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Counterfeit Constitutionalists

A Montana Public Radio Commentary by Evan Barrett

July 4, 2013

Today our hearts swelled with pride as the Stars & Stripes led our local Fourth of July Parades. That flag reflects an American reality of which we are rightfully proud. For, despite its imperfections, we live in a great country, with a remarkable democracy and governmental structure that are the envy of the world – the bedrock of our national identity. We are a government of, by and for the people. We are a nation of laws, not of men and their whims and fancies.

On the 4th of July especially, the flag reminds us of the Declaration of Independence which states the self-evident truth: "... that all men are created equal ... [endowed] ... with certain unalienable Rights ... [like] Life, Liberty and the pursuit of Happiness." And that our government derives its "... powers from the consent of the governed."

The flag makes us also reflect on the US Constitution which, as the supreme law of our land, is an even more important document. Famed British Prime Minister, William Gladstone represented the thinking of the world when he said (and I quote): "...the American Constitution is ... the most wonderful work ever struck off at a given time by the brain and purpose of man."

But, these days it seems the Constitution gets more reverence than respect. There are many in our country and state who wrap themselves in the Constitution rhetorically while at the same time seeking to ignore it, change it, dismantle it. To me they are Counterfeit Constitutionalists.

Casual confusion about the Constitution is understandable. Former Supreme Court Justice Hugo Black saw it clearly, when he said: "The layman's Constitutional view is that what he likes is Constitutional and that which he doesn't like is un-Constitutional." That perspective could be relatively harmless, but the Counterfeit Constitutionalists have taken it to a much higher and more dangerous level, organizing to aggressively pursue, in the name of the Constitution, extraordinarily harmful things like nullification and the war on women.

In its "supremacy" clause, our Constitution establishes the supremacy of the federal government in certain areas. However, the Counterfeit Constitutionalists seek to flout the Constitution and assert state government control over the federal government in some of those specific areas. Tragically, similar previous efforts, known as "nullification," helped bring America to the Civil War. Notwithstanding that very real history, Counterfeit Constitutionalists over the last two legislative sessions alone here in Montana have sponsored hundreds of bills that are patently unconstitutional. Though alerted to that danger by legislative legal staff, the Counterfeit Constitutionalists have proceeded to "ignore the Constitution and pass the bills anyway." Bills that go so far as to assert that if representatives of our national government try to enforce certain federal

laws in Montana, county sheriffs would be empowered to arrest them. These politically-motivated attempts at nullification are the political currency of the Counterfeit Constitutionalists, demeaning our state and devaluing our Constitution.

Another visible focus of the Counterfeit Constitutionalists is Roe vs. Wade, the Supreme Court decision from 40 years ago that established within the constitution a right of privacy allowing women to make their own reproductive and health choices based upon their own circumstances, religious values, and medical and family consultation. Yes, in these United States women have a right to medically control their own bodies. This long standing Supreme Court interpretation of the Constitution says those medical decisions are NOT to be made by her Congressman or state legislator. Sadly, in dozens of states, in hundreds of bills as well as federally, the Counterfeit Constitutionalists, whose usual watch cry is "limited government," try to put the government into every bedroom, every hospital and every doctor's office.

Counterfeit Constitutionalists are willing to ignore the Constitution to push their personal perspective. Shred the Constitution to achieve their political goals. Deny the Constitution to serve their religious views.

To insure that here in America we remain a government and nation of laws, not of men, today, on Independence Day, when we salute our flag, we need to affirm our support of our Constitution and reject the tactics of the Counterfeit Constitutionalists.

This is Evan Barrett from Butte, thinking about the US Constitution.

Evan Barrett, Butte, has spent the last 44 years at the top level of Montana economic development, government, politics and education. He is currently the Director of Business & Community Outreach and an instructor at Highlands College of Montana Tech. These are his personal views. (683 words in the body)