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Removing a failed president

By Thomas E. Brennan

REAL CHANGE

The candidates for President of the United States this year have both heralded the need for change in Washington. Both have laid claim to being the better agent for change, and both have railed against 'business as usual' in the nation's capital.

Unhappily, neither candidate has addressed the kind of change that is required if our noble experiment in human governance is to survive on this planet.

Ours is a constitutional, federal, republic. At least that is the form of government envisioned by the founding fathers at Philadelphia in 1789. Unhappily, we have evolved into something else. What exactly is the United States of America in 2008?

Certainly not constitutional. The battle between 'strict constructionists' and 'liberal interpreters' has long since been won by those who expect the Supreme Court of the United States to make pragmatic decisions 'for the good of the country.' Whether it's *Roe v Wade* or *Bush v Gore*, the rule is the same. Nine count jurisprudence. Five votes own the constitution. The Supreme Law of the Land is now the Supreme Court of the United States. In the minds of average Americans, the Court's decisions are not final because they are right. They are right because they are final.

Is our form of government still federal, as designed by James Madison and his confreres? Not hardly. One has only to listen to the campaign speeches of 2008 to understand that our national government is expected to legislate on every minute detail of our lives. Our investments, our jobs, our health care, our schools, our sex lives, crime in our streets, pollution in our air, even the air in our tires are all subjects to be regulated, controlled, obliterated or encouraged by Uncle Sam.

Are we still a republic? Alexis DeTocqueville's eighteenth century treatise, *Democracy in America* touches on the eventual decline of our self government. He perceived that the myopic self interest of voters would eventually lead to the establishment of an omnipotent ruling class that the people would retain in office by a rote exercise of reelection. When members of Congress vote themselves lifetime compensation and then 90 or 95 per cent of them are reelected, DeTocqueville begins to look rather prescient.

Article V of the United States Constitution provides that upon petition of two thirds of the state legislatures, the Congress shall call a convention for proposing amendments to the constitution. When proposed by the convention, each amendment needs the ratification of three quarters of the states. Despite the fact that over four hundred such petitions have been addressed to the Congress, and despite the fact that every state in the union has petitioned for a convention, the Congress stoutly refuses even to hold hearings on the subject.

If the people of the fifty states really want change - real change - an Article V Convention is the right way, indeed the only way, to accomplish it.

Unfortunately, the opinion makers in America, both liberal and conservative, are afraid of true democracy, suspicious of each other, and so divided in their loyalties that the notion of a three fourths consensus on even the most axiomatic principles of representative governance is seen as improbable.

I wrote a law review article thirty years ago entitled *Return to Philadelphia*. It was a plea to use Article V as intended by the founders. That article can still be seen on the web site of the Friends of Article V, <http://www.foavc.org/>. I stand by it.