


3-18-1994

## Francis Lieber: Émigré Scholar

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### Recommended Citation

Samson, Steven Alan, "Francis Lieber: Émigré Scholar" (1994). *Faculty Publications and Presentations*. Paper 59.  
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## FRANCIS LIEBER: EMIGRÉ SCHOLAR

Steven Alan Samson

*Introductory Remarks*

I must confess that I labor under several educational handicaps. Last night Ray Tripp remarked that people today can graduate from high school unable to write in cursive script. I have been on the leading edge of this particular illiteracy curve since the late 1950s.

Then William Allen, the "Midnight Economist," commented that McConnell's economics textbook, which he called a "watered down" version of Samuelson's, has found its market in second-string state universities and teachers colleges (or words to that effect). It just so happens that my "cow college" in Colorado used both when I was a student in the late 1960s. I remember that the macroeconomics course left me baffled; the microeconomics course at least made sense. I am not sure either book did much good.

All this notwithstanding, please permit me to introduce an economist of the Old School. Having sifted through Lieber's personal papers at the Huntington Library, I can testify that he wrote in long-hand, although often illegibly.

***A NEGLECTED GIANT***

If Francis Lieber (1798-1872) had been a tinkerer, like Thomas Alva Edison or George Westinghouse, he might be remembered today for patenting a great variety of inventions. Yet he was an

innovator in several fields. His active concerns as a political economist, scholar, and writer ranged through the industrial as well as the liberal arts.

Lieber was an early advocate of an international copyright. He urged Congress to establish an office of statistics to aid scientific research. Later he took a lead in military and legal reform, drafting the first formal code of military conduct, which predated and influenced both the Hague and Geneva conventions.<sup>1</sup> His contributions to international law were later publicly acknowledged by Elihu Root, a recipient of the Nobel Peace Prize.

As a young man of twenty-nine, Lieber started the first swimming program in the United States at a gymnastics school he operated. Seven years later, in 1834, he drew up the famous education plan for Girard College.<sup>2</sup> Lieber was an able linguist and philologist whose scholarly research included work with Laura Bridgman, a blind deaf-mute.<sup>3</sup> As a political economist, he helped introduce Frederic Bastiat to an American audience and wrote on the fallacies of protectionism. In the fields of

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<sup>1</sup>See Francis Lieber, Miscellaneous Writings, vol. 2: Contributions to Political Science (Philadelphia: J. B. Lippincott, 1881), pp. 245-74. Hereafter cited as MW, II.

<sup>2</sup>Lieber's introduction to this plan is reprinted in *Ibid.*, pp. 497-523. In 1844 the validity of the bequest that created the college became the subject of a major Supreme Court case because of its alleged atheism. It pitted Daniel Webster against Horace Binney in a packed courtroom under the scrutiny of Joseph Story, who presided. At one time or another Lieber corresponded with all three.

<sup>3</sup>See Francis Lieber, Miscellaneous Writings, vol. 1: Reminiscences, Addresses, and Essays (Philadelphia: J. B. Lippincott, 1881), pp. 443-97. Hereafter cited as MW, I.

history and political science, which Lieber taught at South Carolina College and Columbia, many of the concepts he popularized and political terms he coined -- such as individualism, nationalism, internationalism, city-state, Pan-American, and penology -- have become part of our language.

If Lieber had held high political office, he might be recognized as one of the great statesmen of his time. Still, he looms large in the circle of public men. Lieber corresponded with many prominent political figures -- among them Joseph Story, James Kent, Henry Clay, Daniel Webster, John C. Calhoun, Charles Sumner, and Hamilton Fish -- and served three administrations in various capacities during the last decade of his life. His work on penology and prison reform brought him international attention, including the offer of an administrative post by the Prussian king.

Finally, if Lieber had made his mark as a literary lion, his contributions as an observer of American and European political and cultural trends might have earned him the fame of a Washington Irving, a Henry Wadsworth Longfellow, or an Alexis de Tocqueville, all of whom he knew. His works are marvels of erudition that make few concessions to the unlettered. His poetry was written and published in two languages. He mastered most of the European languages of his day and knew the classical tongues.

But it was as an encyclopedist -- and not as a published poet or linguist -- that Lieber first came to the attention of

the American public. His thirteen volume Encyclopedia Americana (1829-1833) drew contributions from some of the great writers and thinkers of his era. The encyclopedia also provided a channel for introducing and popularizing German cultural trends in America many years before the Transcendental Club was formed and the public education movement had begun to pattern itself upon the Prussian model. Sets of the encyclopedia were owned by Andrew Jackson and Abraham Lincoln.

In sum, Lieber's personal accomplishments in physical education, political science, penology, linguistics, military justice, international law, and other fields merit his acknowledgment as a significant contributor to each. Remarkably, this great American teacher, writer, and patriot first arrived in America in 1827 -- years before the revolutions of 1830 and 1848 -- as a political refugee like so many others in this century. As a boy he had been severely wounded during the Battle of Waterloo. Afterwards he fell in with student radicals associated with Father Jahn, was imprisoned by the Prussian authorities, earned his Ph.D. without official sanction, fought in the Greek War for Independence, came under the tutelage of Barthold Niebuhr in Italy, won a pardon from the king, was once again arrested, and finally left Germany for England in 1826.

Yet, unaccountably, Lieber is nearly forgotten by the same political science profession he sought to put on a solid footing long before John W. Burgess, his successor at Columbia University, started the country's first graduate school of

political science.

Despite the neglect, this *émigré* scholar is important to us today: not only as an intellectual bridge between several disciplines, between the Old World and the New, or between the North and the South, but also as an emissary from our past to our present, and perhaps to our future, as well. His scholarship gave systematic expression to this country's tradition of political and intellectual liberty, which he believed to have grown and matured from the long collective experience of the British and American peoples with self-governing institutions.

Lieber devoted a lifetime of study to analyzing the origins of modern liberty and the threats posed by what he called monarchical and democratic absolutism. It is in this -- his capacity as a critic of the centralizing tendencies of his day and ours -- that I wish to consider Lieber now.

#### **NATIONALISM**

In one his last essays, "Nationalism and Internationalism," Francis Lieber identified three major characteristics of the development of the modern epoch.<sup>4</sup> First is the national polity or nation-state. Second is "the general endeavor to define more clearly, and to extend more widely, human rights and civil liberty."<sup>5</sup> Third, amidst the breakdown of universal empires has come the simultaneous flowering of many leading nations under the aegis of international law and "in the bonds of one common moving

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<sup>4</sup>See MW, II, pp. 225-43.

<sup>5</sup>*Ibid.*, p. 222, 239.

civilization."<sup>6</sup> But Lieber believed that "there will be no obliteration of nationalities" in this commonwealth of nations.

Let us begin with the rise of the national polity. Lieber believed that human nature reaches the full amplitude of its expression in civilization rather than under more primitive conditions. For this he has been accused of racialism but, to his credit, he rejected biological explanations of what to him were cultural and developmental differences.

Lieber regarded England as the first modern nation and as the native land of modern liberty. He dated its origin back to the time of Alfred the Great, its early lawgiver, and maintained that "in her alone liberty and nationality grew apace."<sup>7</sup> By contrast, the still incomplete process of creating the Italian and German nations began much later when first Dante and then Luther each raised his native dialect to the dignity of a national tongue.

A nation is the product of a slow, organic growth and achieves its highest level of development in the representative national government. The modern nation-state represents a marked advance over the parochial "market-republics" of earlier times and the "absorbing centralism and dissolving communism" of Asian and European despotism. But this advance beyond the feudal system of local and class privileges has taken two opposing forms, as summarized by Charles Robson:

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<sup>6</sup>*Ibid.*, pp. 222, 239.

<sup>7</sup>*Ibid.*, p. 226.

In so far as nationalism served to break down isolated groupings and the stratification of the middle ages, to do away with petty territorial obstructions to cultural and economic exchange, . . . it contributed to the realization of freedom. When it took the form of absolutism and centralization, however, the concept of liberty was distorted and the actuality destroyed.<sup>8</sup>

Even though it is now rare for nationalism to be treated so positively, Lieber rejected its more extreme forms and warned of the dangers of political and religious fanaticism.

### *LIBERTY*

Lieber opened his 1853 treatise On Civil Liberty and Self-Government with words that, following the collapse of the Soviet empire, resonate very strongly once again.

Our age, marked by restless activity in almost all departments of knowledge, and by struggles and aspirations before the unknown, is stamped by no characteristic more deeply than by a desire to establish or extend freedom in the political societies of mankind.<sup>9</sup>

This is the second characteristic of our age: a concern to define and extend human rights and civil liberty. With an earnest intensity that seems to burst out of the intersection of history and autobiography, Lieber surveyed the prospect in 1853 and described it as a period of "marked struggle in the progress of civilization" resembling the Reformation in its scope and violence. He invited his readers to accept the task of diffusing civil liberty as the mission assigned their generation.

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<sup>8</sup>C. B. Robson, "Francis Lieber's Nationalism," Journal of Politics, 8 (1946): 63.

<sup>9</sup>Francis Lieber, On Civil Liberty and Self-Government, 3rd ed., revised, ed. Theodore D. Woolsey (Philadelphia: J. B. Lippincott, 1877), p. 17.



The love of civil liberty is so leading a motive in our times, that no man who does not understand what civil liberty is, has acquired that self-knowledge without which we do not know where we stand, and are supernumeraries or instinctive followers, rather than conscious, working members of our race, in our day and generation.<sup>10</sup>

Hundreds of political constitutions had been drafted during the first half of the nineteenth century. However short-lived, they would leave roots "which some day will sprout and prosper." Alluding to the revolutions that had recently convulsed Europe, Lieber remarked that blood "has always flowed before great ideas could settle into actual institutions, or before the yearnings of humanity could become realities."<sup>11</sup>

The most concentrated expression of Lieber's mature thinking on the subject of civil liberty may be found in his essay "Anglican and Gallican Liberty," which was first published in 1849. Here he argued that external liberty is an outgrowth of internal freedom. Real freedom is "personal, individual, and relates to the whole being." Liberty is "granted, guaranteed, and, therefore, generally of a public character." It is the political expression of this preexisting moral condition of the people. It is a practical result of flourishing institutions of self-government.

In its highest sense, freedom is perfect self-determination:

Absolute freedom . . . can be imagined only in conjunction with perfect power. The Almighty alone is perfectly free. To all other beings we can attribute freedom, but only in an

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<sup>10</sup>*Ibid.*, p. 17.

<sup>11</sup>*Ibid.*, p. 18.

approximate or relative sense.<sup>12</sup>

Given its relative character, civil liberty is the highest degree of independent action that is compatible with obtaining those essentials that are the proper objects of public power. Since these objects vary, the character of civil liberty

varies with the different views which men may take, at the various stages of civilization, of that which is essential to man -- in other words, of the essentials of humanity and the object and purpose of this terrestrial life.<sup>13</sup>

Here Lieber contrasted two views of human nature: the classical view of man, which regarded citizenship as man's highest estate, with the modern view.

Christianity and modern civilization place the individual, with his individual responsibility, his personal claims, and his individual immortal soul as the highest object, and the state, law, and government, however vitally important to each person and to civilization, are for the moderns still but a means to obtain the yet higher objects of humanity.<sup>14</sup>

Lieber believed that two distinct ideas of modern liberty had evolved. Gallican liberty is what he called the kind that is granted by absolute governments, whether the monarchic absolutism of the Bourbon kings and Bonaparte emperors or the democratic absolutism of the French revolutionaries. In either case, the individual is left naked and powerless before the state or the general will.

By contrast, as Charles Robson has noted in his summary of Lieber's views:

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<sup>12</sup>MW, II, p. 371.

<sup>13</sup>*Ibid.*, p. 372.

<sup>14</sup>*Ibid.*, p. 372.

England had developed political institutions consisting of a national representative system, a common law presided over by an independent judiciary, and local self-government, which permitted non-political institutions 'of all sorts, commercial, religious, cultural, scientific, charitable and industrial' to flourish under the protection but not the control of the national state.<sup>15</sup>

This Anglican liberty, as he called it, is rooted in the habits and loyalties of living communities. It helps prevent abuse of the powers exercised by the national government. As Robson summarized it: "This type of nationalism was the model for modern states, for in it the liberty of the individual could be realized and the loyalty of free men could be enlisted."<sup>16</sup>

Lieber's reflections on the differences between the decentralized, highly institutionalized Anglican liberty and the centralized, largely unmediated Gallican liberty of Napoleonic France were deepened by his first-hand observations of the aftermath of the 1848 revolutions. Upon leaving Germany for the last time, Lieber wrote: "I take with me the clear conviction, that Germany cannot be great, strong or happy with her many princes. She could be a great country if united under one government. . . ."<sup>17</sup>

Lieber's great insight is that liberty itself requires certain measures or institutions to secure its enjoyment. He believed that in modern times "entire nations are agreed among

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<sup>15</sup>Robson, *op. cit.*, pp. 63-64.

<sup>16</sup>*Ibid.*, p. 64.

<sup>17</sup>See Frank Freidel, Francis Lieber: Nineteenth-Century Liberal (Baton Rouge: Louisiana State University Press, 1947), p. 248.

themselves, with a remarkable degree of unanimity, upon the political principles and measures necessary for the establishment or perpetuation of liberty," although there might be disagreement over some of the particulars. Lieber believed these guarantees

will be found to consist in the highest protection of the individual and of society, chiefly against public power, because it is necessarily from this power that the greatest danger threatens the citizen, or that the most serious infringement of untrammelled action is to be feared.<sup>18</sup>

Lieber was consequently a strong advocate of free trade and free enterprise. But he also believed that the traditional nuclear family is the linchpin upon which the whole system depends. Whatever weakens or breaks this bond attacks the institutional foundations of a free society. Lieber's research on the relationship between polygamy and political despotism was cited after his death by the Supreme Court in its first Mormon polygamy decision, *Reynolds v. United States* (1879).

In his emphasis on and positive regard for individualism (a word that he and Tocqueville both claimed to have coined) Lieber is out of step with today's social science, which generally promotes socialism at the expense of individualism. But Lieber insisted on addressing the age-old problem of unity and diversity, or, in deference to Jack Schwartzman, <sup>reconciling</sup> Burke with Paine. How do we balance liberty and authority? The needs of the community with individuality?<sup>19</sup> Lieber sought to resolve

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<sup>18</sup>MW, II, p. 373.

<sup>19</sup>For a contrasting view of individuality and community, see David Schuman, A Preface to Politics, 2nd ed. (Lexington, MA: D. C. Heath, 1977), pp. 120-22.

this tension through the concept of institutional liberty. To borrow from Daniel Webster, it reconciles Liberty and Union. This is the meaning of our national motto. *E pluribus unum*. Out of many, one.

### ***SELF-GOVERNMENT***

This brings us to the third and final point: the place of self-government within a larger framework of political interdependence, whether national or international.

At the time Lieber wrote On Civil Liberty and Self-Government in 1853 the word "self-government" had not yet come into general use.<sup>20</sup> Although the word is a literal translation of the Greek *autonomeia* [autonomy], Lieber gave it a much wider application than did the Greeks, for whom "it meant in reality independence upon other states, a non-colonial, non-provincial state of things."<sup>21</sup> By contrast to the Greeks, who outwardly were faced by foreign states, the English term was first adopted by theologians and used in a moral sense.

[S]elf-government, the same word [as *autonomeia*], has acquired with ourselves, chiefly or exclusively, a domestic meaning, facing the relations in which the individual and home institutions stand to the state which comprehends them."<sup>22</sup>

It is in this context that Lieber's concept of institutional liberty appears. The idea of institutional liberty suggests an internal or moral autonomy or independence from others, including

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<sup>20</sup>Lieber, On Civil Liberty, pp. 247-48, note 1.

<sup>21</sup>*Ibid.*, p. 39, note.

<sup>22</sup>*Ibid.*, p. 39 note.

other institution. It stands in direct opposition to what he called "democratic absolutism." Echoing Burke, he associated it with the French Revolution.<sup>23</sup>

It is the fusion of legislative and executive functions -- what Lieber calls "the power" -- that most clearly distinguishes absolutism from institutional liberty. "Rousseauism," as he also called it, was for him simply a modern form of "Caesarism."

If Lieber were alive today, he would be quick to recognize the pervasive influence of Caesarism among people who, on the one hand, say they have emancipated themselves from institutional loyalties and who, on the other hand, increasingly look to the Great Father in Washington for their rights and privileges. Of course, this raises the classical conundrum: Who will guard the guardians? In America, the citizens are supposed to be the guardians.

Caesarism is also evident in the politicization of campus life and the increasing ideological conformity that has so skewed

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<sup>23</sup>Years later Hannah Arendt acknowledged a similar debt to Burke in her own conception of totalitarianism. "A conception of law which identifies what is right with the notion of what is good for -- for the individual, or the family, or the people, or the largest number -- becomes inevitable once the absolute and transcendent measurements of religion or the law of nature have lost their authority. And this predicament is by no means solved if the unit to which the "good for" applies is as large as mankind itself. . . . Here, in the problems of factual reality, we are confronted with one of the oldest perplexities of political philosophy, which could remain undetected only so long as a stable Christian theology provided the framework for all political and philosophical problems, but which long ago caused Plato to say: "Not man, but a god, must be the measure of things." Hannah Arendt, The Origins of Totalitarianism, new edition (New York: Harcourt Brace Jovanovich, 1973), p. 299.

our academic discourse. Lieber would say that we have been exchanging our birthright of liberty for a mess of paternalistic pottage. Just as Lieber once campaigned ardently to preserve the Union, our fight today must be on behalf of institutions, such as UPAO, that preserve the tradition of self-governing liberty.