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LET US CONTEMPLATE THE PAST AND LOOK FORWARD TO THE FUTURE

"All we know of freedom, all we use or know
This our fathers bought for us long and long ago;
Ancient right, unnoticed as the breath we draw
Leave to live by no man's leave, underneath the law;
Lance, and torch, and tumult, steel and gray, goose wing
Wrenched them inch, and ell, and all, slowly from the King."

When the conciliation of the wise Franklin and the patient Washington finally brought about the compromise which made possible a constitution for the government of the people of the United States, and when the engrossed copy of the Constitution had been read and was presented to the delegates for signature, Benjamin Franklin said, "I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of government but what may be a blessing to the people if well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other".

This did not mark a new era in the civil liberties of the people of these United States. It is true that this Constitution was designed to prevent despotism and to safeguard the greatest amount of liberty to the greatest number of people in the country and to secure the blessings of liberty to their posterity, and at the same time to preserve the independence and the nationality of the United States. But it was to guarantee to our people the liberties which they had already so hardly gained and enjoyed. It is true also that the division of the government in three branches: Executive, Legislative and Judiciary was a new idea of government, and was designed especially to prevent centralization of all powers of government in the hands of one branch or one man, which would mean tyrannical government. And then the signing of the Constitution on September 17, 1787, did not make it the law of the land. It had to be ratified in the states of the Union, and it took over nine months before it became effective.

It was the conservatism of this document as submitted to the states which caused so much hostility from the radical patriots of those days, who feared it was not even then sufficient protection against possible despotism, for they well remembered, as we should now, the seas of blood which had been spilled to bring about and preserve to them their liberties. They now enjoyed them and under no circumstances did they want any doubt about their preservation. At Runnymede in 1215 their forefathers had wrested from King John, the Magna Carta, which was the basis of their American liberties then as now. King Charles I lost his head attempting to set aside these liberties and James II lost his throne for their disregard. During the reign of William and Mary in 1689, their forefathers had reestablished as a fundamental of government that life, liberty and property are the natural rights of man and that laws are created to preserve them to him, and in pursuit of these securities our forefathers had just freed themselves from George III, who was considered a tyrant.

And in addition thereto, our forefathers had come to America to obtain freedom of worship; to obtain freedom of speech and of

the press; and the right peaceably to assemble and to petition the government for a redress of grievances. They also had dearly bought the right to keep and bear arms, and not to have soldiers quartered in their houses in time of peace, and for protection against the right of search and seizure of their persons, houses, papers and effects. They believed that it was fundamental to freedom that they should not be held to answer for a capital crime except upon indictment by a grand jury; nor be put twice in jeopardy for the same offense; nor be compelled in a criminal case to be a witness against themselves; nor be deprived of life, liberty and property without due process of law; nor have their private property taken for public use without just compensation; that in criminal prosecution the accused should have a speedy and public trial by an impartial jury at the place where the crime was committed and to be informed of the nature and cause of the accusation; to be confronted by the witnesses against them, to be able to summon witnesses in their favor and to have the assistance of counsel for their defense; to have trial by jury in civil suits; not to be required to give excessive bail; not to have excessive fines imposed nor cruel and unusual punishments inflicted.

These rights they would rather die than surrender. They had fought to be free and to establish these rights and they intended to remain secure in them because they believed in complete liberty of action and of expression until an individual liberty came in conflict with the right or liberty of another individual when alone it must cease for the good of all.

Those patriots demanded that all these rights become an integral part of the fundamental law of our land, but for fear they had forgotten some right they demanded that when these specific rights were enumerated in the Constitution it should not be construed to deny or disparage other rights which were retained by the people, and further that any powers not delegated to the Federal Government by the Constitution, nor prohibited by it to the States were to be reserved to the States, respectively, or to the people.

They knew if these rights were guaranteed to them there could never be a despot in this country; **provided the courts functioned according to the Constitution.** They knew that the Constitution provided for the oath of a President and that by that oath he was obliged to **protect and defend the Constitution.** They knew that they were safe as they could be, for they would have a government of laws which guaranteed life, liberty and property and an executive sworn to carry out the Constitutional guarantees.

When Washington and Madison pledged themselves that all American ideas of fundamental rights of human liberty would be incorporated as the first amendments to the Constitution it was finally ratified by the people of the States and only then.

They are known as the Bill of Rights.

We like to call these first ten amendments our "inalienable" rights, meaning rights that cannot be taken away. But they are only inalienable so long as we fight to preserve them. Would you like to lose any of them? Think what would happen to you if any were taken away. We have in our day seen these rights, one by

one, lost or denied to people of nations across the ocean, some taken by violence and some lost by negligence.

It is very easy for us to surrender or lose them here.

Our forefathers believed that "Eternal vigilance is the price of liberty" and that "God grants liberty only to those who love it and are always ready to guard and defend it." They have given you your heritage of guarantees of the constitution. They are your protection — you and your children.

In the one hundred and fifty years of its existence, and since those first ten amendments were adopted, the Constitution has been amended but eleven times. It can be amended again. But it is your duty and your right to see that the Constitution is not nullified or destroyed by legislative, judicial or executive acts.

As long as our Constitution survives with an independent Supreme Court, minorities will have equal rights before the law and complete protection against predatory majorities, mob rule or popular clamor. It was the invoking of the Bill of Rights before the Supreme Court that gave the Scottsboro boys a fair trial. An American citizen is protected by the Bill of Rights from assault or persecution for racial or religious reasons making such treatment of the Jews as is taking place in Germany impossible here.

And majorities, too, are protected by our Supreme Court against the activities of enterprising minorities whose militant activities might prevail over a negligent or thoughtless majority and bring about a destruction of our form or system of government by being contrary to its theory; or against overzealous blocs of citizens who violate the right of property ownership to attain their ends.

So, whether you are in the minority or the majority, your Constitution is your shield.

Governor Cochran says: "One hundred and fifty years ago this month, a few ordinary American words flowed from the point of a quill pen. The words became the Constitution of the United States, which Gladstone said was 'the most wonderful work ever struck off at a given time by the hand of man.'"

But it was not words and phrases which made the Constitution wonderful, and gave it life and vitality. It was the spirit of a people determined that all power shall come from the consent of the governed. The spirit gave it life, not the form.

JUDICIAL COUNCILS

At the recent meeting of the American Bar Association your Editor attended all of the meetings of the section of the Bar organization activities and was much interested in the discussion on Judicial Councils. As you all know, we have a Judicial Council in this state, which was established by Chapter 124 of the Session Laws of 1927, the announced purpose of which was "to make continuous study of the operations of the judicial system of the state, to the end that procedure may be simplified, business expedited and justice better administered." It was the concensus of opinion that while no attempt should be made to chart a permanent course of action, that it should be our immediate task to bring the judicial council movement more within the range of the activities of