

ESSAY #3-CONSTITUTIONAL RIGHTS

The third essay will continue the discussion of the writing, ratifying and implementation of the Constitution. It will provide a more complete answer to the question posed in the second essay. The United States Constitution is the fulfillment of the ideals contained in the Declaration of Independence which did not specify the type of government that would insure those ideals. The Constitution established a republican government with limited and defined powers that was obligated above all else to guarantee and protect the unalienable rights given to Americans by their Creator. Most people would consider the Bill of Rights the section of the Constitution that delineates what our unalienable rights are. However, the framers had already written protections of rights into the seven articles of the original text of the document.

The scope and purpose of Articles I, II, & III have already been addressed in the first essay. These articles established the three branches of the federal government, delineated the powers of each branch, and the length of time members of each would serve. Further, the articles include provisions for the protection of individual rights. In Article I, the framers made it possible at that time for any American male to be a member of the House of Representatives if that person was twenty-five years old, a citizen of the United States for at least seven years, and an inhabitant of the state from which he would be chosen. To be a United States senator, one need be thirty years of age, a citizen for nine years, and an inhabitant of the state from which he would be chosen. To be President, one needed to be thirty-five years of age, a natural born citizen, and a resident of the United States for fourteen years. Almost any male, and now, any American theoretically could attain any or all of these offices based on these very limited qualifications.

To further enhance individual rights, in Article I the framers prohibited the suspension of the writ of Habeas Corpus except in time of war or insurrection. Nor could Congress pass any bills of attainder or ex post facto laws. Nor could it grant any title of nobility. These prohibitions insured the individual's rights against intrusion into or restrictions on their lives by the government. Lastly, one of the powers of Congress is to secure, at least for a time, copyrights and patents to protect the intellectual property of authors and inventors.

Article IV guarantees that all citizens of each state shall have the same privileges and immunities of citizens in the several states. Further, territories and their inhabitants may be admitted to the Union as states with the full privileges and protections citizens of the original thirteen states had been given. Every state and their citizens would be guaranteed a republican form of government by the United States.

Article VII provided the means of ratification of the new constitution. The affirmative votes of nine states would result in its approval. The ratifying conventions would be made up of citizens of each state. Neither the state legislatures or governors would be a part of the ratification process.

The Preamble of the Constitution, written by Gouverneur Morris, confirmed that the purpose of government in the United States was/is to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for all Americans then and in the future. Most important of these is the last-secure the blessings of liberty as prescribed by the Declaration of Independence.

Once the drafting of the Constitution had been completed on September 17, 1787, and even more difficult process had to occur before it could be implemented. It had to be ratified by nine of the thirteen original states. Immediately, sides formed in the ensuing debate. Those in favor of the ratification were the Federalists, led by among others, George Washington, Alexander Hamilton, and James Madison, the "Father of the Constitution". The Anti-federalists were opposed to ratification. Among its members were some very prominent Americans such as Sam Adams, John Hancock and Patrick Henry. Ratification had to be accomplished in each state at conventions of citizens. The first

state to ratify the Constitution was Delaware. The ninth was Virginia, New York the tenth. The last was Rhode Island.

Crucial to the Constitution's implementation was the work on Alexander Hamilton, James Madison and John Jay. Together they wrote eighty-five essays supporting ratification. These essays, known as The Federalist Papers, remain today the best source for explaining the ideas and principles Americans held in the 1780's and which they must hold dear today if they are to be assured the continued existence of the republic and their God given rights. Reading these essays should be required of every American, most especially those who are elected or appointed to public office.

Though the Anti-federalists lost the debate over ratification, their objections were not entirely rejected. Their most important objection was the absence of a bill of rights from the Constitution. They rejected the Federalist contention that the seven articles in the original document were enough to insure protection of each American's inherent rights. The promise by the Federalists that these would be added insured ratification of the Constitution in several states. During the first Congress, James Madison proposed fourteen amendments, twelve of which were approved by Congress, and ten of which were eventually ratified, becoming the Bill of Rights.

Among the rights guaranteed every American are freedom to practice one's religions without interference by others or the government; the right of free expression; freedom of the press; the right to assemble; to possess firearms; to be safe in one's home; to be free of illegal search and seizure; to the right to trial by a jury of one's peers; to due process of law and equal protection under the law; the right to own property and to be properly compensated for its use by the public; the right to bail; protection from excessive fines, imprisonment or punishment. The Ninth Amendment asserts everyone's God given rights are more extensive than those previously noted. The Tenth Amendment reserves to the states and the citizens all powers not specifically delegated to the federal government. Other amendments protect the individual's rights. They are the Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-fourth, and Twenty-sixth. The most critical word in any discussion of rights in the United States is the "Individual". It is the individual whose rights are protected, not any group. It must be understood that no groups are given rights in the Bill of Rights or additional amendments. It is strictly the individual.

The founders did not believe the unalienable rights of life, liberty and the pursuit of happiness came from any social compact, king, emperor or governmental authority; but that these rights came directly and exclusively from God. As a result, they must remain sacred and inviolate. The concept of unalienable rights was not exclusive to the founders. John Locke was the first to enumerate these rights when he wrote all humans, being equal and independent, shall be safe from harm by another in his life, liberty and property. They were well understood by English defenders of common law, among them Sir William Blackstone who wrote eleven years before the Declaration of Independence that each person has the natural right of personal security; the right of personal liberty; and the right to private property; and that these will remain inviolate.

In June, 1776, George Mason wrote into the Virginia Constitution that "all men are created equally free and independent and have certain inherent and natural rights..... , among which are the enjoyment of life and liberty, with the means of acquiring and possessing property". Property then and now does not just mean the land your home might sit on. It includes an individual's intellectual property, his/her home and possessions, his/her business and contents, his/her clients and customers, business profits, family inheritance, and, as Jefferson said in his first inaugural address, the bread (wages and salaries) each person has earned. The founders felt that without the ability to own property liberty did not exist. In their minds the ownership of property distinguished the United States from other countries, then and now. Call me a conspiracy theorist but this right has been and will continue to be threatened by an intrusive government beginning with the ratification in 1913 of the Sixteenth Amendment, giving Congress the power to lay and collect taxes on income.

No human legislation can “abridge or destroy” unalienable rights, unless an individual shall commit some act that causes him to forfeit them. Life, liberty and property do not exist because men have made laws. The fact that these rights existed beforehand caused man to make laws for their protection. Both the Constitution and the Bill of Rights guarantee and protect the natural rights of all Americans, past, present and future. These documents as well as the Declaration of Independence are without precedent in world history; and cannot be compromised.

One thing that all Americans must be aware of is no other human can grant a right or rights to another person or group. When this becomes acceptable there will always be losers. Giving rights to one person or especially to a group results in another person or group losing theirs. In human interactions, there are always tradeoffs. In the case of our unalienable rights that cannot happen. No human, no matter his/her status or position in society, is so perfect, wise, humane, unselfish, caring, to be able to make the determination as to what rights one person may or may not have, and what rights can be taken away from one person and given to another. Our unalienable rights are immutable. Any attempt to deny these rights to an individual is the beginning of tyranny. The Constitution and its delineation of rights and responsibilities must be respected and adhered to in order to safeguard its future and ours. If not our republic becomes nothing more than another authoritarian/totalitarian state.

In closing, some questions that need to be asked: If you feel there are certain protection of rights in the amendments and clauses in the Constitution that need to be repealed or are out-of-date, what rights that you hold dear are you willing to give up in return? If one amendment such as the Second is repealed, what can stop the repeal of any or all of them that protect and guarantee one's unalienable rights? And if during the present “pandemic”, politicians and medical “experts” have claimed public health pre-empts the Constitution, how often might these some people limit one's ability to attend religious services, operate a business, go to school, or go to work during a “crisis” of their own choosing? I believe President Ronald Reagan stated very clearly that the loss of freedom is never more than one generation away.

Doug Borchert

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