

# Public Domain

by Steve Krulick, Senior Civics Columnist

## The Sovereign People

*"In free states, the people form an artificial person, or body politic, the highest end [and] noblest that can be known. They form that moral person... as a complete body of free, natural persons, united together for their common benefit; as having an understanding and a will; as deliberating, and resolving, and acting; as possessed of interests, which it ought to manage; as enjoying rights, which it ought to maintain; and as lying under obligations, which it ought to perform."* – Justice James Wilson (signer of the Declaration of Independence, delegate to the Constitutional Convention, part of the first Supreme Court appointed by Washington, and professor of law at the University of Pennsylvania)

I'd like to continue my elaboration of the concept of "The People" that capped the previous series, and show its relevance to such local issues as, say, village dissolution.

Actually, nearly every column I've written has, in some form or another, been a variation on the theme of "Who are the People and how do they govern themselves?" Such questions were the seeds from which our political roots and branches (and the nation that grew upon them) sprang forth and flourished. They remain relevant today, and we can't even begin to talk about (or fix) government unless we know the principles behind our government.

The Founding Fathers were steeped in the philosophy of *The Enlightenment* (or *Age of Reason*), and drew upon the thinking of such luminaries as Locke, Hobbes, Montesquieu, Rousseau, Hume, Burke, Kant, and Paine. Rejecting the divine right of kings, and religion's influence in government, and arguing that social organization and decisions be based solely on rational analysis or scientific observation of nature, they reached a "self-evident truth" that "equal" individuals have inherent rights, and thus may join together freely to protect themselves and those rights.

One of the best expressions of this understanding, and of the relationship between an organized society and its members, was in John Adams's Preamble to 1780's *Constitution of the Commonwealth of Massachusetts*, one of the models for the future US Constitution:

"The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life; and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness. The body politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good."

This is further defined by, of all persons, Noah Webster. Yes, the future author of *Webster's Dictionary* was already an ardent Federalist who described in his 1785 *Theory of Government* the ideal we should aspire to.

(Note, when he uses the term *state*, it can apply to any level of polity, from village or town up to nation; when he speaks of *individuals*, *members*, or *citizens*, he meant *freemen*: free, white, males of legal age. Often this was called *freeholder* when referring to *property-owning*, free, white, adult males. The term *elector* was often used in local or state documents, which may have restricted *political capacity* even further by requiring local residence for a certain period of time. Since then, blacks, then women, then 18-year-olds, have been *incorporated into the Freeman Class*. Their participation in the *collective* rights of "the People," such as in the Second Amendment – and the *distributive* rights to members of the People Class, such as in the First and Fourth Amendments – is now secured.)

"In a state of nature, where every individual has rights, and has no power but his own strength to defend them, his person is constantly exposed to the abuses, and his property, to the encroachments of his more powerful neighbor. Hence the origin of a social compact which, either expressed or implied, is the basis of all civil government. This compact is nothing more than an association of all the members of a community, by which each individual, for his own security, consents to obey the general voice. This association of all the individuals of the community is called the *body politic* or *state*. The members, spoken of collectively, are called [the] *people*; spoken of severally, they may be called *citizens*; and each member, being under the control of the whole body, is, in this respect, a *subject*.

"The public body engages to protect the person and property of each member, and each member engages to be obedient to the public body. In other words, each individual engages to assist his fellow citizens in protecting the rights of the whole, merely from a regard to his own safety; and each engages to yield obedience to the public voice from the same motive...

"A state thus formed by compact is a sovereign power and has a right to command the services and obedience of each member... The sovereign power is the whole body of the people collectively, and the people will never make laws oppressive to themselves... because the same power which frames a law, suffers all its consequences, and no individual or collection of individuals will knowingly frame a law injurious to itself... These principles apply, with equal force, to representative governments. When, agreeably to the constitution, a hundred men choose one person to represent them in enacting laws, they give him all their own power; he is their agent and substitute; his voice is the voice of his constituents; his consent to a measure is as binding upon the hundred as their own.

"A people cannot divest themselves of the sovereignty, and when they choose a magistrate or governor, they appoint only a servant to execute their orders. Whenever an executive officer exceeds the limits of his duty or ventures to administer justice upon any rules or principles of his own, he encroaches on the sovereign power i.e., becomes a tyrant and forfeits his life. But while he is invested with the power of executing the laws, he is a public servant; not, as some people foolishly imagine, a servant of any individual, but a servant of the state and responsible for his conduct to the sovereign power.

"From the preceding considerations, it so follows, that there are three distinct relations subsisting in a well organized society; the relation of citizens to each other as individuals; the relation of each citizen to the whole collectively or sovereign power; and the relation of each to the magistracy or executive authority. Every individual has a share of the sovereign power, every individual is a subject of that power and a few only, who are public servants, are vested with the right of administering the laws.

"The people in their collective capacity, enact laws; the magistrates receive the laws from them with the power of the whole body to enforce them; and the people, in their individual capacities, yield obedience to the laws. On a due observance of these respective rights and duties depend the peace and happiness of government. If the supreme power would execute laws; if the magistrates would enact them and the subjects refuse to obey them, disorder would succeed and despotism or anarchy be the fatal consequence."

As I could not have expressed this any better myself, I hope you didn't mind my letting Old Noah go on a bit; I suggest reading it a few times until the subtlety and import sinks in. THIS is how the men who framed our Constitution and original laws thought! THIS is what they handed down to US. IF we are upset with how our governments and our *servants* seem not to be working well, it may be that we have simply strayed from these fundamentals.

Next: The People (Village) vs. The People (Town).