

An Evolving American Ideal

Israel Drazin

At the Constitutional Convention, Philadelphia, 1787, there were difficulties. Only eleven states participated. Rhode Island refused to attend. New York lacked a quorum. There were 74 delegates, but no more than 55 attended any part of the Convention. The Constitution was signed by 39 delegates, about half of the members. Sixteen refused to sign. The Convention was to have begun on May 14, but a quorum was not present until the 25th and serious discussions did not begin until the 29th. The Constitution was signed on September 17, 1787, but it was not adopted before June 21, 1788, and only then after great struggle. Virginia, for example, ratified it by a vote of 89 to 79; Massachusetts by a slim majority of 187 to 168. The final version of the document matched no one's ideal. It was repleat with ambiguities (to satisfy different views) and compromises (to avoid conflict).

Convention members imposed a rule of silence upon themselves so that the country would not know of the conflicts raging within the hall. Guards stood watch at the door where liberty was born. Windows were latched despite the heat. James Madison refused to publish his "Notes on the Constitution" in his lifetime, fearful that the revelation of disagreements, debates, and compromises would undermine the hopes of the new nation.

Philosophical tensions arose between individual rights and societal needs. While recognizing the supreme value of liberty, the document created restraints. Moreover, there were theological diffi-

Chaplain (Brigadier General) Israel Drazin was ordained as a rabbi in 1957 and entered the Army, at the age of 21, as the youngest chaplain ever to serve on active duty. In the active reserve, he served in increasing grades and as lecturer at The US Army Chaplain School from 1978 to 1981. In 1984 Chaplain Drazin was responsible for preparing the winning defense for the suit challenging the constitutionality of the chaplaincy. Today he serves as Assistant Chief of Chaplains, the highest reserve officer position in the Army chaplaincy.

culties as well. The Constitution did not mention God. The Constitution "secured rights," but it did not save souls.

The most repugnant part of the Constitution's seven articles is the strange mathematics of its first article: five slaves equal three free people for determining representation. The article considered a woman a person for representation but a non-entity regarding the right to vote.

Finally, the greatest fiction associated with the Constitution: the people did not want it. No accurate figures exist, but a reasonable estimate says that no more than 2.5 per cent of America's 4 million people favored its ratification.

The Delegates

The men who wrote and signed the Constitution had much to learn. They were flesh and blood human beings, not saints, nor even the "demi-gods" Jefferson called them. They possessed the wisdom of their age in abundance, but lacked the insights and sensitivities of future generations.

James Madison, for example, was "no bigger than half a piece of soap." He was shy, bookish, a little man with a little voice. There were many moments during the debates when his voice could not be heard. He had a giant intellect and used it well at the Convention. He was the most fastidious of the founders for the separation of church and state. He was so scrupulous that he ordered the mail delivered on Sundays to demonstrate rigorous religious impartiality. Yet, even he was inconsistent. In 1812, when he saw the Capital in flames, he shuttered, forgot his principles, and declared a national day of prayer. In his younger days, Madison supported and voted for a military chaplaincy. In his retirement, he opposed the military chaplaincy and wrote, "This has always been my view."

Pennsylvania's Governor Morris was the antithesis of James Madison. Morris, a notorious womanizer, was a rich, landed aristocrat, a man of order with a near-Hamiltonian contempt for people. He had a wooden leg which gossip attributed to a fall from a window after having been chased from the house by a jealous husband. Pacing up and down the convention hall, Morris loved to use the wooden leg to punctuate his loud sentences with a thump. With 173 speeches, he set the record for the Constitutional Convention. Today his famous wooden leg is displayed as a national monument by the New York Historical Society. This interesting, and some would say, colorful man, took the rambling and disorganized constitutional draft, rewrote it in four days, and is responsible for its final wording.

Tall, stately George Washington suffered greatly at the hands of nature as well as physicians. He lost his teeth at an early age, and his face was pitted from a teenage bout with smallpox. Finally, his

life was taken by a doctor who, following the therapeutic practices of his day, bled him unmercifully when Washington had only a common cold.

At the Convention, Washington, the "father of our country," sat formal and remote throughout the sessions. He said virtually nothing during the public debates. He is remembered for having chided a delegate for leaving a scrap of paper on the floor.

Many believe that Washington loved a neighbor's wife before and after his marriage. Near the end of his life, he told Sally Fairfax that even the glories of his presidency had not been able "to eradicate from my mind those happy moments, the happiest in my life, which I have enjoyed in your company." He married Martha, an uneducated woman who could hardly read and write, because Sally was unavailable and because Martha's wealth would fulfill his plan to convert Mount Vernon into a magnificent plantation. One might ask: Had this slave owner become more sensitive to human dignity, would his marital life have had a mercantile foundation?

Benjamin Franklin's marital and family situation was far worse than Washington's. Franklin joined in a "common-law" union with a married woman whose husband abandoned her. Franklin's "wife" could neither read nor write. Unable to converse in quiet tones, "Mrs." Franklin remained in America while her husband was ambassador to France. Franklin had an illegitimate son from another woman before he met his "wife." This son joined the Torries, became governor of New Jersey, and was arrested and ousted by the patriots.

Franklin suggested to the Convention delegates that they begin each day with a prayer, for a prayer would calm them. (A strange understanding of the purpose of prayer.) The delegates refused. They were afraid that the people would hear about the prayer and think there was trouble.

As the governor of Pennsylvania, Franklin was brought to the Convention each day in a sedan chair carried by prison inmates. Although he spoke of human rights, neither Franklin nor his generation understood prisoners to have rights which are not forfeited by the commission of a crime.

Not all of the nation's founders were present at the Convention. Patrick Henry, Thomas Jefferson, and Tom Paine, for example, did not participate in the historic deliberations. Their lives also show the need for a more developed concept of human dignity.

Patrick Henry's wife was insane, and he kept her tied up in the basement of his home. His first important case as a lawyer was known as "The Parson's Case." The ministers of Virginia complained that they should be paid more from public taxes. Henry was engaged by the people to oppose the Crown-supported clergy. Henry argued that the clergy were neglecting their duties, not on the

principle of the separation of church and state. Because of the case, he became famous as anti-clerical. After the decision in the case, he told his uncle that he would have taken the clergy's side if they would have hired him. He accepted the people's side because the clergy did not retain him and because he needed an important case to gain attention and to make his reputation.

With regard to church and state issues, Thomas Jefferson was as inconsistent as James Madison. In 1773, after the Boston Tea Party, he persuaded the Virginia House of Burgesses to appoint a day of fasting and prayer to ask "divine interposition" to avert "the Evils of Civil War." This was a political expedient. Jefferson had achieved an early renown, at age 24, with a case involving religion. At issue was whether a church could discharge its ministers for drunkenness, profanity, fighting and moral offenses. The church officials argued that religious matters could not be addressed and decided by civil courts. This is established law today. Jefferson, however, took the opposite view. He cited English precedents to prove civil authority is supreme, and he won the case.

Thomas Paine, the famous Quaker author of *Common Sense*, the book that stirred the nation, arrived in America after abandoning his wife. After the Revolution, he was arrested in France, and George Washington refused to help him because Paine had attacked organized religion. Paine counter attacked and called Washington a "hypocrite." The "tolerant" Quakers refused to bury this patriot.

These observations and comments are not meant as a disparagement of our founders. Many remarkable deeds can be cited to show the positive impacts of the men and women of this period upon their own and future generations. Our purpose is to say that only the seeds of liberty and sensitivity were planted in early America. We have the divinely ordained duty to nurture, develop and improve these plantings.

We must advance beyond liberating "the imprisoned intellect," (Jefferson's words) to develop the spirit of God in everyone. We must provide an opportunity for all persons to practice faith, even as everyone is allowed to breathe freely, and never to diminish, hinder, or degrade this liberty except under the most compelling of circumstances as in matters of public health or safety.

Early Laws

Early American documents embody the seed from which twentieth century ideals have flowered. The European founders of this country attempted to free themselves from the tyranny of excessive and oppressive religious and state control. The Mayflower Compact, for example, had two guiding and controlling elements: the advancement of the Christian faith and fealty to the "dread sovereign Lord, King James."

The 1639 Fundamental Articles of New Haven required every inhabitant to agree that the Scriptures provide the perfect rule of government for everyone. The Articles permitted only church members to be free citizens.

The 1643 New England Confederation rewrites history: "We all came into these parts of America with one and the same end and aim, namely, to advance the kingdom of our Lord Jesus Christ, and to enjoy the liberties of the Gospel, in purity and peace."

The king taught his subjects in the 1663 Charter of Rhode Island "that true piety (is) rightly grounded upon gospel principles . . . (and) liberty (is derived from) the true Christian faith and worship of God."

The Declaration of Independence of 1776, and the United States Constitution of 1787 took enlightened steps toward recognizing the rights of all people. But the documents did not travel the necessary distance, so to speak. Despite the Declaration's mention of "unalienable rights," Thomas Jefferson's state of Virginia retained its law calling for the burning of religious heretics. New Jersey limited full civil rights to Protestant citizens until 1844. Pennsylvania and Maryland required public office holders to believe in God. Maryland retained this requirement until 1961.

Connecticut taxed its citizens to support the Congregational Church through 1818. Until 1833 Massachusetts' constitution authorized towns to pay ministers with public funds where voluntary contributions were inadequate. New Hampshire continued this practice even into the twentieth century.

The United States Constitution of 1787 made many non-Christian citizens of a country for the first time. Fifty years later, however, in the 1830s the United States Supreme Court misread the constitutional intent and labeled the United States a "Christian Country." About 25 years later, in 1857, Chief Justice Taney articulated similar misguided words in his infamous *Dred Scott* decision: "Negroes were not intended to be included under the word *citizens* and can, therefore, claim none of the rights and privileges of citizens . . ." This was the limit to insensitivity to human dignity only eighty years after the Constitution was signed.

It was not until 1920 and the 19th Amendment that women had the right to vote. In 1875 the Supreme Court, the chief interpreter of the Constitution, had expressly prohibited women from voting. Similarly, in 1878 the Supreme Court restricted Mormons from observing their faith because the justices understood Mormons "an abomination" and "un-Christian." This was 91 years after the Constitution.

It was not until the 1960s that the Supreme Court interpreted the free exercise clause of the Constitution ("Congress shall make no law respecting an establishment of religion, or prohibiting the free

exercise thereof,') to mean that the government may not restrict religious practices except when there is a compelling state need to do so because of dangers to public safety or public health. After the Constitution was signed, most states continued to support religion by granting tax exemptions and other benefits to religious organizations and clergy. This practice continues even today.

Moreover, states wrote laws expressly prohibiting the violation of the Sunday-Sabbath. And many of these laws still exist. We have placed God, as it were, in the salute to the flag, and we begin many public civil ceremonies with prayer. We justify this behavior by secularizing and minimizing the practice. The Supreme Court has said that the purpose of public prayer of this sort is to quiet the audience. Similarly, the Court justified the national observance of Christmas by making it a secular holiday and justified government support of a Nativity Scene by declaring it an historical reminder of a secular holiday. These rationalizations prompt our children to call us hypocrites for gaining legal public support through such devious devices, but what is worse, many believe what the Court is saying regarding the *secular* purpose of religious practices. Clearly the Constitution did not resolve all problems. There is much yet to be done.

Greatness of the Constitution

The Constitution affirms the basic articles of political faith contained in the Declaration of Independence. The Declaration states: "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."

The writers recognized that they did not create these natural rights and that they cannot be taken away by any sovereign. These rights are the potential which we must nurture. The Constitution's greatness resides in its potential and in its recognition of the need to struggle.

The Constitution's second great contribution is its articulation of the internal dynamics of government: the separation of powers with checks and balances. The founders knew that encounters—exchange, argument, and exertion—are necessary for growth.

Application to the Chaplaincy

Like the writers of the Constitution, the chaplaincy did not start out pure, with a carefully focused knowledge of its role in the present and future or with a sure means for attaining that place. The history of the Constitution reminds us that we must be constantly refining our values. In this quick look at our two hundred years with the

Constitution, we have seen how easily our country forgot its goals, how it frequently sanctified the status quo, and trampled the "unalienable rights" of many of its citizens.

One of our conflicts as military chaplains is the tension between our secular and religious roles. We must resolve that struggle properly. It is possible to rise from this seeming paradox to a higher level, a status sanctioned and applauded by God, a better, higher and more inclusive role than any of our civilian counterparts. We must fear, understand and love God, in that order, and as a consequence, fear, understand and love everything and everyone, for everything and everyone was created by God and carries the spirit of God. We must behave with humility before all and with acts of mercy and charity. This posture, particularly for the chaplaincy, is to be discovered in one of our primary functions—to provide for the free exercise rights of every member of our command.

Through our free exercise role, we can become more than a priest, a minister, a rabbi, or imam. We can become military chaplains, men and women who fully serve our denominations and who fully provide for the free exercise rights of all members of our units and staffs. We work toward the day when others will see and recognize a military chaplain for what he or she is and praise the chaplain—not as a priest, a minister, a rabbi or imam, but more than that—quantitatively and qualitatively more—as a military chaplain.