



Jeff Geiger Counters

Constitutional Ruminations in Boston

By: Jeff Geiger. *Thursday, April 28th, 2011*

My attendance at a legal conference in [Boston](#) has allowed me a chance to reflect on the remarkable stability of our country's legal system. Clearly, to err is human and our judicial branch has had and will have numerous screw ups. Yet, I am chastened by the fact that when a judge makes a ruling, we abide by it like it or not. And, if not, the executive branch will (generally) enforce it.

Yesterday, I ran by the site where Massachusetts confirmed its assent to the [United States Constitution](#) over two hundred years ago. While many would describe the Constitution as a living document in the sense that it "evolves" as our nation ages, I disagree. Instead, I suggest that it is alive such that it retains its relevance, meaning and potency as originally written. This is so without the need to infer, imply or suggest what it "really" means in the context of our contemporary society.

For example, our First Amendment guarantees (among other rights) the freedom of speech. Can anyone claim that the advent of new technologies changes this right? No. Yes, I get it, what would have been deemed profane or unspeakable in times ago may very well no longer spark contest and outrage. But I know also that we must guard against efforts to prevent those who would restrict speech simply because they deem it divisive or hurtful.

The endurance of our founding law was driven home today by a speech from former federal district court judge and United States Attorney General [Michael Mukasey](#). Not one to mince words, Judge Mukasey enunciated a clear need for lawyers, judges and citizens of all stripes to reject the inclination to bureaucratize our obligations to further justice and, critically, to defend freedom and liberty. The terrorist attacks of September 11, 2001, awakened our nation to both internal and external threats. In response, our government acted boldly, swiftly and in a bipartisan fashion. Ten years later, many stand ambivalent or concerned that the actions of all three branches government overreached. From what I gathered, Judge Mukasey declines such assertions. As do I.

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Sitting thirty floors up in the city that held the first tea party and shed the first blood for our independence is inspiring. Notwithstanding the foibles and failings, still more inspiring is the enduring legacy of our judicial system.

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