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Look What You Missed!

Is a New Constitution in Our U.S. Future?

Synopsis of the January 2005 WFS Washington DC Chapter dinner program presented by Joseph F. Coates, founder of Coates and Jarratt, Inc.; summarized by Tommy Osborne

What are the limitations and defects of the present US Constitution? Can legislation and amendments fix them? What should be different in a new Constitution? Who favors or opposes the idea, and how do we get there from here? These fundamental questions -- never more timely, given the highly polarized US electorate -- were explored by Joseph (Joe) Coates, renowned futurist thinker and writer, and the WFS US National Capital Region Chapter at the January dinner program.

Recognizing at the outset that the US Constitution is the finest political document ever written, Coates asserted that it is on the road to obsolescence because it is out of tune with the times and cannot cope adequately with complexity. Although the need for fundamental change in the US Constitution has already been highlighted in a book written more than 30 years ago by former members of President Franklin D. Roosevelt's (FDR's) administration, the idea has not caught on with political scientists and public administrators. Says Coates, this is because the former are busy explaining how the system works while the latter are busy keeping the system (prescribed by the Constitution) working.

WHAT'S WRONG?

What's wrong? Coates pointed out several flaws. First, the electoral system is defective, because it forces Presidential candidates to focus on swing states. If a state is definitely in the "A" or "B" column, then Presidential candidates find no need to campaign there, and the citizens of those states have no incentive to vote. At the time the Electoral College was established, our society had difficulty marshalling a large number of people, and transportation was slow.

Secondly, there is no foreign perspective, except as filtered through business and special interests, even though the outcome of US foreign relations impacts a large number of people. If we could have heard from the Iraqis several years ago or from the Iranians many years ago, our world would be different, stated Coates. [This presumes that the State Department and our reciprocal embassies with other nations are also incapable of presenting a foreign perspective. – Osborne]

Third, we have problems now that do not fit the existing 200+ year old political divisions. There are issues involving the separation of power among the federal, state, county and local levels. During the colonial period, transportation and communication were slower, there were more local issues that had no impact on people 200 miles away, and disparate state interest made states rights more relevant. Now, communication is instantaneous, voting is unbalanced between rural and urban areas, and economic and environmental issues are regional, crossing multiple states. Suggested Coates, perhaps our 50 states should become 7-10 provinces, since the present state boundaries are not relevant under the global economy and do not correspond to today's issues.

Furthermore, Congressional service has become a career and is no longer a part time calling. Long-serving members of Congress can't go back to their former occupation and have often lost touch with their constituents. Members of Congress may need a right of return to their former jobs.

A fifth issue put forth by Coates is that to have an effective international community, nations including the US need to surrender some of their sovereignty. There is nothing in the US Constitution on international trade, since international trade was on a small scale when it was written. Observed Coates, "Our troops never commit war crimes," we say, in defense of the US decision not to join the International Criminal Court.

In addition, the legal system is out of control. Lawyers are the ones who make laws, impose them (in conjunction with regulatory agencies), and prosecute and defend. Now, we have an overly litigious society in which "justice" is often a matter of twisting a law to one's advantage, according to Coates.

Finally, Coates also listed a myriad of social problems as proof that the Constitution requires drastic change. For example, Congress doesn't address hard issues such as immigration and border control, 40 million people in the US have no health insurance, the US ranks near the bottom in education (except at the graduate school level), and voter turnout is limited (although people tend to vote more in local elections, which they view as more relevant). Furthermore, the Supreme Court has a penchant to make the most important decisions by looking backward.

THE WAY FORWARD

Coates said that these problems cannot be solved by legislation and that the amendment process is too cumbersome and too protracted. There are two amendment mechanisms. The first is a Constitutional convention, which has never been done since the present Constitution was adopted. This route may entail difficulties in picking convention delegates and in ensuring that the convention remains focused on the problem it was sent to solve. The other process, via Congress and the states, is more protracted and in fact is too slow in a rapidly changing world, but it has produced amendments.

So, what should be different? Require a forecasting unit for the whole government, suggests Coates. Revise and update the Bill of Rights – after all, who fears soldiers will be quartered in their homes? Give the vote back to felons who've paid their debt to society and take away the vote from the mentally unbalanced, including those with Alzheimer's syndrome. Establish a way for "ordinary people" to hold more offices. Ensure that laws are unequivocal and not deliberately left fraught with ambiguities for the courts to resolve.

Despite the shortcomings, almost nobody favors changes in the US Constitution. Coates singled out various groups that are opposed – for example, Jewish activists, who focus on the Bill of Rights to prevent another Holocaust, and the American Civil Liberties Union, which wants to preserve the status quo. To this list, he added people who are afraid that extremists will take charge and states rightists who want to preserve the separation of powers.

He proposed a two- to three-year preparatory process to educate the electorate on the need for change – via TV and radio programs, surveys, newspaper articles, high school and college courses, a blog, etc. – at an estimated cost of \$100 million. Another means is a WIKI constitution, similar to the WIKI-pedia, an encyclopedia written entirely on the Internet – self-corrective as diverse viewpoints are posted. At the end of the three year period, suggests Coates, have a mock Constitutional convention, followed by a real one.

PRACTICAL EXERCISE

As if to start the mock Constitutional convention, Coates led an index card exercise, in which program attendees were asked to list the Constitutional changes that they deemed necessary. The exercise yielded broad consensus on the following changes:

- Eliminate the Electoral College
- Develop new states that might be more relevant to regional issues
- Restrict campaign contributions to no more than one day’s pay to be spent on any candidate
- Clarify civil liberties
- Federalize education (presently, the Federal government contributes 8% of the total education budget)
- Base the new Constitution on well-written, broad statements, specific to the 21st century.

Q&A (as best captured)

A lively comment, question, and answer session followed. Several commented that the strength of the US Constitution was its simplicity. A constitution that attempted to solve current social problems would be as complex and as frequently in need of revision as the US Tax Code. According to Coates, there are two forcing functions for Constitutional change. First, the tradition of surrendering some civil liberties to government during wartime may become too onerous in an open-ended war against terror. Secondly, a significant change in the historical distribution of wealth is occurring now – a decreasing percentage of wealth in the bottom quintile of society, concurrent with significant growth in the top two quintiles.

Mr. Coates concluded that although the US Constitution should not be rewritten to solve all social problems, it should embody the fundamental principles, address lateral entry into politics, focus on schools, and resolve the issues of complexity. “The simpler the rule the greater the ambiguity,” he noted. The revisions should involve as many people from as many walks of life as possible, not just politicians. The job can be done in three years for \$100 Million.

*The founder of Coates & Jarratt, Inc. **Joseph Coates** has consulted with 45 of the Fortune 500 companies as well as with numerous smaller firms, scores of professional, trade and public interest groups, and all levels of government. A prolific thinker and writer on futurist trends and analyses, Mr. Coates is the author of more than 300 articles and five books. Mr. Coates continues to offer his incisive vision and commentary to clients as part of his own consultancy, Joe Coates Consulting Futurist, Inc., www.josephcoates.com.*

POINTS FOR THE CLASSROOM (send comments to forum@futuretakes.org):

- *Does the US need a new Constitution, and why or why not?*

- *How should a national constitution balance relevance and timelessness? Simplicity (and ambiguity) vs. detailed clarity? How does a nation's constitution remain relevant in this era of rapid change?*
- *What can be learned from the European Union's efforts to draft a Constitution?*
- *Will a new Constitution increase voter turnout (compare with points for consideration for "Downsizing Democracy..." this issue of **Future Takes**)?*
- *Given that today's polarizing issues – e.g., abortion, the Iraqi war, globalization, oil drilling, stem cell research, the definition of marriage, and the federal judiciary – do not correspond to state boundaries or geographic regions (unlike the pre-Civil War era), what is the best way to ensure that diverse interests are represented and heard?*