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Rich Kurz
Publisher
CHRONOGRAF productions
3019 Placer Court
Fort Collins CO 80526-2651
USA

voice: 970-227-9848
e-mail: rich@chronograf.com or kurz@lanset.com

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WE THE PEOPLE: Thoughts About Election Day

By Rich Kurz, publisher “The Presidential Series”

Perhaps the most critical debate in the Federal Convention of 1787 was about justifying how the Framers exceeded their instructions from Congress when they wrote a completely new government. Those supporting states rights found no justification. Those supporting the new Constitution called upon a higher authority to trump the states. They appealed to the people. The principle of the people was embodied in the Declaration of Independence, “When in the course of human events, it becomes necessary for one PEOPLE...” It was shouted in the Preamble of the new Constitution, “We, the PEOPLE do ordain and establish...” So it was ratified by state conventions of the people’s direct representatives, and not by the state governments. What was created was a government of the people, by the people and for the people, as Lincoln so eloquently recapitulated.

When asked what type of government it was, Ben Franklin is reputed to have said, “a republic, if you can keep it.” Therein lay the rub. The people are the character of the country. They are the measure of the nation. They are the determiners of its destiny. Biblically, parents and children could not be punished for the others’ sins. But... the consequences of the fathers’ actions would carry through to the third generation. The children would experience the consequences, be they blessings or curses. If the people placed themselves under the law of the land, they would be blessed. If they became a law unto themselves, they would be cursed. If they changed the laws to suit their desires, it would be functionally equivalent to moving a marker stone. That would be changing the standard. It had better be an exchange of an untrue marker for a true one.

James Madison labored hard to birth the Constitution, yet 35 years later he bemoaned how it had become corrupted. It did not surprise him that it would. He and others predicted that the new government would last 100, 150, or even 200 years. But eventually the people would become so corrupt that even the best government would become tyrannical. The Framers built a government to restrain the corruption of men in power. But how could they build a government to restrain the corruption of the people without resorting to tyranny?

The answer to that dilemma was the people themselves and not the government. They had to be able to govern themselves before they could govern others. And the Framers were uniform in their belief that men must be moral, and that morality was founded upon nature’s God. One can debate if they were all Christians, but even the anti-cleric Jefferson declared the moral teachings of Jesus Christ to be pre-eminent. Their civic foundation would be God, family, work, and love of country. It was the people’s duty to elect responsible representatives, to debate the issues with their fellow citizens, and to exercise self governance. Only people who could rule their own households would be able to rule over others as stewards and not as tyrants.

THIS BILL IS OWED TO YOU: Thoughts About the Bill of Rights

By Rich Kurz, publisher “The Presidential Series”

Ratification of the Constitution was done in state conventions. Its passage was uncertain. Indeed, on the basis of the popular vote for the convention delegates, the Constitution only had a slight majority. For many states the price of passage required the inclusion of a bill of rights. They wanted to guarantee both individual and state rights by absolutely limiting the new government’s jurisdiction. This is important to understand. The resulting Bill of Rights underscored the limits of federal authority, as well as the nature of the American governmental system.

Our system is the product of a convoluted compromise that exhibits surprisingly great wisdom. Our model of government is not like a Maslow’s hierarchy in which the top-most level dominates. It is more like a molecule in which each atom overlaps its neighbor. Local, state, and federal atoms comprise the whole molecule, but their orbital jurisdictions only partially overlap. No one of them was meant to exercise total authority- especially not the federal government! Citizen rights could not be abridged. State jurisdictions could not be intruded into. Conversely, there were federal responsibilities the states must relinquish. In a word, the different atoms of government were just that- atoms, semi-autonomous, all joined to and subservient to the common molecule which is the citizenry, or, We The People.

That the Constitution passed owed much to James Madison’s tireless legwork, extensive networking, in-depth scholarship, dogged debating skills, and, in the end, his willingness to accommodate the demands of its opponents. Madison reduced the various rights submitted by the state conventions to a common list that became the first ten amendments to the Constitution. He nursed it through Congress during its very first year. It was the final step in the arduous process of creating a government based on principles of consent of The People.

When the next generation entered politics in the 1820’s, a new debate arose about the purposes of government. Did the Constitution permit certain laws? What did its language mean originally? We still ask that same question. We call it “original intent.” The People turned to the surviving Founding Fathers, and Madison especially. He had an answer, but not the one People expected. He said it did not mean what the delegates who drafted the Constitution thought it meant, but what The People who ratified it in state conventions thought it meant. And yes, original intent mattered. And surprisingly, Madison bemoaned the corruption (i.e., the deviation from its intended limits) that had occurred by 1830. The Federal atom was pulling electrons from the other atoms, a process that still goes on today

Does the Bill of Rights still matter? Only if it is upheld. Is it less valid? Only if human nature has changed. Is it still in harmony with our practice of government? Well, how easy is it to abridge any one of those amendments? Who defends it? Does the Supreme Court? Does the President? Do the states? They are tools only, in the hands of the rightful owner- the enfranchised citizenry of the United States of America.