

CONSTITUTION DAY -- BARTLESVILLE, OKLAHOMA
SEPTEMBER 18, 1965
Remarks of Congressman Bob Dole

"CONSTITUTION AT THE CROSSROADS"

AS AMERICANS TODAY, WE SHARE AN ENVIABLE PLACE IN HISTORY.

THOUGH WE ACCOUNT FOR LESS THAN 10 PERCENT OF ITS SURFACE, WE HAVE
PRODUCED 50 PERCENT OF THE WORLD'S WEALTH.

WE HAVE ACHIEVED THE GREATEST AMOUNT OF FREEDOM, HAPPINESS,
AND JUSTICE EVER ENJOYED BY ANY PEOPLE AT ANY TIME IN HISTORY.

NOW, ALL OF THIS WAS NOT AN ACCIDENT, BUT THE DIRECT RESULT OF
SOMETHING IN OUR PAST WHICH WE WOULD DO WELL TO REMEMBER AND RE-EXAMINE.

AS ONE WITH SOMEWHAT MORE THAN A CASUAL INTEREST IN PATRIOTIC
AND GOVERNMENTAL ACTIVITIES, IT IS MY OPINION THAT AMERICAN SUCCESS
HAS BEEN MUCH MORE THAN AN ACCIDENT OR A FLUKE OF HISTORY.

I BELIEVE THAT PROBABLY THE MOST IMPORTANT SINGLE EVENT IN OUR
PAST, AMERICA'S GREATEST INVENTION IF YOU PLEASE, WAS THE ADOPTION OF
THE U. S. CONSTITUTION 178 YEARS AGO ON SEPTEMBER 17, 1787. IT IS
UNIQUELY AMERICAN. IT IS THE FEDERAL UNION PLAN FOR GOVERNMENT

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EMBODIED IN THE U. S. CONSTITUTION.

THE LABORATORY WHERE FEDERAL UNION WAS CREATED WAS :INDEPENDENCE HALL IN PHILADELPHIA. IN THE SAME HALL ELEVEN YEARS EARLIER HAD BEEN SIGNED THE DECLARATION OF INDEPENDENCE, THE VITAL SPARK THAT WAS TO IGNITE THIS TORCH OF FREEDOM.

THE INVENTORS WERE FARMERS, PROFESSORS, BUSINESSMEN, LAWYERS -- 39 MEN REPRESENTING 12 AMERICAN STATES. THESE DRAFTSMEN, MEN LIKE GEORGE WASHINGTON, ALEXANDER HAMILTON, BENJAMIN FRANKLIN, AND OTHERS, WERE WISE ENOUGH IN THEIR EXPERIENCES TO KNOW THAT NO MAN OR GROUP OF MEN COULD SAFELY BE TRUSTED WITH EXCESSIVE POWER. THEY SET OUT TO ESTABLISH A NEW SYSTEM OF GOVERNMENT UNDER WHICH ALL MEN WOULD RULE -- YET ALL WOULD OBEY. A GOVERNMENT TO BE CONTROLLED BY THE GOVERNED.

IT WAS A DEDICATED GROUP OF MEN WHO MET IN PHILADELPHIA TO PLAN OUR GOVERNMENT. WITH AN AVERAGE AGE OF 48, THEY HAD BEEN THROUGH MANY TRYING DAYS AND WOULD BE THROUGH MANY MORE, BUT THEY WERE DEDICATED TO AN IDEA AND AN IDEAL.

IT WAS THEIR INVENTION THEN WHICH ESTABLISHED THE FORM OF GOVERN-

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MENT UNDER WHICH WE, AS A PEOPLE, HAVE BEEN ABLE TO ACHIEVE A DEGREE OF LIBERTY, JUSTICE, AND PROGRESS NEVER BEFORE KNOWN TO MANKIND.

"TO FORM A MORE PERFECT UNION, TO ESTABLISH JUSTICE, TO INSURE DOMESTIC TRANQUILLITY,, TO PROVIDE FOR THE COMMON DEFENSE, TO PROMOTE THE GENERAL WELFARE, AND TO INSURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY" -- THESE WERE THE HIGH ASPIRATIONS OF THE MEN WHO AUTHORED THIS GREAT DOCUMENT.

I SUPPOSE ANY BODY OF HUMAN BEINGS FACED WITH THE OVERWHELMING TASK OF FORMALIZING A STRUCTURE OF FREEDOM WOULD ENTER INTO THIS TASK WITH GREAT EXPECTATIONS AND GREAT OPTIMISM, THOUGH THE CREATION OF THE FEDERAL UNION IDEA WAS NOT ALL MILK AND HONEY.

YOU HAVE ALL SEEN CHRISTY'S MASSIVE PAINTING OF THE SIGNING OF THE CONSTITUTION. IT SHOWS A ROOM FILLED WITH DISTINGUISHED BEWIGGED GENTLEMEN. AT THE SPEAKER'S DESK WITH AUSTERE BEARING IS GEORGE WASHINGTON. ONE HAS THE FEELING THAT HERE WERE THE BELOVED STATESMEN OF THE COLONIES COMMISSIONED BY GRATEFUL PEOPLE TO FASHION A NEW GOVERNMENT NOW THAT THE BRITISH YOKE HAD BEEN LIFTED. IT IS AN ILLUSION OF PEACE,

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UNITY, GOOD FEELING, SOLIDARITY, CONFIDENCE, AND HIGH PURPOSE UNTAINTED BY USUAL HUMAN FRAILTIES. THE TRUE PICTURE, HOWEVER, WAS ONE OF DIS-UNITY, OPEN WARFARE BETWEEN STATES, REBELLION WITHIN STATES, BITTERNESS AND SECTIONAL STRIFE, AND IN INDEPENDENCE HALL ITSELF, A CONSTANT STRUGGLE BETWEEN LOFTY PURPOSE AND PROVINCIALISM.

THE AMERICAN STATES WERE ON THE VERGE OF ANARCHY. THE CENTRAL GOVERNMENT, ORGANIZED UNDER THE ARTICLES OF CONFEDERATION, WAS WEAK, NEARLY BANKRUPT, AND WITHOUT SUPPORT ABROAD. THE LEAGUE WAS UNABLE TO MEET :ITS OWN CURRENT EXPENSES AND TOO WEAK TO ENFORCE PAYMENT OF DEBTS, PUBLIC OR PRIVATE. THE LEAGUE WAS SO WEAK FOREIGN GOVERNMENTS REFUSED TO ENTER INTO AGREEMENTS. BARBARY PIRATES WERE SEIZING AMERICAN SHIPS AND AMERICAN CITIZENS. THE LEAGUE WAS TOO POOR TO BUILD A NAVY AND TOO POOR TO BUY OFF THE PIRATES.

STATES ERECTED A MAZE OF FOOLISH DISCRIMINATORY TARIFF WALLS AMONG THEMSELVES. CURRENCY COLLAPSED IN MOST OF THE STATES AND SUCH WAS THE AMERICAN MOOD AND TIMES IN 1787, THE EVE OF AMERICA'S GREATEST INVENTION.

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THE MOOD OF THE DELEGATES THEMSELVES AT : INDEPENDENCE HALL WAS ONE OF DESPAIR. A YEAR EARLIER A CONVENTION HAD BEEN CALLED FOR THE PURPOSE OF STRENGTHENING THE CENTRAL GOVERNMENT: HOWEVER, THE CONVENTION ENDED BEFORE IT BEGAN BECAUSE ONLY FIVE STATES SENT DELEGATES. THE SECOND CONVENTION WAS CALLED FOR MAY 14, BUT, FRANKLY, THERE WAS VERY LITTLE INTEREST IN IT AMONG STATE GOVERNMENTS; IN FACT, SOME STATES DID NOT SEND THEIR BEST MEN. THE ONE FACT WHICH ADDED HOPE TO THE SECOND CONVENTION WAS THE NEWS THAT GENERAL WASHINGTON WAS TO BE IN THE VIRGINIA DELEGATION. IN THE EARLY STAGES WHEN IT APPEARED THAT NOTHING COULD BE ACCOMPLISHED, WASHINGTON ROSE AND DELIVERED HIS SHORTEST AND ONE OF HIS GREATEST SPEECHES. HE SAID,

"IT IS TOO PROBABLE THAT NO PLAN WE PROPOSE WILL BE ADOPTED. PERHAPS ANOTHER DREADFUL CONFLICT IS TO BE SUSTAINED. IF, TO PLEASE THE PEOPLE, WE OFFER WHAT WE OURSELVES DISAPPROVE, HOW CAN WE AFTERWARD DEFEND OUR WORK?"

HE ADDED, "LET US RAISE A STANDARD TO WHICH THE WISE AND HONEST CAN REPAIR. THE EVENT IS IN THE HAND OF GOD."

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AT ANOTHER CRITICAL MOMENT, WHEN THE CONVENTION APPEARED TO BE ON THE VERGE OF COLLAPSE, BENJAMIN FRANKLIN PERHAPS SAVED THE DAY WHEN IN A SPEECH HE SUGGESTED,

"I THEREFORE BEG LEAVE TO MOVE -- THAT HENCEFORTH PRAYERS IMPLORING THE ASSISTANCE OF HEAVEN, AND ITS BLESSINGS ON OUR DELIBERATIONS, BE HEARD IN THIS ASSEMBLY EVERY MORNING BEFORE WE PROCEED TO BUSINESS, AND THAT ONE OR MORE OF THE CLERGY OF THIS CITY BE REQUESTED TO OFFICIATE IN THAT SERVICE."

FRANKLIN'S SUGGESTION WAS ADOPTED, AND THE DAILY PRAYER HELPED TO CALM FRAYED NERVES AND ADDED THE INSPIRATION NEEDED FOR PERSEVERANCE, SO THAT OUT OF DESPERATION AND ADVERSITY THE GREAT PRINCIPLES WHICH FORMED AMERICA'S GREATEST INVENTION WERE HAMMERED OUT ONE BY ONE.

FROM THIS BREWING CALDRON OF UNCERTAINTY AND DOUBT, AND HOPE, CAME WHAT GLADSTONE HAS DESCRIBED, "AS THE MOST REMARKABLE WORK EVER STRUCK OFF AT A GIVEN TIME BY THE BRAIN AND PURPOSE OF MAN". THE DOCUMENT WRITTEN WAS AND IS SO BREATHTAKING IN ITS CONSEQUENCE, SO POLISHED IN ITS ELOQUENCE, AND SO FAR-REACHING IN ITS IMPORTANCE THAT MANY HAVE SAID IT MUST HAVE BEEN DIVINELY INSPIRED.

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INDEED, WHO AMONG US TODAY CANNOT BUT FEEL THAT WHAT SET THESE
MEN APART FROM OTHERS WHO HAD TRIED SO MANY TIMES BEFORE AND FAILED
SO MANY TIMES BEFORE WAS A DIVINE SPARK -- A DIVINE SPARK IGNITING
THOSE MINDS :AND HEARTS AND PENS.

IN ANY LOOK AT THE BACKGROUND TO OUR CONSTITUTION, THE QUESTION
ARISES WHY AND HOW DID THE PEOPLE -- OUR FOREFATHERS -- WITH ONLY
THEMSELVES AS THE SOURCE OF ALL POLITICAL AND GOVERNMENTAL POWER DESIGN
THIS FINELY BALANCED MECHANISM OF SELF-GOVERNMENT? WHY WERE THE STATES
PRESERVED AND ASSIGNED THEIR VITAL ROLES? WHY WERE POWERS DIVIDED
BETWEEN SEVERAL POLITICAL SUBDIVISIONS AND WHY WERE CHECKS AND BALANCES
WRITTEN IN? WHAT, IN SHORT, WAS THE REASONING BEHIND IT ALL?

IN THE FIRST PLACE, AND PROBABLY OF THE GREATEST :IMPORTANCE,
THE FOUNDING FATHERS FEARED THE CENTRALIZATION OF GOVERNMENTAL POWER.
THEY FEARED IT FROM BITTER EXPERIENCE.

THOMAS JEFFERSON, ARCHITECT OF THE DECLARATION OF INDEPENDENCE
AND AN INTELLECTUAL AS WELL AS POLITICAL LEADER OF THE TIMES, HELPED
FASHION THIS THINKING. IN HIS WORK NOTES IN VIRGINIA, JEFFERSON

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NOTED SIGNIFICANTLY:

"ALL THE AUTHORITY BELONGS TO THE PEOPLE," AND IT WAS JEFFERSON'S INFLUENCE PERHAPS MORE THAN ANYTHING ELSE WHICH WAS RESPONSIBLE FOR BEGINNING THE CONSTITUTION WITH THE PHRASE: "WE THE PEOPLE" AND FOR THE WORDS IN THE BILL OF RIGHTS RESERVING THE POWER: "TO THE STATES RESPECTIVELY, OR TO THE PEOPLE".

IN ADDITION TO ATTEMPTED SAFEGUARDS AGAINST EXCESSIVE CENTRAL POWER, THE FOUNDING FATHERS FORGED, OR THOUGHT THAT THEY FORGED, A SYSTEM OF CHECKS AND BALANCES DESIGNED TO MAINTAIN A BALANCE BETWEEN THE THREE MAIN BRANCHES OF THE FEDERAL GOVERNMENT. THE POWERS DELEGATED TO CONGRESS WERE ACCOMPANIED AT EVERY HAND BY POWERS SPECIFICALLY WITHHELD. THE EXECUTIVE WAS SET IN CHECK AGAINST THE CONGRESS BY THE POWER OF THE VETO, AND AGAIN THE CONGRESS WAS GIVEN AUTHORITY TO OVERRIDE THE VETO BY A TWO-THIRDS VOTE.

THE POWER OF THE PRESIDENT TO NEGOTIATE TREATIES WAS TO BE CHECKED BY THE SENATE'S RIGHT OF ADVICE AND CONSENT. AND AGAINST BOTH OF THESE BRANCHES OF GOVERNMENT, THE JUDICIARY WAS TO PROVIDE STILL A THIRD CHECK AND BALANCE.

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STANDING WATCHFULLY OVER THE WHOLE APPARATUS WERE TO BE THE STATES THEMSELVES, HOLDING THE POWER OF AMENDMENT. THERE WAS NEVER DEvised A MORE CAREFUL AND PRUDENT DOCUMENT BY THE MINDS OF MEN. IN 1803 THOMAS JEFFERSON WAS MOVED TO REMARK: "OUR PECULIAR SECURITY IS IN POSSESSION OF A WRITTEN CONSTITUTION."

I NEED NOT TELL YOU SOMETHING HAS APPARENTLY HAPPENED TO THE SYSTEM OF CHECKS AND BALANCES. EVEN THOSE WHO ARE PRIVATELY PLEASED WITH THE DETERIORATION OF OUR CHECKS AND BALANCES CANNOT DENY THAT THERE HAS BEEN A DETERIORATION.

THE LOSERS IN THIS STRUGGLE TO KEEP THE CHECKS AND BALANCES IN BALANCE HAVE BEEN THE LEGISLATURES, THE CONGRESS, AND THE STATE GOVERNMENTS. THE WINNERS, IF ANY, ARE THE EXECUTIVE AND THE JUDICIARY. EVERY CITIZEN WILL BE THE LOSER IF A GOOD CONSERVATION PROGRAM IS NOT STARTED SOON TO HALT THIS EROSION.

AS THE POLITICAL AND GOVERNMENTAL INITIATIVE IS DRAINED FROM THE CONGRESS AND STATE GOVERNMENTS, IT IS TAKEN FROM THE VERY BODIES CLOSEST AND MOST RESPONSIVE TO THE REAL PROBLEMS OF THE PEOPLE.

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THOSE WHO ARE CRYING OUT TODAY THAT IN THE NAME OF PROGRESS THE CONSTITUTION MUST BE ALTERED IGNORE THE FACT THAT THE VERY PROGRESS WITH WHICH THEY IDENTIFY THEMSELVES WOULD NOT HAVE BEEN POSSIBLE WITHOUT THE CONSTITUTION. THEY SEEM TO FAIL TO UNDERSTAND THAT THE CONSTITUTION MORE THAN ANYTHING ELSE HAS BEEN RESPONSIBLE FOR THE TREMENDOUS PROGRESS TO WHICH THEY CLAIM WE MUST NOW ADJUST.

THE GREATEST THREAT TO OUR CONSTITUTIONAL SYSTEM DOES NOT COME FROM THOSE WHO ATTACK IT DIRECTLY, HOWEVER, BUT FROM THOSE WHO ARE CHANGING OUR SYSTEM LITTLE BY LITTLE AND FROM THOSE OF US WHO FAIL TO SPEAK OUT AGAINST THIS EROSION.

DANIEL WEBSTER WARNED: "IF THE CONSTITUTION BE PICKED AWAY BY PIECEMEAL, IT IS GONE, AND GONE AS EFFECTUALLY AS IF SOME MILITARY DESPOT HAD GRASPED IT AT ONCE, TRAMPLED IT BENEATH HIS FEET AND SCATTERED ITS LOOSE LEAVES IN THE WILD WINDS."

WHEN THE CONSTITUTION WAS ADOPTED 178 YEARS AGO THIS WEEK, ITS AUTHORS PLEDGED TO DEFEND IT WITH THEIR "LIVES, FORTUNES, AND SACRED HONOR." SHOULD WE WHO HAVE BENEFITED SO GREATLY FROM THEIR GIFT DO LESS?

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THOUSANDS OF AMERICANS HAVE GIVEN THEIR LIVES ON BATTLEFIELDS
AROUND THE WORLD TO PROTECT OUR PROUD HERITAGE, THOUSANDS MORE WERE,
AND ARE NOW, BEING WOUNDED IN ITS DEFENSE. NOW, AS DANIEL WEBSTER
WARNED, THE CONSTITUTION IS BEING ATTACKED IN A SUBTLER FASHION.

IN RECENT YEARS WE HAVE WITNESSED AN EROSION OF THE ROCK UPON
WHICH THIS NATION WAS FOUNDED. I PERSONALLY FEEL VERY STRONGLY THAT
CONGRESS HAS LOST ITS CO-EQUAL PLACE WITH THE OTHER TWO BRANCHES IN
OUR SCHEME OF GOVERNMENT AND THAT THE SUPREME COURT HAS CONFUSED
INTERPRETING THE CONSTITUTION WITH AMENDING THE CONSTITUTION.

THE POWER TO INTERPRET IS THE POWER TO ASCERTAIN ITS MEANING,
WHILE THE POWER TO AMEND THE CONSTITUTION IS THE POWER TO CHANGE ITS
MEANING. THE TRUTH IS THAT ON MANY OCCASIONS DURING RECENT YEARS,
THE SUPREME COURT HAS USURPED AND EXERCISED THE POWER OF THE CONGRESS
AND THE STATES TO AMEND THE CONSTITUTION WHILE PROFESSING TO INTERPRET
IT. IN SO DOING, THE SUPREME COURT HAS ENCROACHED UPON THE CONSTITU-
TIONAL POWERS OF THE CONGRESS AND THE STATE LEGISLATIVE BODIES AND
STRUCK DOWN STATE ACTION, STATE LEGISLATION, AND STATE CONSTITUTIONAL

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PROVISIONS IN AREAS CLEARLY COMMITTED TO THE STATES BY OUR SYSTEM OF CONSTITUTIONAL GOVERNMENT. THIS ACTION HAS BEEN ACCOMPANIED BY OVER-RULING, REPUDIATING OR IGNORING MANY CONTRARY PRECEDENTS OF EARLIER YEARS.

LET US CONSIDER AND WEIGH THE REASONING OF THOSE WHO SEEK TO JUSTIFY THE PROPOSITION THAT IT IS PERMISSIBLE FOR THE SUPREME COURT TO AMEND THE CONSTITUTION UNDER THE GUISE OF INTERPRETING IT.

THEY MAKE THESE ASSERTIONS:

THE CONSTITUTION MUST CHANGE TO MEET CHANGING CONDITIONS. AS ITS AUTHORIZED INTERPRETER, THE SUPREME COURT HAS THE RIGHTFUL POWER AT ALL TIMES TO MAKE THE CONSTITUTION CONFORM TO THE VIEWS OF THE MAJORITY OF ITS MEMBERS. SINCE THE DOCTRINE OF STARE DECISIS: THAT IS, THE RULE THAT JUDGES STAND BY AND FOLLOW THE DECISIONS OF THEIR OWN COURT, MIGHT HANDICAP THE SUPREME COURT IN MAKING THE CONSTITUTION CONFORM TO THE VIEWS OF THE MAJORITY OF ITS MEMBERS ON SOME OCCASIONS, THE SUPREME COURT IS NOT BOUND BY ITS OWN DECISIONS ON CONSTITUTIONAL QUESTIONS.

IN MY OPINION, THESE ARGUMENTS REST UPON A WHOLLY FALLACIOUS PREMISE, NAMELY, THAT THE POWER TO INTERPRET AND THE POWER TO AMEND

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ARE IDENTICAL: AND IT SEEMS AT FIRST BLUSH THAT THOSE WHO ADVANCE THESE ARGUMENTS OVERLOOK THE SIGNIFICANT FACT THAT ARTICLE V OF THE CONSTITUTION VESTS THE POWER TO AMEND THE CONSTITUTION IN THE CONGRESS AND THE STATES AND NOT IN THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT.

THEY SAY, WELL THIS MAY BE TRUE, BUT THE AMENDMENT PROCESS AUTHORIZED BY ARTICLE V IS TOO CUMBERSOME. CONSEQUENTLY, THE SUPREME COURT MUST DO THE AMENDING. TO A COUNTRY, LAWYER AND TO US IN THE MIDWEST, THIS IS MERELY A "HIGHFALUTIN" WAY OF SAYING THAT THE OATH OF A SUPREME COURT JUSTICE TO SUPPORT THE CONSTITUTION DOES NOT OBLIGATE HIM TO PAY ANY ATTENTION TO ARTICLE V OR ANY OTHER PROVISION DISPLEASING TO HIM. WHEN ALL IS SAID, THE THESIS THAT THE SUPREME COURT HAS THE RIGHTFUL POWER TO AMEND THE CONSTITUTION UNDER THE GUISE OF INTERPRETING, IT IS REPUGNANT TO THE END THE FOUNDING FATHERS HAD IN MIND WHEN THEY GAVE THIS COUNTRY A WRITTEN CONSTITUTION. INDEED, IT IS INCOMPATIBLE WITH THE PRIMARY OBJECT OF ALL LAW. THE FOUNDING

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AS

FATHERS STATED IN THE CASE OF SOUTH CAROLINA VS. UNITED STATES,
"WE'RE NOT MERE VISIONARIES TOYING WITH SPECULATIONS OR THEORIES,
BUT PRACTICAL MEN, DEALING WITH FACTS OF POLITICAL LIFE AS THEY
UNDERSTOOD THEM".

SINCE THE CONSTITUTION IS A WRITTEN INSTRUMENT, ITS MEANING
DOES NOT ALTER, UNLESS ITS WORDING IS CHANGED BY AMENDMENT IN THE
MANNER PRESCRIBED IN ARTICLE V. "THAT WHICH IT MEANT WHEN ADOPTED
IT MEANS NOW ---- THOSE THINGS WHICH ARE IN ITS GRANTS OF POWER, AS
THOSE GRANTS WERE UNDERSTOOD WHEN MADE, ARE STILL WITHIN THEM, AND
THOSE THINGS NOT WITHIN THEM REMAIN STILL EXCLUDED" (SOUTH CAROLINA V.
UNITED STATES).

I RECOGNIZE THAT IN RECURREING TO FUNDAMENTAL PRINCIPLES, I
POSSIBLY LEAVE MYSELF OPEN TO THE CHARGE OF ATTEMPTING TO TURN BACK
THE CLOCK. MOREOVER, I HAVE OBSERVED THAT THE CHARGE^{IS} USUALLY MADE
BY THOSE WHO LABOR UNDER THE DELUSION THAT THERE WAS LITTLE, IF ANY,
WISDOM ON EARTH BEFORE THEY ARRIVED. REGARDLESS OF THE ARGUMENTS,
LAWS ARE DESIGNED TO FURNISH RULES OF CONDUCT FOR GOVERNMENT AND
PEOPLE.

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THE COURT'S TREATMENT OF THE 14TH AMENDMENT IS AN EXAMPLE OF USURPATION OF STATE POWER AND ILLUSTRATES THE VICE OF JUDICIAL LEGISLATION. THE ORIGINAL BILL OF RIGHTS IN THE CONSTITUTION, (THE FIRST TEN AMENDMENTS), WAS DESIGNED TO APPLY ONLY AS A LIMITATION UPON THE POWERS OF THE FEDERAL GOVERNMENT. THE STATES WERE LEFT FREE TO ENACT LAWS FOR THE CONTROL AND FURTHERANCE OF THEIR AFFAIRS, AND TO DELINEATE INDIVIDUAL RIGHTS AS THE CITIZENS THEREOF -- ACTING THROUGH THEIR ELECTED STATE REPRESENTATIVES -- MIGHT THINK PROPER. HOWEVER, IN MODERN TIMES, THE SUPREME COURT UNDER THE GUISE OF INTERPRETING THE 14TH AMENDMENT, PARTICULARLY THE "EQUAL PROTECTION" AND "DUE PROCESS" CLAUSES, HAS PROCEEDED TO APPLY THE BULK OF THE BILL OF RIGHTS TO STATE AFFAIRS IN ORDER TO REQUIRE THE STATES TO CONFORM TO FEDERAL STANDARDS. ONE WILL LOOK IN VAIN THROUGHOUT THE LENGTH AND BREADTH OF THAT AMENDMENT FOR THE SLIGHTEST INTIMATION OR SUGGESTION OF SUCH A PROPOSITION. YET THE COURT HAS HELD THAT THE 14TH AMENDMENT HAS MADE APPLICABLE TO THE STATES THE 1st, 3rd, 4th, 5th, 6th, AND 8th AMENDMENTS.

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AS IMPORTANT AS THESE CHANGES ARE, THEY DO NOT OFTEN RATE
NEWSPAPER HEADLINES. THERE HAVE BEEN SEVERAL, THOUGH, THAT HAVE BEEN
GIVEN EXTENSIVE NATION-WIDE COVERAGE. IN JUNE OF 1961 AND JUNE OF
1962 THE COURT HANDED DOWN THE SO-CALLED "PRAYER" CASES (ENGEL V.
VITALE) AND (ABBINGTON V. SCHEMPP) WHICH DECLARED RECITATION OF
PRAYERS AND READING OF PASSAGES FROM THE BIBLE IN PUBLIC SCHOOLS TO
BE UNCONSTITUTIONAL. WHILE EMPHASIZING THE FIRST CLAUSE OF THE 1ST
AMENDMENT, WHICH PROHIBITS THE "ESTABLISHMENT OF RELIGION", I BELIEVE
THAT THE COURT IGNORED THE SECOND CLAUSE WHICH PROTECTS AN INDIVIDUAL'S
"FREE EXERCISE THEREOF."

PERHAPS A MORE NOTORIOUS DECISION OCCURRED ON JUNE 15, 1964,
WHEN THE SUPREME COURT, IN A SERIES OF CASES, CREATED A NEW CONSTITU-
TIONAL DIRECTIVE BY CONSTRUING THE 14TH AMENDMENT TO REQUIRE THAT THE
STATES MUST COMPOSE THEIR LEGISLATURES SO THAT EVERY MEMBER OF EACH
HOUSE REPRESENTS THE SAME NUMBER OF PEOPLE IN HIS CONSTITUENCY. THIS
NEW PRINCIPLE OF GOVERNMENT WHICH THE COURT SET FORTH IS WITHOUT
FOUNDATION. IT WAS NOT A PART OF THE COLONIAL SYSTEM, IT WAS NOT THE

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SYSTEM CHOSEN FOR THE NATIONAL GOVERNMENT BY THE CONSTITUTION, IT WAS NOT THE SYSTEM EXCLUSIVELY OR EVEN PREDOMINANTLY PRACTICED BY THE STATES AT THE TIME OF THE ADOPTION OF THE 14TH AMENDMENT, IT WAS NOT A PART OF THE LANGUAGE OF THE 14TH AMENDMENT, IT WAS NOT THE INTENTION OF THOSE WHO DRAFTED AND SUBMITTED TO THE STATES THE 14TH AMENDMENT, AND IT HAS NOT BEEN PREDOMINANTLY PRACTICED BY THE STATES SINCE THEN. THUS, WITHOUT THE SUPPORT OF HISTORY, THE WORDS OF THE CONSTITUTION, AND FLYING DIRECTLY IN THE FACE OF PRIOR DECISIONS WHICH WERE IN POINT, THE COURT HAS, IN EFFECT, AMENDED THE CONSTITUTION BY CONVERTING A PARTICULAR POLITICAL PHILOSOPHY INTO A CONSTITUTIONAL RULE AND HAS MADE UNCONSTITUTIONAL THE COMPOSITION OF MOST OF OUR STATE LEGISLATURES. AS A RESULT, WE NOW HAVE THE HITHERTO UNDREAMED OF SITUATION WHERE COURTS ARE DICTATING THE COMPOSITION OF STATE LEGISLATURES AND ELECTION PROCEDURES.

THE SUPREME COURT IS NOT THE ONLY BRANCH OF GOVERNMENT GUILTY OF ATTEMPTS TO EITHER WATER DOWN OR DESTROY THE TRUE MEANING OF CONSTITUTIONAL PROVISIONS. THE CONGRESS MUST ALSO SHARE SOME OF THE SPOT-

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LIGHT. I WOULD REFER BRIEFLY TO THE EMASCULATION OF THE INTERSTATE
COMMERCE CLAUSE. LAUDABLE AS THE CAUSE MAY BE, THE USE OF THE
COMMERCE CLAUSE -- RATHER THAN A PROPER CONSTITUTIONAL AMENDMENT --
WAS STRETCHED AND TWISTED BY THE CONGRESS LAST YEAR IN ORDER TO PRO-
VIDE A BASIS FOR THE PUBLIC ACCOMMODATIONS SECTION OF THE CIVIL RIGHTS
ACT OF 1964. WHILE INDIVIDUAL FREEDOM MAY HAVE BEEN GAINED, IT WAS
AT THE EXPENSE OF THE SOVEREIGNTY OF THE STATES.

ANOTHER EXAMPLE IS THE TWISTING AND STRETCHING OF THE INTER-
STATE COMMERCE CLAUSE BY CONGRESS TO FURTHER EXPAND THE FAIR LABOR
STANDARDS ACT OF 1938. THERE WILL BE ANOTHER ASSAULT ON THE COMMERCE
CLAUSE BEFORE CONGRESS ADJOURNS THIS YEAR. CONGRESS WILL UNDOUBTEDLY
APPROVE AMENDMENTS TO THE FAIR LABOR STANDARDS ACT, DISREGARDING THE
COMMERCE CLAUSE AND BY ACT OF CONGRESS OBLITERATE ANY DISTINCTION
BETWEEN INTERSTATE AND INTRASTATE COMMERCE. THE PENDING PROPOSAL TO
EXPAND AND EXTEND MINIMUM WAGE AND HOUR PROVISIONS WOULD GIVE THE
FEDERAL GOVERNMENT DRASTICALLY BROAD AUTHORITY OVER GENUINE LOCAL AND
INTRASTATE BUSINESS. THE TIME IS NOT FAR OFF WHEN THE COMMERCE

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CLAUSE OF THE CONSTITUTION WILL, IN EFFECT, BE ERASED AND THE FEDERAL GOVERNMENT WILL BECOME THE REGULATOR OF ALL BUSINESS, PRIVATE AS WELL AS PUBLIC AND LOCAL AS WELL AS INTERSTATE.

THE EXECUTIVE BRANCH OF OUR GOVERNMENT CONTINUES TO WIELD MORE AND MORE POWER AND, IN THE PROCESS, ERODES CONSTITUTIONAL GUARANTEES.

THE APPLICATION OF SCIENCE AND TECHNOLOGY AND THE ADVENT OF THE SPACE AGE HAVE BEEN USED BY THE EXECUTIVE TO DEPRIVE THE CONGRESS OF THE INITIATIVE IN DECISIONS AS TO WAR AND PEACE, DESPITE THE CLEAR LANGUAGE OF THE CONSTITUTION.

OTHER EXAMPLES ARE SEEN IN THE INCREASING USE OF EXECUTIVE AGREEMENTS IN LIEU OF FORMAL TREATIES. THE PRESIDENT BYPASSED THE SENATE IN MAKING EXECUTIVE AGREEMENTS AT YALTA, TEHRAN, AND POTSDAM: AND THE PRESIDENT HAS WITHOUT PRIOR CONGRESSIONAL ACTION DISPATCHED U. S. FORCES TO FOREIGN COUNTRIES. THE OCCUPATION OF ICELAND IN 1941 AND PRESIDENT TRUMAN'S ACTION IN SENDING TROOPS TO KOREA WERE CONDEMNED IN CONGRESS AS UNCONSTITUTIONAL USURPATIONS OF AUTHORITY.

OUR PRESENT PARTICIPATION IN AN UNDECLARED WAR IN SOUTH VIET NAM

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IS A CURRENT EXAMPLE OF SUCH ACTION.

DURING THE 78TH CONGRESS, THE HOUSE OF REPRESENTATIVES CREATED A SELECT COMMITTEE TO INVESTIGATE EXECUTIVE AGENCIES. IN A REPORT ISSUED IN MARCH, 1949, THE CHAIRMAN OF THIS COMMITTEE STATED:

"...UNDER OUR CONSTITUTION LEGISLATION IS SUPPOSED TO BE ENACTED BY THE CONGRESS. I WANT TO CALL YOUR ATTENTION TO WHAT I ASSERT TO BE A FACT, THAT WE NOW HAVE NOT ONLY LEGISLATION BY THE CONGRESS, BUT WE HAVE FOUR OTHER TYPES OF LEGISLATION...WE HAVE LEGISLATION BY SANCTIONS; WE HAVE LEGISLATION BY SUBSIDIES; WE HAVE LEGISLATION BY EXECUTIVE REGULATIONS, UNDER AUTHORITY OF ACTS OF CONGRESS; AND WE HAVE LEGISLATION BY INTERPRETATION -- INTERPRETATIONS THAT CONGRESS NEVER DREAMED OF WHEN WE ENACTED THE LAW."

THESE ARE BUT A FEW EXAMPLES OF THE INCREASED EFFORTS TO CHIP AWAY AT AMERICA'S GREATEST INVENTION -- OUR CONSTITUTION. THE QUESTION THEN IS, WHAT ARE WE AS INDIVIDUALS GOING TO DO ABOUT KEEPING OUR CONSTITUTIONAL FREEDOMS AND OUR CONSTITUTIONAL REPUBLIC FOR OURSELVES AND OUR POSTERITY?

THE ONLY POSSIBLE ANSWER IS A PERSONAL COMMITMENT TO FREEDOM,
AND OUR

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AND OUR OWN PERSONAL COMMITMENT TO FREEDOM TODAY SHOULD BE NO LESS INTENSE THAN THAT OF THOSE EARLY DAY PATRIOTS.

SOME OBSERVERS OF THE CURRENT SCENE HAVE NOTED WITH A GREAT DEGREE OF APPREHENSION THE GROWTH OF WHAT IS SOMETIMES CALLED "SPECTATORISM."

QUITE SIMPLY THEY ARE TALKING ABOUT THE APPARENT INCREASE IN THE NUMBERS OF PEOPLE WHO ATTEMPT TO GO THROUGH LIFE AS SPECTATORS -- OBSERVING, WATCHING, SEEING THE COURSE OF HISTORY MOVE ABOUT THEM, WITHOUT ACTUALLY BEING AN ACTIVE PARTICIPANT. THESE ARE PEOPLE WHO PLACE SELF ABOVE SERVICE, ABOVE PARTICIPATION. THEY ARE THE PEOPLE WHO ARE TOO BUSY TO SERVE ON A COMMUNITY BETTERMENT COMMITTEE, TO TAKE AN ACTIVE ROLE IN POLITICS, LARGE OR SMALL, TO HELP WITH THE PTA, OR THE CHARITY DRIVE, OR THE LITTLE LEAGUE, OR THEIR CHURCH, OR THEIR BOY AND GIRL SCOUT TROOPS, OR MAYBE THEIR CONSTITUTION DAY COMMITTEE, JUST TO NAME A FEW.

AND TRAGICALLY, THE SPECTATOR STATISTICS SHOW THAT AT LEAST

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38 PERCENT OF THE QUALIFIED AMERICANS DIDN'T EVEN BOTHER TO GET OUT
AND VOTE IN THE LAST ELECTION.

WITH THE FORM OF GOVERNMENT ENVISIONED BY OUR FOREFATHERS,
GOOD GOVERNMENT ISN'T A SPECTATOR SPORT. NOT, THAT IS, IF IT IS
GOING TO SUCCEED.

AMERICANS CERTAINLY DO NOT LACK OPPORTUNITY FOR SERVICE TO
COUNTRY OR COMMUNITY. CERTAINLY THERE IS NO MORE APPROPRIATE TIME
THAN AN OBSERVANCE OF CONSTITUTION DAY TO DRAW FROM OUR HISTORIC
PAST THE INSPIRATION FOR OUR OWN PERSONAL DEDICATION AND PERSONAL
COMMITMENT TO DEVOTE A PORTION OF OUR TIME AND ENERGIES TO MAINTAINING
PERSONAL LIBERTY.

AS EACH OF US DEVOTES A PART OF OUR LIVES TO THE TASK OF MAIN-
TAINING AND DEFENDING THE BASIC VALUES OF OUR AMERICAN WAY OF LIFE,
THEN OUR NATION BECOMES STRONGER IN FREEDOM AND IT BECOMES MORE
CERTAIN THAT THIS FREEDOM WILL BE PASSED ALONG TO THOSE WHO FOLLOW.

FREEDOM, ONCE LOST, IS RARELY ^{REWON.} ~~WON~~. THE APATHY, THE INDIFFERENCE,
AND THE INACTION OF ANY ONE SINGLE GENERATION COULD DESTROY FREEDOM
FOR ALL TIME.

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OUR CONSTITUTION IS A LIVING DOCUMENT BUT IT IS GASPING
UNDER THE ONSLAUGHTS OF THOSE WHO WOULD CHANGE ITS SIGNIFICANCE.
IT IS TRULY A CONSTITUTION AT THE CROSSROADS. THIS DANGER WAS
FORESEEN AS EARLY AS 1787 WHEN BENJAMIN FRANKLIN, A DELEGATE TO
THE CONSTITUTIONAL CONVENTION WAS APPROACHED UPON LEAVING THE HALL
AFTER THE FINAL DRAFT OF THE DOCUMENT HAD BEEN WRITTEN. A BYSTANDER
CALLED OUT: "BEN, WHAT HAVE YOU GIVEN US?" FRANKLIN'S ANSWER
WAS SHORT AND PROPHETIC: HE SAID, "A REPUBLIC, IF YOU CAN KEEP IT."

IF WE ARE GOING TO KEEP OUR REPUBLIC, IF WE ARE GOING TO REMAIN
THE FREEST PEOPLE ON THE FACE OF THE GLOBE, I BELIEVE WE ARE GOING
TO HAVE TO REDEDICATE OURSELVES, AS A NATION, TO THE VALUES WHICH
178 YEARS AGO SPARKED OUR FOREFATHERS AND BUILT OUR NATION.

OUR OWN INDIVIDUAL RESPONSE TO THIS CHALLENGE WILL MAKE THE
DIFFERENCE IN THE FUTURE CHAPTERS OF OUR HISTORY. AND IN THE WORDS
OF WASHINGTON IN HIS FAREWELL ADDRESS:

"IF, IN THE OPINION OF THE PEOPLE, THE DISTRIBUTION OR MODIFICA-
TION OF THE CONSTITUTIONAL POWERS BE IN ANY PARTICULAR WRONG,
LET IT BE CORRECTED BY AN AMENDMENT IN THE WAY IN WHICH THE

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CONSTITUTION DESIGNATES. BUT, LET THERE BE NO CHANGE BY USURPATION; AND THOUGH THIS IN ONE INSTANCE, MAY BE THE INSTRUMENT OF GOOD, IT IS THE CUSTOMARY WEAPON BY WHICH FREE GOVERNMENTS ARE DESTROYED."

I MIGHT ADD IN CLOSING THAT IT WOULD HELP IMMENSELY IF WE HAD MORE MEN IN GOVERNMENT TODAY CONCERNED ABOUT THE NEXT GENERATION RATHER THAN THE NEXT ELECTION. IT IS IN THIS AREA THAT YOU CAN MAKE THE MOST SIGNIFICANT CONTRIBUTION BY INSISTING THAT THOSE CANDIDATES YOU SUPPORT ARE COMMITTED TO UPHOLDING AMERICA'S GREATEST INVENTION -- THE UNITED STATES CONSTITUTION.
