

A Return to the Constitution

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It is a custom more honored in the breach than the observance.

Hamlet, Act I, Scene IV

Even in *Hamlet*, where ghosts help the action along, it is necessary to choose between the breach and the observance of a custom. The Bard can twist things around plenty in his plays, but the law of contradiction is stubborn. For all his art, Shakespeare cannot make his characters do a thing, and not do it, at the same time.

We live in a more liberated age, the age of bureaucratic government. Here rules abound in such profusion that they seem to overbear the laws of nature themselves. So it is with honoring the Constitution these days. We honor it more avidly than ever in the breach of its restraints, but at the same time we pay it the respect of mandatory, hectic, and empty observance. Except for our dishonoring of it, we have never honored it so much.

Take two examples, the first from Senator Robert C. Byrd of West Virginia. He is the longest serving senator, and by reputation a great historian of that body and of the nation. He is fond of the Constitution of the United States. He talks of it often, and he carries a copy with him, he says, at all times. He is the author of a law now three years old that requires Constitution Day celebrations at schools and colleges across the land, if they take the federal dollar, which with rare exceptions they do. Never mind that there is a constitutional question about that federal dollar. We make it the ground of a federal command to respect the Constitution nonetheless. The government's breach is the authority for mandated observance.

In a fine quote, Senator Byrd calls upon us to make the Constitution an active part of our lives. He reminds us that we cannot defend and protect it if we are ignorant of its history and how it works. He recalls the "limits that

the Constitution places on how political power is exercised," which limits have ensured our freedom for more than two centuries. Then he votes for earmarks on a scale to shame a Vermont liberal (or, these days, a Nebraska Republican), for subsidies to investigate the fluke and the flounder in maritime centers in landlocked states (especially his own, where the centers are named for him), and for every federal gazebo and portico from West Virginia to Baja. Whatever the "limits that the Constitution places on how political power is exercised," these days they leave the budget process in a position of latitude.

This is Senator Byrd, modern paragon of service to the Constitution.

The other example is from our most recent Constitution Day, September 17, 2007, the 220th anniversary of that greatest written instrument of government. I do not mean the official celebration, which was noble and good. The big Washington players of the day were not there, but Colin Powell read the Preamble aloud in the Capitol, and people around the world had a chance to read along by way of the Internet. Somehow Constitution Day manages to come off better than the other days that have grown up under the "national day of observance" laws that place Constitution Day on a par with National Maritime Day (May 22), America Recycles Day (November 15), and Pan American Day (April 14, which grants us a little gaiety before taxes come due).

Our second example is rather another ceremony happening on that day in Washington. Over in another part of town, in one of those newer sorts of buildings that now obscure and offend the lovely architecture of L'Enfant, a ceremony of a different sort was held. It was a ceremony of dedication to make a new hero out of an old name: Lyndon Baines Johnson. That name is now attached heroically to the building where the Department of Education resides. The family of President Johnson was present to receive honor for the mighty good he did for education.

The *Chronicle of Higher Education* did a good job covering this event. They put the main point first:

Washington — A decade ago, Republicans were vying to eliminate the Education Department, deriding it as a wasteful expansion of federal authority. Today, they led a ceremony outside its headquarters here not only to celebrate the department, but to name the building after a trademark big-government Democrat from Texas: Lyndon Baines Johnson.

The first sentence recalls Republican platforms as recent as the one of 1996, which declares:

Our formula is as simple as it is sweeping: the federal government has no constitutional authority to be involved in school curricula or to control jobs in the work place. That is why we will abolish the Department of Education, end federal meddling in our schools, and promote family choice at all levels of learning.

Reading this passage is like watching the first *Die Hard* movie, where Bruce Willis seems so young, and the movie for all its violence has a kind of innocence. That was before the real terror war. That was when we thought a man of action working under his own direction was the key to making great things happen. That was also when we thought that we could do something about the centralization of power that is the great tendency of the age. Having lost this innocence, now we are slightly embarrassed to read the naivete of the 1996 Republican platform, or to think how foolish Ronald Reagan might have been to try to get rid of the Department of Education.

At the ceremony, Secretary of Education Margaret Spellings seems unaware of these former embarrassments, although we will shortly recite a little evidence that she is not. At the ceremony, she is full of the glories of the Great Society:

Forty years ago, education was just beginning to transition from being a small office dedicated to gathering statistics. Today we're 4,500 strong, armed with computers and Blackberrys, and we're committed to a mission, ranging from financial aid to special education and to making sure that no child is left behind.

Note how the Secretary conflates the name of the office where she works with the thing that it regulates. The 4,500 people who work at the Department of Education are not teachers, at least not any more, and they do not directly accomplish education. But still, in some sense, they have become "education." It is they, and not the hundreds of thousands of teachers who work in education, nor the millions who have worked in it during the past 40 years, who make the difference in education. It is they, believes the Secretary, who leave no child behind. But that, alas, is a much easier thing to say than it is to do.

Never mind also, at least on this day, the 40 years of political history that have intervened since the Great Society. Never mind the service of President Reagan, whose political achievements provide the ground upon which

Secretary Spellings stands, even if she is inclined to jump off it. In fact neither she nor President Bush would likely be in office but for him. This is such an obvious fact, and President Bush himself has so often spoken of the achievements of Reagan and his wish to emulate him, that it is hard to believe that Reagan now seems forgotten.

There is evidence that he is in fact not forgotten, but rather ignored. Secretary Spellings recently gave an interesting interview to *Human Events* reporter Terence Jeffrey. She was candid and intelligent in the interview, for one thing disarmingly ready to admit the failures of her policies so far, even while defending them and predicting their long-term success. She favors school choice and works to get it implemented, if so far without much success. She has tough words for the education union that is such a dreaded political obstacle to reform. But toward the end of the interview she was asked a pair of questions that she found difficult.

Mr. Jeffrey asked her if she could “point to language in the Constitution that authorized the federal government to have a Department of Education.” Her reply shows that she knew the bearing of the inquiry: “I think we had come to an understanding, at least, of the reality of Washington and the flat world, if you will, that the Department of Education was not going to be abolished, and we were going to invest in our nation’s neediest students.”

Mr. Jeffrey persisted: “It is one thing to say that the political reality is we are not going to abolish the federal Department of Education, but can you seriously point to where the Framers actually intended the Constitution to authorize a Department of Education?”

The Secretary replied: “I can’t point to it one way or the other. I’m not a constitutional scholar, but I’ll look into it for you, Terry.” Mr. Jeffrey reports that he did not get his answer.

This is Secretary of Education Margaret Spellings, sworn to uphold the Constitution in the exercise of her office.

Secretary Spellings and her department provide an example to stand for the rest of the federal domestic establishment. It is the archetype of our current condition and the direction in which we travel. It is doing what the rest are doing, and it is doing it for the same reasons. In examining it, we can see both the problem and the solution.

The Department of Education grows now at a rate much faster than the Department of Defense, even in time of war. It grows much faster than the domestic economy, even now when the economy grows rapidly. It grows

faster than the population it serves, even when that population is growing. The pace of its growth will quicken with the recent passage of the Higher Education Access Act of 2007, which reduces the size of student loan subsidies, but redeploys that money into outright grants, loan forgiveness, and new programs. If the past is prologue, these new programs will grow as fast as the old ones have done.

Why would this be happening in a Republican administration, the first in a generation (prior to the 2006 elections) to control both houses of Congress along with the White House? The people involved are not for the most part corrupt or ill-intended; surely Secretary Spellings is neither. Something strong is moving them and her. There are two kinds of things.

The first kind is found in the obstacles anyone in office must face. Education is desperately in need of reform; for example, our high school graduates have math and science scores at the bottom of the industrialized world. The longer they are in school, the lower they fall. When one attempts to repair this, one meets quickly the most powerful of public sector lobbies, the education union. Its members have a vested interest to protect and the prestige that comes rightly from serving, but not rightly when only seeming to serve, the young. Finally, the cost and complication of college is fearsome to parents, who are unaware that the subsidies and outside interests that control education make both of them worse. It is very difficult in the circumstances to do anything good.

The second kind is to be found inside the Secretary and other parts of the Administration. They are drawn to the principles of the Great Society. In her interview with Terence Jeffrey, Secretary Spellings refers to the "flat world." Doubtless she means the pressure of globalized economic competition made possible by global communications. She likes to say in her speeches that, to face this competition, we have to emulate the achievement of the Great Society. She mentions in particular the response to the Sputnik crisis, which was a great national effort to subsidize higher education and thereby beat the Soviet Union to the moon. Now we can beat China and other competitors economically by the same device.

From a simple chronological point of view, the example of the Sputnik crisis does not quite work. There was not enough time for the federal programs to educate any appreciable number of scientists to participate in the NASA programs that got us to the moon. Twelve years elapsed between the Sputnik and the landing on the moon; one does not produce astrophysicists very quickly. The mistake goes deeper than a point of chronology. It involves a mistake about the nature of constitutional government and the

source of American power. And this is connected to a mistake about the purpose of education itself.

These two mistakes are closely related. The American government is explicitly, and to a unique degree, justified by an account of the nature of man and his relation to God above and the beasts below. This involves a perception, not of utility here on earth, but rather of the order of nature against which all utility must be judged. In the old understanding of America, the one propagated by those who made the nation, the preparation for leadership and for excellent living consisted in the contemplation of this order and the study of its application to our lives.

One cannot miss this if he studies old documents, both about the making of the Constitution and about the founding of colleges. Our own college, by no means unique in this respect, was built in service of the blessings of "civil and religious liberty and intelligent piety." The first two are civic goods, achieved first in the American Republic. To secure these blessings, we promise an education that will "develop the minds and improve the hearts" of our students. In other words, the purpose of education has both an intellectual and a moral component, and these are connected essentially. One will find these sentiments in the founding of nearly any old college of quality.

One will find them also in the founding documents of the country. They are present most famously in the Northwest Ordinance, which in its third article proclaims that "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." In other words, good living both in the private and the public sense requires knowledge of the things above. The purpose of education, and especially of higher education, is to come to know and contemplate these higher things.

One will not find these sentiments in the plans for education made in the Department of Education today. Of course it would be difficult to put them there: religion, for one thing, has now been systematically excluded from the public schools as a matter, purportedly, of constitutional law. There is, however, no sign that the people in charge of the department have any wish to include them. The report of the National Commission on the Future of Higher Education reduces education to the purpose of preparing young people for a job and of making the nation powerful and successful in its economic competition with other nations. The idea—questionable upon its face—is that only a national coordinated effort can make us formidable to China, for example. China is indeed growing rapidly. This has become

possible only because, under duress and against its every wish, the government of China has liberated its people to start their own businesses and make their own plans. They seek to emulate our successes to the extent that they are forced. We seek to emulate their failures because we find them attractive.

What then is to be done?

In this gloomy picture there is no major national force, at least no political force, united to support constitutional government in its old and proven sense. If we cannot find our solution in the present, then we must look to the past. One of those successes is the recently rejected example of Ronald Reagan. When Reagan began his career it seemed simply impossible to resist this type of bureaucratic government, just as it seems today. He proceeded nonetheless, in part because he had a clear understanding of the purpose both of education and of constitutional government. About the purpose of education, he said:

"Train up the child in the way he should go," Solomon wrote, "and when he's old he will not depart from it." That is the God-given responsibility of each parent, the compact with each teacher, and the trust of every child.

In another place he revels in the love of the founders for education and their faith "that an educated populace would guarantee the success of this great experiment in democracy..."

As for the organization of education, Reagan understood it from the constitutional perspective of self-government. His First Inaugural, a worthy successor to the greatest inaugural speeches of the greatest presidents, is built around the theme of self-government and the association of every American with the great heroes of America, including Washington, Lincoln, and Jefferson, in the practice and defense of self-government. In another speech he said:

Our leaders must remember that education doesn't begin with some isolated bureaucrat in Washington. It doesn't even begin with State or local officials. Education begins in the home, where it's a parental right and responsibility. Both our public and our private schools exist to aid our families in the instruction of our children, and it's time some people back in Washington stopped acting as if family wishes were only getting in the way.

A government that forgets this sentiment is not competent to give instructions for higher education. Forgetting the purpose of education, such

a government is likely to forget its own purpose, too. That is dangerous both to liberty and to justice.

The question what is to be done is simple to answer: it is not enough anymore to rehearse by rote the Constitution or to celebrate it in vacuous observances. Both our statesmen and our citizens must return first to its study, with depth and intensity, and then to its sustenance, with eloquence and resolve. Nothing else will do.

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