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State's liberty protections born on the Fourth of July

By Richard B. Sanders

We Washingtonians have double cause to celebrate the Fourth of July: the Declaration of Independence and our state constitution.

Both were born on the Fourth of July and both provide us with the liberty we cherish.



In fact, our state constitution's Declaration of Rights makes the federal Bill of Rights look like a weak sister. In almost every area, our state protections are much stronger.

It is especially important to remember during this very political presidential election year that the love of liberty is not a partisan issue.

I had the honor of speaking this year at the Republican, the Democrat and the Libertarian state party conventions. At each gathering, the delegates were equally thankful for the blessings of freedom granted by our constitutions.

It was not by coincidence that our state constitutional convention convened in Olympia on July 4, 1889. Earlier that year, Congress had passed an enabling act paving the way to Washington statehood provided we ratified a state constitution that was not "repugnant [to] the principles of the Declaration of Independence."

Unfortunately, those principles, as well as our state constitution, seem a well-kept secret. Not once during my formal education in public school or the university (even law school) did I hear mention of the state constitution, nor do I recall much of an explanation about the declaration beyond that is where we declared our independence from Great Britain.

Yet, the times they are a-changing. Today, law schools teach the state constitution and our state Supreme Court views it as our most important bulwark of our liberty, more so than the federal Bill of Rights.

The state constitution gives us all much to celebrate, and it is consistent with the Declaration of Independence.

We often recall these words from the declaration:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness, — That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed ... "

In the declaration, equality and consent to be governed are inextricably linked: If we are truly equal, no one person may compel another to do his bidding. So it is with government; we are governed only by our consent.

But that consent is not a blank check — it is a contract between the people and their government. It grants the government authority to do some things, while leaving everything else where it always was — with the private citizen.

Our contract with our state government is our state constitution.

Like the declaration, our state constitution tells us the purpose of government. Article 1, Section 1, provides:

"All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights."

That phrase, that the government is "established to protect and maintain individual rights," is all too often forgotten, by governments and by the citizens.

It is a paraphrase of the Declaration of Independence. Let us recall the whole idea behind the declaration was that British colonial rule had ceased to protect the rights of the colonists but had invaded those rights. The British had stood the purpose of government on its head, and, under those circumstances, Thomas Jefferson and the other Founding Fathers declared their right to set that government aside and start over.

We can see that purpose — that love of individual liberty — in our state constitution in many ways. First, there is a limited delegation of power. Second, there is a separation of power between not only the executive, legislative and judicial branches, but also what some call the fourth branch of government, the people's right to legislate through initiative and referendum. Third, there is the Washington Declaration of Rights.

Our state Declaration of Rights contains powerful guarantees. Our freedom of speech is greater; our freedom of religion is stronger; our guarantees of privacy are not left to implication (privacy isn't mentioned in the U.S. Constitution) but are express; rights associated with our civil right to own and use property are broader; our state right to keep and bear arms is clearly an individual right (unlike, some would argue, the Second Amendment).

Unlike the feds, in our state, the government cannot search our garbage can without a warrant, the police cannot screen or search the public in roadblocks, and Donald Trump cannot cause private land to be condemned to build another casino.

So on this Fourth of July, let us light one off for the first protection of our liberty — the Washington Constitution.

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