

Confronting Our Constitutional Crisis

By Jim Jess

In 1787, as Dr. Benjamin Franklin departed from Independence Hall in Philadelphia after the signing of the U.S. Constitution, a woman approached Franklin.

“Well Dr. Franklin, have you given us a monarchy or a republic?”

Franklin replied, “You have a republic, madam, if you can keep it.”

Now, more than 230 years later, we must honestly ask ourselves, how well have we kept it?

I would argue that we have not kept it very well. And today, we find ourselves in a constitutional crisis. Many of our nation’s founding principles have been abandoned.

We *must* confront our constitutional crisis.

When the President of the United States is sworn into office, he takes an oath to uphold and defend the Constitution, and so does every public official in this land. But these oaths have been violated. These public officials have sworn an oath to protect and defend our Constitution, but many of them have abandoned it.

A simple example is how the constitutional principle of separation of powers has been continually violated.

The separation of powers doctrine, which is a key component of our Constitution, says that the separate branches—legislative, executive, judicial—must operate with only the powers delegated to them by the Constitution. Separation of powers is in the Constitution so no one branch of the government could become so powerful that it would control the other branches or threaten the liberty of the citizens. Government is supposed to secure our liberty. The Founders believed that having the powers split up among the branches would give citizens the greatest opportunity to live in freedom. It would force the branches of government to have confrontations over the use of power instead of the government coming after the citizen.

But the Legislative Branch, Congress, has passed off much of its power to Executive Branch agencies, instead of establishing key policies on its own.

The Executive Branch has assumed legislative authority through agency rules and dictates. The President now makes policy by Executive Orders, which were originally used to implement the will of Congress. As a result, the President—in far too many instances—no longer “faithfully executes the laws,” as the Constitution charges him: He makes up laws on his own.

And judges who sit on the courts—especially the Supreme Court—legislate from the bench, when they should be doing one thing: ruling compliance, measuring what government does against the written text of the law and the Constitution. That is all they are supposed to do.

The principle of the separation of powers has been ignored and our liberty exists under the threat of the next executive mandate.

We, as a nation, have drifted from our First Principles, so eloquently heralded in our Declaration of Independence: That God is the Giver of rights—not government; that government exists to secure our God-

given rights; that when these rights are violated, it is our right to change the government so it rules by the consent of the governed.

Government is viewed by many as the bestower of benefits, even as the giver of rights. But government can give nothing that it has not first taken from someone else. And it certainly cannot give rights.

God gives us our rights, NOT government.

We, the people, have allowed these First Principles to be abandoned. And because we have, we face a constitutional crisis. It is time to restore our Constitution. If we are ever to restore it, we must first read it and understand it.

To truly understand our Constitution, we need to understand our First Principles. These principles are woven into the fabric of the Constitution, but they were first recognized in an American civil document when our Declaration of Independence was framed.

The Declaration says, in its second paragraph:

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. – That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, – That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government.”

Those are First Principles—great principles for a great nation.

1. God is the giver of rights, not government.
2. All men are created equal.
3. The purpose of government is to secure our God-given rights.
4. The just powers of government come from the consent of the governed. Government must rule by our consent or it is not legitimate.
5. If the government becomes destructive to life, liberty or property—the pursuit of happiness—the people have a right to abolish it and re-establish new government. We can do this every Election Day.

Where do these First Principles come from? They are biblical principles. Some have wondered why these principles are not stated in the Constitution. The reason is that these principles had already been clearly set forth in the Declaration of Independence. The purpose of the Declaration was to set forth the reasons this new nation, the United States, was separating from Great Britain and to declare the principles of liberty and self-government. The purpose of the Constitution was to establish the framework and powers for a national government. The Constitution put the First Principles into practical application.

Let's look more closely at some of these First Principles.

God gave man liberty. God is the giver of rights. He, alone, moved “In the beginning,” as it says in Genesis. As the Apostle Paul said, when he spoke to the philosophers on Mars Hill in ancient Athens, “[God] giveth to all life, breath and all things.”

God created all things. God gave man free will so he could choose Him and love Him. He put Adam and Eve in the garden with the freedom of will to obey or not obey God's commandments. We have the same free will today. What will we do with it?

All men are created equal. That's biblical, too. Back on Mars Hill, what did the Apostle Paul say? He said that God "hath made of one blood all nations of men to dwell on the face of the earth."

The Apostle Peter, when speaking before a group of Gentiles for the first time in Acts chapter 10, said, "Of a truth I perceive that God is no respecter of persons: but in every nation he that feareth [or respects] Him, and worketh righteousness, is accepted with Him."

All of us are created equal. We have equality of opportunity, but maybe not equality of condition. We can rise above our circumstances, however, because we have the freedom of will to decide to believe and work hard.

Government is to secure our freedom of will, our power to choose these God-given rights. That's a biblical undertaking that civil government can strive for and achieve if honest men are in charge. The purpose of government is to secure our God-given liberty.

Consent of the governed. Even when the children of Israel were in the wilderness with Moses at the helm, the children of Israel gave their consent. In Exodus 24:7, after hearing Moses tell the people "all the words of the Lord"—the Mosaic Law—the people of Israel said to Moses, "All that the Lord hath said we will do, and be obedient." They gave their free-will consent.

When government becomes oppressive and abusive, it is the right of the people to change the government. This is based, again, on the free-will consent of the people. The people must decide to throw off the chains of heavy-handed government. It is one of our God-given rights to do so.

These are just some of our First Principles. But they form the basis for declaring what God-given liberty is all about. The Declaration of Independence declared and defined our liberty.

The Constitution secured our liberty in a government that would be effective if stewarded with wisdom and a heart of service to the people.

There is a moral basis here. The moral basis is the Scriptures. Without a moral foundation based on biblical standards, we will not have success.

When our Founders came together to frame our Constitution, they sought to put in place a government that would secure our God-given rights in a wise and workable form of government in which the rights of the people and the rights of property would be protected. They came up with the Constitution of the United States. Prior to the Constitution, our nation was served by the Articles of Confederation. But the Articles were too weak. They did not establish enough government power to protect and preserve our rights.

Many of the framers of our Constitution were devout Christian men. Some were ministers. The world view of their society was biblical. We have drifted from that, but it is still possible to restore our Constitution, and with it, American freedom. We can begin with making an effort to understand our Constitution.

Because we have abandoned our First Principles, today we face a constitutional crisis. This crisis is a result of major failures in our society. To reverse course, there are three challenges we must confront: the ethical or moral challenge, the educational challenge and the public policy challenge.

First, the ethical or moral challenge. This is about each of us, how we live, how we conduct ourselves in public and in private. A minister, Victor Paul Wierwille, once wrote in a booklet titled, *The Lifestyle of a Believer*, "If a great proportion of the people of a republic display a greed for enjoyment with disregard for the rights and happiness of others, and a lack of self-discipline and a sense of duty, a republic becomes unworkable."

Our second President, John Adams said, "Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."

The great theologian and missionary Albert Schweitzer wrote in his *Decay and Restoration of Civilization*:

"...civilization can only revive when there shall come into being in a number of individuals a new tone of mind independent of the one prevalent among the crowd and in opposition to it, a tone of mind which will gradually win influence over the collective one, and in the end determine its character. It is only an ethical movement which can rescue us from the slough of barbarism, and the ethical comes into existence only in individuals..."

We must each confront the ethical and moral challenges of our time by finding a method for practicing sound morality. This morality must be founded on deeply held truths and beliefs to sustain us. Each individual must determine what path he or she will follow. But we all need to choose a righteous path.

In 2012, Lawrence Reed, the former President of the Foundation for Economic Education, said the following when asked about the great issues facing our nation:

"I think all of the big, attention-getting problems we all talk about (debt, deficits, crime, war, drugs, etc.) are symptoms of a bigger problem, the erosion of character. When people let their character slip, bad things begin to happen: They focus on the here-and-now and ignore the future. They let themselves be suckered into false promises of security at the expense of their liberties. They demand things that don't belong to them. They mortgage the future of their own grandchildren. They blame others for their own poor judgments and irresponsibility. They empower bureaucracies, inflate their money, steal from their neighbors and vote to rob Peter and give the loot to Paul. Fix the character problem and just about all the others will be taken care of or be greatly diminished."

We must confront the ethical and moral challenge by challenging ourselves, first, to live lives worthy of our highest aspirations, and then inspire others to do likewise.

The second great challenge is the educational challenge. We must educate our families, current generations and future generations in the principles of freedom and constitutionally-limited self-government.

Today, most citizens don't know what their government is doing, and when it does something, most folks don't know if what the government does is legal or constitutional. The national government in Washington, D.C., was designed to do only a few things. The states were to conduct the main business of government,

because they are closer to the people. Why is this not being taught in our schools? It is because we have drifted from our First Principles.

I had the opportunity to serve on a committee at the Georgia Department of Education a couple of years ago. We spent two days revising the state standards for American Government. The standards were good, but I like to think we improved them. This is just one of many small steps that need to be taken. Much more must be done to educate students and re-educate our fellow citizens. We need not only good standards for students, we need good curriculum, good materials, good teachers and good administrators to supervise the teachers to make certain that the correct principles—principles of freedom and personal responsibility—are being taught—and taught in a way to capture the attention of the students and stay with them.

And we must work to restore the prime educational institution our Creator put in place: the family. The family is the basic unit of society. If we don't have strong families, headed by a father and a mother, we will not have a strong society. And children will not become well-educated.

We, as a society, must confront the educational challenge if we want to restore our nation.

The third challenge is the public policy challenge. We, the people, have allowed our public servants in our national government—members of the U.S. House of Representatives and U.S. Senate, as well as the President and his appointees—to abandon our Constitution and violate their oaths of office with no pushback from us. These people work for us. We need to be communicating with them, respectfully, and encouraging them to honor our Constitution and fulfill their oaths.

I was in a meeting several years ago when a former U.S. senator was asked, “Doesn't anyone in Congress consider what the Constitution says before they cast their votes?” He reflected for a minute and responded, “Not really.”

This is beginning to change, and we need to encourage those who are promoting these positive changes. Sen. Mike Lee of Utah, supported by several other congressmen and senators, launched the Article I Project. The Article I Project is a network of House and Senate conservatives working together on broad agenda of reform to strengthen Congress by reclaiming its constitutional legislative powers that are now being improperly exercised by the Executive Branch.

The Article I Project is focusing on four areas of policy:

Reclaiming Congress's power of the purse

Fundamentally reform the budget process to end the gimmicks and mischief, such as “self-funding” agencies. The budget must mean what it says.

Reforming legislative “cliffs”

End the risk of government shutdowns and defaults and the horrible practice of voting on thousand-page bills no one has read.

Reclaiming congressional authority over regulations and regulators

Require congressional authorization of total regulatory costs and new major rules.

Reforming executive discretion

Rein in the regulatory state, so it works for the American people and not the other way around.

I look forward to legislation and progress from the Article I Project, but let's talk about a few other issues.

How about education policy at the federal level? There is *no* authority in the Constitution for Congress or the Administration to pass any law or impose *any* rule or regulation dealing with education. Article I, Section 8, of the Constitution defines the enumerated powers, which are powers the national government can exercise according to the Constitution. Education is not one of them.

The 10th Amendment says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

I am confident that the people in every state have the brains to design and deliver world-class education to students. If not, they can certainly borrow ideas from other states. We need to abolish the U.S. Department of Education and save \$87 billion a year. We don't need the nanny state telling us how to educate our children. The feds don't have the authority to do this anyway.

How about environmental policy? The EPA has waged a war on coal and other fossil fuels, yet the use of these fuels have given rise to the greatest prosperity and the greatest advances in health and healing in the history of mankind. And the air in many states is cleaner now than it was 40 years ago. And that was before the war on coal began. Congress has the power to not just roll back regulations, but to open up the Environmental Protection Act and revise it or totally replace it. We should do what former Speaker Newt Gingrich suggested and have an Environmental Solutions Agency. Make it a think tank, give it *no* rulemaking authority and return environmental regulation to the states.

We should also discuss foreign policy and war powers. The President has no authority to commit troops in any long-term commitment without action by Congress. The President has the power to protect American interests and American citizens in crisis situations, but long-term commitments of manpower and materials need to be done with the consent of Congress. And if we are going to go to war, Congress needs to either declare war or make it crystal clear that it supports an administration's actions. No more Libyan adventures with an administration ignoring the will of Congress or administrations dithering over how we will confront the Islamic State (ISIS). In the case of ISIS, we need to declare war on ISIS and exterminate these vermin from the earth.

These solutions are not advancing in Washington because we, the people, have not demanded that they happen.

It is time that we *restore* our Constitution. That will only happen if we act. Obviously, carrying out these proposals will require that we have a President who understands the Constitution and won't veto these measures.

Conclusion

The Psalmist in the Bible asked the question in Psalm 11:3: "If the foundations be destroyed, what can the righteous do?"

The righteous can rebuild the foundation, and the time to rebuild is *now*.

The Constitution secured our liberty in a government that would be effective *if* stewarded with wisdom and a heart of service to the people.

Without a strong foundation, grounded in our First Principles, we will not have success. Without moral markers, we will be like a ship tossed by the angry seas, and we will never reach our port of destination, which is to secure the blessings of liberty for ourselves and our posterity.

Although our nation has drifted from its First Principles, it is still possible to restore our Constitution, and with it, American freedom. We can begin with making an effort to understand our Constitution and share our understanding with others.

In ancient Israel, the prophet Nehemiah led an effort to rebuild the walls of Jerusalem that had been broken down by invading armies. Most of the people of Israel had been carried away captive to Babylon, and only a few remained in Jerusalem and the surrounding villages. But the king had allowed Nehemiah to return to rebuild Jerusalem. He had limited resources and initially did not have the support of the people. In these dire circumstances, he unified the people and they rebuilt the walls of Jerusalem in 52 days. The Scripture says it was accomplished because the people had a mind to work.

Let us rise up like the ancient rebuilders of the walls of Jerusalem. We cannot wait any longer. Let us rise up and rebuild our nation by re-establishing our First Principles and our Constitution. The time to rebuild is today, right now. Let us begin.

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