

Constitutional Corner – Fundamental Principles

Last week I complained that changing our tax system for a “Flat Tax” or “Fair Tax” was like rearranging the deck chairs on the Titanic. The new arrangement of chairs might look nice; but it wouldn’t change the fate of the ship.

It is doubtful a new tax system will prompt Congress to begin reducing our national debt; it won’t reverse the Supreme Court’s many opinions that have given the National Government near-plenary powers; a new tax system won’t stop the President from using Executive Orders as an end-run around Congress. So why bother? A new tax system is certainly needed, long overdue even, but it will address none of our more pressing governmental problems.

Last week on “We the People,” I closed by reading Section 15 of the Virginia Declaration of Rights. The Declaration of Rights preceded the Declaration of Independence by nearly two months, and was chiefly composed by George Mason, one of three men who later refused to sign our Constitution because of its “defects.” Mason suffered considerable social stigma for that decision but steadfastly fought against ratification the following year in Richmond, primarily because the document lacked a Bill of Rights.

In May of 1776, Mason wrote in the Declaration of Rights that:

“... no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue and by frequent recurrence to fundamental principles. (emphasis added)

As I said on WTP last week, we Americans have generally failed to “firmly adhere” to “justice, moderation, temperance, frugality, and virtue”

For Mason’s “justice” we often substitute special rights for favored political groups. We allow government to take private property from individuals and give it to corporations who will “make more productive use of it.”

For “moderation” we substitute a culture of conspicuous consumption.

For “temperance,” we substitute “if it feels good, do it.”

We have replaced Mason’s “frugality” with nearly \$20 Trillion in official government debt, \$11.85 trillion in consumer debt (up 1.4% from last year), \$918.5 billion in credit card debt, \$8.09 trillion in mortgage debt, and \$1.19 trillion in student loan debt (up 5.9% from last year). This, of course, ignores our \$200+ Trillion in unfunded liabilities.

Instead of pursuing “virtue,” we have aborted 50 million unborn babies. We have told little boys they can become little girls and vice versa through cosmetics; hormone pills and a new wardrobe; we have become an America whose [largest export](#) to the rest of the world is pornography.

As for a “frequent recurrence to fundamental principles,” most Americans haven’t the foggiest idea what those principles are or where to find them. Heck, [two-thirds of Americans](#) can’t even name the three branches of government.

Constitution framer James Wilson, in his 1791 “Lectures on Law” wrote: "There is not in the whole science of politics a more solid or a more important maxim than this -- that of all governments, those are the best, which, by the natural effect of their constitutions, are frequently renewed or drawn back to their first principles."

If Mason and Wilson were right -- and I think they were, if “free government,” and the “blessings of liberty,” cannot be preserved if we ignore or fail to be “drawn back to” our nation’s fundamental principles, then we can predict disastrous results. Those of us who would like to see the nation not implode have work to do, each and every one of us. We need to first learn what comprises our nation’s fundamental principles, and then determine how we are going to rejuvenate them in our national consciousness.

Where do we begin?

Since there exists no “National Directory of Fundamental American Principles” to consult (at least none I can find) we have some sleuthing to do.

In 1825, a year before his death, in [a letter to his old friend Henry Lee](#), Jefferson called the Declaration of Independence “an expression of the American Mind.” His objective, he said, was: “to give to that expression the proper tone and spirit called for by the occasion. All its authority rests then on the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or in the elementary books of public right, [such] as Aristotle, Cicero, Locke, Sidney, &c.” (Emphasis added)

If the Declaration reflects principles that gentlemen of the day were in agreement about, or at least were in “harmony” over, perhaps we should begin the search for our fundamental principles there. Besides, the Declaration was subsequently made part of the Organic Law of the United States; the mighty Supreme Court declared it to be the “thought and spirit” of our law, informing the Constitution’s “body and letter;” it should command our respect.

But wait, the Declaration of Independence is not our only Founding document. It was preceded by a Declaration of Rights and Grievances (1765), the Declaration and Resolves (1774) and the Declaration of Causes of Taking-up Arms (1775); each of these the work of the Congress of the time and each stipulating or affirming certain rights that the colonists held dear. From these perhaps we can deduce some fundamental principles as well.

And then there are the Federalist Papers. In arguing for the ratification of the proposed Constitution by the people of New York, “Publius” (Hamilton, Madison and Jay) relied upon a

common understanding of certain fundamental principles. Perhaps we can tease some of these out.

We should not ignore the “elementary books of public right,” as Jefferson called them. The Founders borrowed principle from Locke, Sydney, Blackstone, “the celebrated Montesquieu,” and others; we would be well to do likewise – and we will.

Finally, [George Washington’s Farewell Address](#) of 1796 is widely touted as a great compilation of principles believe to lead to societal success (“the permanency of your felicity as a people”).

Jefferson perceived certain truths to be sacred and undeniable (his original, pre-Franklin’s edit words). Truth is immutable, permanent, fixed – if not, it fails to be truth. Many today deny immutable truth; they insist “truth” is relative; that was what they were taught growing up in government-led schools; that was the “party-line.” But the Founders and Framers knew otherwise and they built the American system on certain truths. We will try to discern them.

A word of caution: as we begin this joint search for America’s fundamental principles (I’m going to ask for your help along the way), we will encounter all sorts of “principles:” principles for “right living,” principles for economic success, principles found in the religion of the founding period: Christianity, and principles that are important to the success of government in general but perhaps are not fundamental to the American order, the unique “system” that has sustained the United States as a (mostly) free republic for more than 200 years.

We will begin with an oft-forgotten principle, one with a double meaning: **The Principle of Self-Government**. [Some believe](#) “[s]elf-government is the most important principle in the Constitution of the United States.” Nearly every book extolling America will mention it.

Self-government is not uniquely American, other societies governed themselves; the Hebrew Republic operated on the principle of self-government¹ -- until, that is, they decided they simply had to have a king like everyone else.² During much of history, however, monarchy was the rule. American self-government was a decided break from monarchy; other societies took notice of the success it led to, and followed suit.

So, the two meanings: In one sense, self-government can be taken to mean a people collectively governing themselves, their society – participatory government, e.g., democracy.³ In its other sense, the phrase can mean individually governing one self, individuals obeying the law, and where there is no law, doing what is right because it is right. In Federalist #39, James Madison wrote: *“It is evident that no other form would be reconcilable with the genius of the*

¹ See [Exodus 18:21](#).

² See [1 Samuel 8](#).

³ To avoid the potential excesses of a democracy, the Founders gave us a republic instead.

people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom: to rest all our political experiments on the capacity of mankind for self-government." In what sense did Madison mean the phrase? Both fit.

None other than Eleanor Roosevelt said: *"...our system is founded on self-government, which is untenable if the individuals who make up the system are unable to govern themselves."*

America's experiment in self-government began in 1619 when the Virginia Colony, until then ruled by a non-elected council, was given permission to elect representatives: burgesses from each settlement who would assemble and devise laws for the colony. The following year, Pilgrims landed at Plymouth, Massachusetts, and signed the Mayflower Compact, agreeing to form themselves into a self-governing body politic.

In fact, it was the success of the colonist's self-government -- more than one hundred and fifty years of it -- that led them to even consider independence from an over-bearing Parliament and King. Ex-Minuteman [Levi Preston](#) was asked, at age 91, why he had fought the Redcoats. Had it been because of the Stamp Act, or the tax on tea? "No, what we meant in going for those redcoats was this: we had always governed ourselves, and we always meant to."

Americans don't have an unblemished track record with self-government, as periodic episodes of scandal and impeachment demonstrate (why would we need a "U.S. Office of Government Ethics" if self-government were the norm?). Many of our laws are evidence of the failure to self-govern. For instance, it is a federal crime to even threaten to disrupt a rodeo.⁴ Such a law is evidence that either enough people actually did disrupt rodeos (legally, an "animal enterprise"), proving my point, or the Congress perceived that such a circumstance was sufficiently probable that it should be thus proscribed.

Of course, the Founders knew enough about human nature to know that self-government would never be perfect (Madison: "If men were angels"⁵) and so they built several safeguards into our Constitution, some of which Congress and the Court have, over the years, dismantled.⁶

One reason we are so poor at self-governing today (in the individual sense) is that we have been raised to not see self-government as a form of government at all. "Government" is this "thing" in Washington, D.C. or our state capitol – remote, impersonal, unthinking – often

⁴ Title 18, Part I, Chapter 3, Section 43.

⁵ See Federalist 51.

⁶ Specifically, Court opinions have demolished the non-delegation principle, along with the separation of powers doctrine. Given the present Congress's unwillingness to consider impeachment of the President and two Supreme Court Justices, it is debatable whether all of the Constitution's "checks and balances" continue to function.

seemingly at war with its citizens. But actually, self-government is but one of four forms of government that must all work correctly for society to function properly.⁷

Outside of some Christian schools, which instill the concept of Christian self-government in their students at an early age, most Americans view the concept, if they have considered it at all, as “obey the law.”⁸ Viewed this way, individual self-government is a reaction to the external threat of punishment, rather than an internally-motivated desire to do what is right, and thus please God. Self-government, properly understood, is thus more than merely obeying the law, it is doing what is right, doing what God would have you do, whether there is controlling law or no. Another way we often express it is: “Doing the right thing when no one is watching.”

Individual self-government was closely tied, in the Founders’ eyes, to the concept of virtue. Professor of Law, David Forte says...“Virtually every framer... saw and acknowledged the necessity of public virtue for a republic to survive and prosper.”⁹ The Founders held virtue in high regard, but also understood its temporal nature: “When we are planning for posterity, we ought to remember that virtue is not hereditary.”¹⁰ And they saw an inexorable link between virtue and religion: “The only foundation for a useful education in a republic is to be laid in religion. Without this there can be no virtue, and without virtue there can be no liberty, and liberty is the object and life of all republican governments.”¹¹ Washington asked: “Can it be that Providence has not connected the permanent felicity of a nation with its virtue?”¹²

Americans are proving quite inept at collective self-government as well. Only about [60% of Americans typically vote](#) in Presidential elections and 40% in off-year elections. Only a third of Americans can answer some of the most fundamental questions about their government and Constitution. Fewer still pay any attention to the goings-on in Washington or their state capitol. Attend a City Council or County Supervisors meeting? Peleeeasse!

Self-government requires individual as well as collective action (“A republic, if you can keep it”), but most American are more interested in tracking the earned run average of their favorite pitcher or tuning in to see who made the cut on DWTS (if you even understand the acronym, we need to talk). This is hardly what Madison had in mind; hardly flattering to the “genius” of the American people.

⁷ The others being family government, church government and, finally, civil government.

⁸ We will address “Rule of Law” in a later essay/show.

⁹ <https://kirbycenter.hillisdale.edu/resources/2014/10/forte>

¹⁰ Thomas Paine, in “Common Sense,” 1776.

¹¹ Benjamin Rush, On Education, 1798.

¹² Farewell Address, September 19, 1796.

If America is to survive, we must re-discover Self-Government, particularly its individual flavor. And that's where we'll leave it for this week. I'm sure my two fellow commentators will add much to the picture Friday morning.

Here's where I ask for your help. What do you think are America's fundamental principles? What principles have been critical to our success as a nation? Send me a brief note on the matter. No need to write an essay, nor provide an exhaustive list, but tell me what you think are principles critical to the continued success of the American experiment and, briefly, why you think so. For the next several weeks on "We the People" we'll examine these principles in detail.

Friday morning I'll begin "[We the People](#)" with an interview of Brian Vanyo, author of "American Ideology – Taking Back our Country with the Philosophy of our Founding Fathers," a book every American should read. I hope you will join the discussion (the call-in numbers are 610-539-8255 or 610-539-1783/1784). If you have a time conflict with the live broadcast, the recorded show is re-broadcast on Saturday at 2am, (ouch!) and 11am, and on Sunday at midnight (double ouch!) and 2pm (what a delightful way to spend Sunday afternoon); plus you can [download the recorded podcasts](#) and listen to them at your leisure.

Note, final notice: The deadline to remain on my subscription list is imminent. Should you wish to remain subscribed and you haven't already done so, [click here](#) and send me the resulting email. You need only do this once; I will acknowledge all responses, but if I have not received your response by 15 November, the essays will come to a halt.

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