

# Freedom Matters

A Weekly Newsletter

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We are a free people in a republic, under a constitution which limits the powers of government to those necessary to secure the unalienable rights of each person to their life, liberty and property. Yet, when a legislature is in session, no one's life, liberty or property is safe. It's the curse of a democracy. That's why we have a republic instead. *Freedom Matters* dedicates itself to the fight to restore our republic. Most of the press and courts fail to do so. They've forgotten that freedom matters.

## Our American Heritage - Freedom A "Living Constitution" Is Killing It

by Bob Bowman

Our American heritage is a complex of factors, including a cultural history in which one can point to many good things, if also some bad ones. However, there is no question as to what defines the core of our American heritage. It is our freedom. Our freedom is embodied in our constitutional form of government, in our Federal Constitution and State Constitutions. It is that constitutional form of government which stipulates checks on the power of the democratic vote. Those checks protect our freedoms. It is that which makes us a republic, not a democracy.

In other words, the power of the legislature is not supreme. The power of the executive can hem it in, and the Constitution trumps it. That is where the role of the judiciary comes in. The judiciary is the umpire, to defend the terms of the Constitution. The judiciary is not to make laws. That is the legislative function, subject to the executive veto.

The judiciary's role is to reconcile laws, and in particular, to reconcile them with the Constitution. Its role is to **uphold** the Constitution, not to change it. It is to force government to act as the servant of the people, not the master of the people. It is to protect each individual in their rights, especially as their rights are recognized in the Constitution.

After some 200 years, this system has become badly broken. It has become corrupted, in computer language. The corruption succeeded by invading our courts. Nowhere is this more apparent than in the issue of land ownership and land use.

The **powers** of the federal government are strictly limited by the Constitution. The Bill of Rights in the Constitution, Article X, says in its entirety: "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."

Article I vests the **power** of the federal government in its congress, executive, and judiciary. Section 8 deals with the **powers** of the congress. The famous (or infamous) commerce clause is #3 of Section 8: "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

The federal **power** to own/regulate land is cited in clause #17: "To exercise exclusive legislation in all cases whatsoever over .... all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, drydocks, and other needful buildings."

I see no place in the Constitution that authorizes the federal government to legislate the use of land except for that clause, which clause restricts federal **power** to land for "the erection of needful buildings." Thus, the vast federal land holdings that constitute our federal park systems are without Constitutional authority. If so, they should be without legal authority, and the Clinton executive orders affecting such parks should also be without legal authority.

In a nation ruled by law, the courts should not be allowed to subvert the Constitution. The courts which condoned federal powers not delegated by the Constitution violated it. They have virtually wiped out Article I and X restrictions on federal power.

The courts subvert the Constitution brazenly. They trumpet the "living constitution," by which they say that the meaning of the Constitution changes at their whim. Thus, they usurp the power to amend the Constitution, subverting the checks and balances of the amendment process set in the Constitution.

The courts have paid a price. Appointment of judges is now politicized. There are now Democrat judges and Republican judges, whose decisions hew to party lines. A Democrat senate blocks the appointment of Republican judges. It is no satisfaction to say the courts have asked for it. No, it is an indictment.

It is time for a return to the Constitution.

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