

THE PRESERVATION OF CONSTITUTIONAL RIGHTS

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Just over two hundred years ago, the representatives of American colonists made a declaration, the intent of which was revolutionary in its every word. A little over a decade later, after a desparate war, many of those same representatives gathered to write another document, which was equally revolutionary--the United States Constitution.

And what was the revolutionary message of both those documents, the Declaration of Independence and the Constitution? It was this: "We the people of this land, in cities and towns, on farms and in frontier cabins, take upon ourselves complete and total responsibility for our own government and our own well-being.

Upon our own initiative, we will succeed or fail."

There were to be no "ifs, ands, or buts" about it. From that time forward, no one was going to step in to save us, no one was to be blamed for failure or mediocrity but ourselves.

Government is not men in high places. It is not bureaucratic machinery. There is no sovereign to whom we owe duty, who has rights we must respect. Instead, the rights are ours alone, and it is the duty of those who represent us never to undermine what we the people, reserve to ourselves.

That sounds very abstract, but it should not be. It means that what we do in Washington is not for our own aggrandizement, but for the service of people

who loaned their authority for a while.

The founding fathers understood that men whose power is loaned to them might forget that fact, and begin to think of it as their own.

This continues today. Right now, HEW Secretary Joseph Califano is setting forth on a new crusade against smoking. He is not proposing it and asking for Congressional approval. He is doing it on his own, using so-called "discretionary" funds. Thus, we are seeing a major new spending program proposed, approved, and funded entirely within the Executive Branch. I think that is an abuse of power, and usurpation of the duties of Congress. Congressman Stephen Neal and I have introduced similar bills to require

Califano to come back to the Congress, where the matter may be debated by the people's elected representatives.

Abuse of power by government officials is nothing new. That is the sort of thing the American colonists rebelled against in 1776. After that great struggle, there were those who realized we could not stay free unless our own government was to be kept in check. North Carolinians played a key role in determining how we were going to preserve our liberties against government enroachment. In Hillsborough, almost 200 years ago, North Carolinians were holding their convention on the question of whether or not to ratify the new Constitution. In that convention, the representatives of the people of North Carolina refused to ratify the Federal Constitution as it was then written. North

Carolina was the next to the last state to ratify the Constitution.

I think we ought to remember and be proud that the people of

North Carolina did this, because they had a very good reason.

The problem that the people of North Carolina recognized was that there was no bill of rights guaranteeing the liberties of individual Americans, in the face of a powerful central government. Unless federal power were restricted and individual liberty and states rights duly safeguarded by the adoption of amendments to the Constitution, the antifederalists meeting in Hillsborough were determined that North Carolina should not ratify..

The Hillsborough resolution passed by the North Carolina Convention stated that the United States Constitution must include "A Declaration of Rights, asserting and securing from encroachment the

great principles of civil and religious liberty, and the unalien-
ment rights of the people." The Convention then proposed a list
of rights, some of which were latter adopted as parts of the Bill
of Rights.

We should also remember that during the Civil War, North Carolina's
Governor Zebulon Vance refused to suspend habeas corpus, the
principle which protects our rights in criminal law. He refused,
even though Lincoln had suspended habeas corpus in the North, and
Jefferson Davis had done it in the South.

North Carolina, we felt we could go through the turmoil of
civil war without giving up our legal rights, when all around us
those rights were being put aside in the interest of "national

security." That shows something about the concern we have always had in our state about protecting individuals against the power of government.

When I was sent to Washington, I soon found that an attitude of lawlessness was widespread, and that it had been going on a long time. During my service on the original Church Committee, and subsequently on the Senate Intelligence Committee, I was shocked at the cavalier treatment the rights of Americans were getting in Washington.

It was amply demonstrated that the Government did take action against individuals and organizations, not because they have

have committed any crime, but because someone in Washington didn't like their politics.

In the course of its COINTELPRO operation, the FBI attempted to break up marriages; fomented violence between rival groups; attempted to discredit individuals with their employers and financial backers; planted false news items about people in the media; prevented people from getting honorary degrees and from speaking on college campuses.

In one case over two hundred and fifteen thousand first-class letters were opened in direct violation of the law.

The U.S. Army kept a file on over one hundred thousand Americans and a number of domestic organizations, encompassing virtually every group seeking peaceful change in the United States.

Some groups that were kept under surveillance were the John Birch Society, Young Americans for Freedom, the National Organization for Women, the NAACP, and Business Executives to End the War in Vietnam.

I can honestly tell you that I found it almost incomprehensible that our intelligence and federal law enforcement agencies could have been responsible for such acts.

I mention them to you tonight to remind you that the rights and liberties which this Union was formed to secure cannot be taken for granted. And that government cannot always be trusted to respect them. Yes, we have the freedom to think and speak what we please, but we have had the FBI infiltrate Carl McIntyre's religious group. Yes, we have the freedom to associate with whom

we choose, so long as it is not for a criminal purpose, but we have had the IRS auditing the taxes of a North Carolina man who bought a raffle ticket from a right wing group. Yes, we have freedom of the press, but we also have the FBI planting stories in newspapers attacking people it didn't like. Yes, we say that people cannot be deprived of their livelihood without due process of law, but we have had the FBI write anonymous letters, resulting in people losing their jobs and job opportunities. And yes, we say that everyone is entitled to privacy in his marital and family affairs, but we have had the FBI write anonymous letters which result in homes being broken and children being alienated from their parents.

I, for one, am glad that we have learned these things. I

think their impact on the future will be healthy. Not only will people in these agencies be more conscious of the impact of their activities on people's rights, but I think the average citizen will be more inclined to question governmental actions more carefully.

In the words of Justice Brandeis:

"The makers of the Constitution undertook to secure conditions favorable to the pursuit of happiness...They conferred, as against the Government, the right to be let alone--the most comprehensible of rights and the right most valued by civilized man. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment."

Where we have such an "unjustifiable intrusion", and yet, by our silence or inaction, we condone it or allow it, our own personal liberty must necessarily be circumscribed by the possibility that at some point in the future, the same intrusion may be visited upon us.

To use the agencies of government for political ends is a terrible temptation. To open mail, use illegal wiretaps, to try to gather evidence by breaking and entering, to use the extraordinary powers of the FBI and the Internal Revenue Service to intimidate and harrass political opposition and silence it -- these temptations have been too much for many to pass up. People are right when they say Nixon was not the first to use such tactics. Even so great a man as Franklin Roosevelt used the FBI and the IRS to intimidate

opposition. A tax audit was ordered against Charles Lindberg and others who opposed the President's growing war policy. FDR's son has said that his father "practically invented wiretapping." And the same techniques were brazenly used by the Kennedy Administration against conservative organizations.

Those are right who say Nixon was not the first. But they are wrong who excuse such tactics on that basis. It was wrong when FDR did it, wrong when Kennedy did it, and wrong when Nixon did it, because it tears at the heart of the Constitutional protection of individual rights. The fact the people believed they were acting in our best interest is no excuse. As Justice Brandeis said:

"Experience should teach us to be most on our guard to