

“Good People — Good Government”

by

LeGrand Baker

“Viewpoints”

Daily Universe, 13 July 1987

The challenge to the framers of the Constitution was to create a government which was strong enough to protect its citizens, and yet not so strong that it could impose itself upon their private lives. They achieved this by separating the powers of government into two jurisdictions.

The federal government was given authority over matters of “general” or national concern, and the state and local governments and individual citizens retained authority over everything else.

Under this system the jurisdiction of the federal government included such matters as national defense, international and interstate commerce, and diplomatic dealings with other nations. It had nothing whatever to do with the legal relationships of private citizens in matters such as how they can use their property, parental responsibility, or the myriads of other cultural and legal relationships that are a part of living in a community.

The reason the authors of the Constitution left so much power in the hands of state and local government and the people is that they believed people are innately capable of governing themselves in a way that will "establish justice and insure domestic tranquility." But the system they created in the Constitution has one, possibly fatal, Achilles' heel

That Achilles' heel is an ancient political doctrine called “natural law.” The Roman orator Scipio defined natural law before the Roman Senate by explaining that there are some things which are wrong by their very nature. He used burglary and adultery as examples, saying that such things are wrong whether the Senate defined them as being wrong or not.

No government, no matter how powerful, can alter the rightness or wrongness of certain human acts. Therefore, the first function of government is to make actions which are morally wrong, legally wrong as well, so the victim of a moral wrong can have a legal recourse.

The Constitution is based on that same idea. The premise upon which it is built is that a representative government can succeed because the overwhelming majority of people have an innate sense of what is right and wrong. If government truly represents the will and thinking of the people, then it will be the functional expression of the people's innate moral sense.

The Constitution presumes that most people are bright enough and wise enough to govern their own actions and that they are honest enough and have enough integrity to refrain from imposing themselves on their neighbors.

Because of that assumption, the document leaves the great bulk of the powers to govern with the state and local government, which are near and accessible to the people. Dr with the people individually. The entire notion and structure of individual freedom is based on the presumption of the integrity of the citizens. That is its Achilles' heel

The system was never designed to work in a society where people permitted their sense of right and wrong to oppose "the laws of nature."

In a system where the people are not free, the will of the ruling minority holds the system together. But in a free society, the cohesive power which makes it all work is the righteousness and integrity of its people. But a free government, by its very nature, lacks the power to impose either the righteousness or the integrity on its citizens.

So, if the people cease to be good, the system will self-destruct. In its place must necessarily come one of only two options: anarchy and chaos, or a government which is strong enough to protect its citizens, but also strong enough to impose itself upon their private lives.