

WHAT GOOD'S A CONSTITUTION?

WINSTON CHURCHILL (1874-1965)

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Written soon after Franklin Roosevelt's Democratic Convention Address of 1936, this article by British statesman Winston Churchill points to the wide gulf between Churchill's and Roosevelt's economic views, even if five years later they would forge a close wartime alliance. Beyond their differences on economics, Churchill sees the American Constitution as an enduring source of strength for the American republic, not an obstacle to be overcome.

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....I judge the civilization of any community by simple tests. What is the degree of freedom possessed by the citizen or subject? Can he think, speak and act freely under well-established, well-known laws? Can he criticize the executive government? Can he sue the State if it has infringed his rights? Are there also great processes for changing the law to meet new conditions?

Judging by these standards, Great Britain and the United States can claim to be in the forefront of civilized communities. But we owe this only in part to the good sense and watchfulness of our citizens. In both our countries the character of the judiciary is a vital factor in the maintenance of the rights and liberties of the individual citizen.

Our judges extend impartially to all men protection, not only against wrongs committed by private persons, but also against the arbitrary acts of public authority. The independence of the courts is, to all of us, the guarantee of free-dom and the equal rule of law.

It must, therefore, be the first concern of the citizens of a free country to preserve and maintain the independence of the courts of justice, however inconvenient that independence may be, on occasion, to the government of the day.

But all this implies peace conditions, an atmosphere of civilization rather than militarization or officialization. It implies a balance and equipoise of society which can be altered only gradually. It is so hard to build the structure of a vast economic community, and so easy to upset it and throw it into confusion. The onus must lie always upon those who propose a change, and the process of

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change is hardly ever beneficial unless it considers what is due to the past as well as what is claimed for the future.

It is for these reasons among many others that the founders of the American Republic in their Declaration of Independence inculcate as a duty binding upon all worthy sons of America 'a frequent recurrence to first principles'. Do not let us too readily brush aside the grand, simple affirmations of the past. All wisdom is not new wisdom. Let us never forget that the glory of the nineteenth century was founded upon what seemed to be the successful putting down of those twin curses, anarchy and tyranny.

The question we are discussing is whether a fixed constitution is a bulwark or a fetter. From what I have written it is plain that I incline to the side of those who would regard it as a bulwark, and that I rank the citizen higher than the State, and regard the State as useful only in so far as it preserves his inherent rights. All forms of tyranny are odious. It makes very little difference to the citizen, father of a family, head of a household, whether tyranny comes from a royal or imperial despot, or from a Pope or Inquisitor, or from a military caste, or from an aristocratic or plutocratic oligarchy, or from a ring of employers, or a trade union, or a party caucus—or worst of all, from a terrified and infuriated mob. 'A man's a man for a' that.' The whole point is, whether he can make head against oppression in any of its Protean shapes, and defend the island of his home, his life and soul....

When one considers the immense size of the United States and the extraordinary contrasts of climate and character which differentiate the forty-eight sovereign states of the American Union, as well as the inevitable conflict of interests between North and South and between East and West, it would seem that the participants of so vast a federation have the right to effectual guarantees upon the fundamental laws, and that these should not be easily changed to suit a particular emergency or fraction of the country.

The founders of the Union, although its corpus was then so much smaller, realized this with profound conviction. They did not think it possible to entrust legislation for so diverse a community and enormous an area to a simple majority. They were as well acquainted with the follies and intolerance of parliaments as with the oppression of princes. 'To control the powers and conduct of the legislature,' said a leading member of the Convention of 1787, 'by an overruling constitution was an improvement in the science and practice of government reserved to the American States.'

All the great names of American history can be invoked behind this principle. Why should it be considered obsolete? If today we are framing that constitution for a 'United States of Europe' for which so many thinkers on this side of the ocean aspire, fixed and almost unalterable guarantees would be required by the acceding nations.

It may well be that this very quality of rigidity, which is today thought to be so galling, has been a prime factor in founding the greatness of the United States. In the shelter of the Constitution nature has been conquered, a mighty continent has been brought under the sway of man, and an economic entity established, unrivalled in the whole history of the globe....