constitution. Learn about the IRS. Make the effort. Pay the price. Learn to be free."

So, How Do You Find Out Who You Are?

You could think of yourself as a self-programmer. During your lifetime you have surrounded yourself with programs. How you view your environment, other people, and institutions like the state, are programs that profoundly affect how you view yourself.

You have programs that define who you are, who you are not, how you are, how you are not, what you think, what you don't think, how you think, how you don't think, what you emote, what you

don't emote, how you emote, how you don't emote, what you say, what you don't say, how you say it, how you don't say it, what you write, what you don't write, how you write, how you don't write, what you do, what you don't do, how you do it, how you don't do it, what you can do, what you can't do, etc. You also have many "why" programs: the "reasons" for all the above.

Many programs you made up yourself. Many you received and accepted from your parents, other family, friends, teachers, preachers, politicians, books, newspapers, magazines, radio, TV, journalists, etc. Any programs you received and accepted from others, without consciously evaluating their utility, constitute brainwashing. You either program yourself or you allow others to program you.

Your limitations are in your programs. You created them yourself - or you received and accepted them from others. Your self-esteem is determined by how you view and measure yourself. Having essentially created your limitations yourself, you can remove them.

You can think of yourself as the Great Programmer surrounded by layers of programs like an onion. In order to discover yourself you peel off the layers of limiting programs. Or you simply jump out of your old programs and operate according to new programs.

Some of your programs define your "comfort zone." There are things you find comfortable thinking, emoting, saying, writing, and doing. Other things you find uncomfortable. To discover yourself you may have to jump out of your comfort zone: and think, emote, say, write, or do the uncomfortable.