

Op-Ed - 11.09.2005

## **Revolution in the Air**

One of our great Founding Fathers believed that all laws should expire after a generation, and the legislature should have to pass all new ones. George Washington was credited with saying that a revolution once every generation was a good thing. The majority of the Founders, of course, including Washington, believed in the stability provided by the Constitution.

The Founders were greatly influenced by a Roman named Cato, who said that government does not owe its formation or beginning to the immediate revelation of God. “Government therefore could have no Power, but such as Men can give, and such as they actually did give, or permit for their own Sakes; nor can any Government be in Fact framed but by Consent....”

It was fundamental wisdom in this country from the time of the beginning of the Revolution in 1776 that power flows uphill starting with the people. The people have a social contract with the government, and the government is only allowed to do its thing so long as the populous is satisfied.

The people have spoken and thrown out Justice Nigro, the first Pennsylvania Supreme Court Justice defeated in a retention election. Nigro, of course, had nothing whatsoever to do with the recent pay raise imbroglio. Nigro was not even a member of the party which controls both the state House and Senate and which promulgated the pay raise! Of course, Nigro’s defeat had nothing to do with his party or his position, but was rather a reflection of a voter uprising representing a furious response to the illegitimacy of the legislative pay raise, which included judges as well. It is curious quirk of history that the revolutionary voters turned out one of the most fair, capable and beyond reproach Justices on our Supreme Court. In any fair fight, Nigro would have been the people’s choice.

It is a good thing to see the voter so motivated that they are willing to express their contempt at the polls. It would be nice, however, if that expression of progressive wisdom extended to greater voter turnout and citizen participation in issues that really matter. It does matter that legislature meets in the middle of the night to do things which they would not do in the light of day. It is not the substance of the pay raise, particularly for judges, that was odious but rather the manner in which the legislature functioned.

The spirit of citizen outrage is not new. In the latter part of the 19th Century, the Pennsylvania Constitutional Convention instituted a number of reforms to reign the legislature in. One of those provisions was to prevent logrolling. The legislature was supposed to consider only one Bill in a piece of legislation and not combine a number of matters in such a way that important issues were covered up or not recognized by the voters. Unfortunately, the courts ignored that legislative provision until recent years.

I raised the issue for the first time in many years in the case of *DeWeese v. Weaver*, which held that such midnight deals were unconstitutional. That was followed by the *Philadelphia Convention Center* case, and other cases where the current Supreme Court vigorously stood up to the legislature. It is interesting and unfortunate that the voters took their wrath out against the one institution in the Commonwealth that had been acting on behalf of the people.

What is important, is that the voters continue to look at the candidates carefully, vote and express their continuing outrage against government injustice. What are some other outrages that the citizens can take a look at? Is it a good thing that, in certain areas of the state, the same party always wins regardless of who runs? Perhaps the voters, in traditionally Democratic and traditionally Republican areas, should take a look at the loyal opposition. Perhaps it is time to stop stereotyping one another and basing elections on clever taglines and defamations.

The voters should demand that the legislature stop the grand rip-off by the pharmaceutical industry. In no country in the world do pharmaceutical companies charge whatever they want,

manipulate the distribution system, and make unseemingly profits to boot. The obscene control exercised by the pharmaceutical industry cannot be justified on the need for research. The United States of America, which ranks low in terms of its success in the delivery of health care, does not need to subsidize every pharmaceutical company on the planet. If we are going to supply pharmaceuticals through government programs such as Medicare and Medicaid, then the government ought to be bargaining with and negotiating with pharmaceutical companies on our behalf.

The people's revolution needs to demand that there be a stop once and for all to special interest money controlling the legislative process. Some people have called that "legalized bribery," and the allegation is not far off the mark. We really need a citizen revolution on the question of money received by legislators from PACS and other special interest organizations. Is this really a free speech issue, as the big corporations would claim? It is interesting that corporate America is for democracy and free speech when it comes to their buying off legislators, but they are against it when it comes to participation of their own shareholders. Such hypocrisy must stop, and perhaps the citizen revolution will direct its energies to such excesses.

The Beatles were not wrong when they sang, "If you want a revolution, you have to free your mind," but revolutionary fervor needs to express itself in a continuous and constructive way. We were lucky that in 1776 the Greatest Generation had leaders of principle and virtue, who read Cato and understood what he meant. Hopefully, the revolutionaries of today will look to independent and honest leadership and focus their energies on freeing the minds of their legislators from big money that controls the outcome of legislative votes.