

## MEMO FROM THE MAYOR

### **SUBJECT: Will a Return to Fundamentals Save Our Republic from the Current Sinking Ship of the Administrative State? Part 2**

#### **At a Glance:**

- **It is evident that the form of government is best in which every man, whoever he is, can act best and live happily. Aristotle, *Politics***
- **Citizenship is what makes a republic...What keeps a republic on its legs is good citizenship. Mark Twain (1906)**

#### **Governments MUST Be Limited**

For Constitutional Conservatives—Spoiler Alert: this writer is one—there exist certain markers that must be present and for which there will be no negotiating when it comes to a central (federal) government. First and foremost, the government must be limited. This means the government's powers must be specifically delineated while individual rights are vigorously protected, namely, those coming from “Nature and Nature's God”, as Jefferson succinctly put it.

Those fundamental rights now comprise our Bill of Rights. They must be vigorously defended not only in the courts, but in our very culture. Not to do so, destroys our culture, the very aim of Marxism. I challenge any reader to look at Article I of the US Constitution (the Legislative Article), and Article II (the Executive Article) and explain how half of the wacky ideas foisted upon us for the last several decades by Congress, and Presidents from both parties, are covered in these Articles.

With such limitation and delineation in mind, anything not set forth for the central governmental must be reserved to the best unit of *regional* government ever devised since June 21, 1788, when New Hampshire became the ninth of 13 states to ratify the US Constitution. That best unit for regional government made up of cities and counties is, of course, the state, the cart that came before the horse of the Republic. Finally, in addressing the central government's individual parts, Legislative, Executive, and Judicial, there must exist a separation of powers, one capable of being exercised by each part, that allows it, in turn, to hold the other parts accountable in some appreciable way, be it contempt powers, funding or appointment.

Recently, in the SCOTUS decision that struck down the vaccine mandates through OSHA, we observed how the separation of powers requires the Executive to stay in the Executive Lane. Nevertheless, the theory of the separation of powers might be a better theory than its actual

practice. Perhaps a true return to our original constitutional government, that is, the one we had before Woodrow Wilson had the goofy idea to create a massive administrative state. The next step, then, would be to make such a return, thus abandoning our destructive administrative state. This would go a long way in fixing the shortfall.

### **The Delegates' Secret Sauce to Fix the Confederation**

To be certain, the Constitutional Convention delegates in 1787 who created the original masterpiece had to be, by necessity, excellent historians, not to mention strong readers of the classic Greek and Roman philosophers and statemen. The delegates represented only 12 of the 13 original colonies, now states (though in three instances, commonwealths), because, as it turned out, Rhode Island, the smallest state (but owning the biggest name, viz., “State of Rhode Island and Providence Plantations”) refused to attend. The Rhodians feared a strong central government due to its size. Hmmm...smallest state, biggest name...and a No Show!

As they began to assemble on the 14<sup>th</sup> of May for the Convention planning to give our “confederation” a new form of government, it occurred to many of them that they had a daunting and, indeed, another revolutionary task: the peaceful overthrow of a relatively new American government as defined by the Articles of Confederation. This is why the delegates had to be familiar with the ancient Greek city states and their primitive democracies as well as the Roman Republic. For it was from the ashes of Athens and Sparta, overlaid upon Rome’s Republic of yesteryear that the Philadelphia delegates intended to create a modern Republic without parallel; the “secret sauce”.

Moreover, the genius of the Constitutional delegates is never more evident than when one compares their work with the work of the French just two years later. While French revolutionaries created a Republic, its version was more like a Frankenstein monster that required the assistance of a solid decade of vigorous use of the guillotine!

Think of it. The delegates had to know the ancient philosophers consisting of Socrates, Plato and Aristotle, along with the works of Cicero, the Roman lawyer, orator, and statesman. These ancient minds comprised the staple of the deeply classical education in which our nation's first leaders immersed themselves. Why? For one, a classical education—whether obtained at Harvard or in front of a fire or oil lamp at night in a log cabin—was the gold standard of the day. Besides, the delegates were fearful of tyrannical governments. Undeniably, the very Revolution they fomented and fought was all about leaving one such tyrannical government.

As it turns out, Aristotle and Plato also feared tyrannical governments—and for good reason. Socrates, Plato’s mentor, was forced to drink hemlock for allegedly leading astray the youth of Athens. Consider this: a jury of 501 Athenians found him guilty, thus resulting in his death. Many scholars have argued that Socrates’ charges were politically motivated. Some even argue his trial and conviction constituted an attack upon freedom of speech, including an indictment of democracy! Talk about the Athenian cancel culture! Yikes!!

### **The Antidote for Tyrants...Besides Kinetics**

When it comes to good government, then, both Plato and Aristotle wrote extensively, developing important ideas along the way. Perhaps the two most important subjects covered by these philosophers, at least from the viewpoint of the Convention delegates, involved their ancient views on tyranny and the Rule of Law. Tyranny, these sages concluded, typically occurred when absolute power was granted to a ruler. These rulers typically become corrupt. They use their unbridled power to further their own interests instead of working for the common good. Jefferson clearly laid out the American Revolution’s claims against the tyranny of King George III through the Declaration of Independence, condemning his abuses. Good grief, I’m old enough to remember when most American school children used to learn about the Declaration of Independence, some even memorized its Preamble.

Our Founders discovered another antidote to such abuses: the Rule of Law. This fundamental principle states that no one is exempt from the law, not even “rulers”. How many times did we have to listen to New York Congressman Jerry Nadler recite this principle as a mantra while serving as Chair of the House Judiciary Committee during the two “show trial” impeachments of President Trump? One might have thought we were bringing “John to Book at Runnymede.”

The Founders concluded that the Rule of Law served as a safeguard against tyranny because just laws served as the antidote to corrupt leaders. Yet, note the caveat: “just” laws provide the protection. Here, we find two implied concepts. First, the laws must be truly just, which means from a Founder’s point of view, such laws are based upon “natural law”. Second, these just laws are “justly” enforced, meaning even-handedly—no exceptions.

When “just” laws, as well as “just” procedures, like Gumby, become bent and stretched to suit the advocate, corruption may abound. Such is the fruit of the administrative state. But let us not get ahead of ourselves except to say that an administrative state was anathema to the Philadelphia

delegates. For it was to escape from the administrative state of King George, they had recently fought a long and bloody war. Why we brought it back is worth a fair discussion.

Having addressed Articles I and II as teasers, I will do my best next time to explain how Associate Justice Sotomayor (Article III), can look at the 10th Amendment (certainly in the top five of the most important) that clearly holds, “The powers not delegated to the United States [i.e., the federal government] by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”, and yet state out loud during oral argument of the OSHA case, “I’m not sure I understand the distinction why the states would have the power to impose a vaccine mandate but the federal government wouldn’t.” A summa cum laude graduate of Princeton and graduate of Yale Law School asked that question.