THE CONSTITUTION OF THE UNITED STATES

Presented by

Amendment Avenger
CONSTITUTIONAL HISTORY

The Declaration of Independence
Articles of Confederation
Critical Period
Declaration of Independence

- Taxation Without Representation?
- 17 of 27 grievances.
  
  Listed
  11x: Abuse of Representative Powers
  7x: Abuse of Military Powers
  4x: Abuse of Judicial Powers
  2x: Inciting Domestic Insurrection

- Recognizes God 4 times and establishes the protection of life, liberty, and property as the FOUNDATION of good government according to contract and consent of the governed.
The Articles of Confederation

- Drafted principally by John Dickinson in 1776.

- Formally ratified in 1781 (had to be ratified by all the States, not nine as in the Constitution).
The Articles of Confederation

- Unicameral legislature
- No executive or judicial branch
- A loose confederation of independent States, the “stile of which was the United States of America.”
- Article II: State sovereignty declared; “expressly delegated” powers and the 10th Amendment.
- Article III: the “general welfare…” carried over to the Constitution.
The Articles of Confederation

- One State, one vote: 2-7 representatives.
- The Congress could not tax the people directly or regulate trade.
- The Congress had to make formal requests to the States to raise troops or fund the treasury.
- Congress could appropriate and borrow money and handle foreign relations, but those powers were limited.
The Articles of Confederation

• Why?
  • Distrust of a strong executive—no American king.
  • States already had republican governments. Another was deemed unnecessary.
  • Local vs. municipal argument and the British model.
  • Provincialism, i.e. States as their “country.”
The Articles of Confederation

- James Madison Research Project and Report (April 1787) “Vices of the Political System of the United States”

- States ignore/fail to meet congressional requisitions
  - States encroach on federal authority (Georgia’s Indian treaties, Virginia’s compact with Maryland, Pennsylvania’s compact with New Jersey, troops raised by Massachusetts)
  - Violations of law of nations and of treaties (French treaty, Dutch treaty, Treaty of Paris)
  - States violate each other’s rights
  - Inability to cooperate—as in creating canals, colleges, copyright laws, etc.
“Vices of the Federal System…” (continued)

• Inability to guarantee states’ republican forms of government

• Lack of enforcement power

• Absence of popular ratification

• “Multiplicity of laws in the several states”

• Frequent changes to, and profusion of, state statutes

• “Injustice of the laws of the states”—which Madison thinks could be corrected via “an enlargement of the sphere”
The Philadelphia Convention

- Why not the “Constitutional Convention”?
- 14 May 1787 – 17 September 1787
- 55 delegates from 12 States—Rhode Island did not send a delegation.
- Some Important members: James Madison, Edmund Randolph, Roger Sherman, John Dickinson, Elbridge Gerry, Robert Yates, Alexander Hamilton, Gouverneur Morris, Robert Morris, James Wilson, and John Rutledge
Nationalists vs. Federalists

- Rats vs. Anti-Rats

Federalists: were actually nationalists
Anti Federalists: were actually federalists

- Common misconception about large State vs. small State.
- Nationalists: Madison, Wilson, G. Morris, Hamilton
- Federalists: Gerry, Rutledge, Dickinson, Sherman, Mason, Yates
- George Washington and Benjamin Franklin
- Virginia Plan written by Madison and proposed by Randolph.
The Virginia Plan

- A “nationalist” framework.
- Bi-cameral “national” legislature.
- Representations based on population in both the lower and upper chamber.
- Executive elected by the legislature.
- Judiciary chosen by the legislature.
- Complete overhaul of the central government designed to centralize authority.

- Why?
The Connecticut Compromise

- Not a compromise between large and small States.
- A compromise between a national and federal plan of government.
- Roger Sherman “urged the equality of the votes, not so much as a security for the small states, as for the state governments, which could not be preserved unless they were represented, and had a negative in the general government.”
Hamilton Plan

- Hamilton: An American king, Senators for life, strong central government, the abolition of the States, etc.
- Wilson: Supported every proposal to render the States powerless in the general government
- G. Morris: As with Wilson, generally supported every nationalist proposal and thought States should be compelled to support the general government.
Compromises

• Slavery: Three-fifths compromise and the international slave trade.
• Term length for president and congress.
• Taxing power (tied to the apportionment of representatives).
• A “general” government for the “general” purposes of the Union.
17 September 1787

- The day the Constitution was approved in Philadelphia, but it was nothing more than a scrap of paper at that point. It had not been ratified.
- Mason would rather “cut off his right hand” than sign it.
- No bill of rights.
- 9 States to ratify, voting by State at the Conventions.
What kind of government?

- A federal constitution, rather than a national constitution.
- Madison would be forced to defend a document he did not want in May.
- Federalist Papers: 85 Papers Hamilton, Madison, Jay
- Anti Federalist Papers pushed for Bill Of Rights

- What branch had the most power?
- Power of the States vis-à-vis the general government?
- Judicial review?
- Executive powers?
Preamble

We the People

- Of the United States of America
- In order to form a more perfect Union
- Establish Justice
- Ensure Domestic Tranquility
- Provide for the Common Defense
- Promote the General Welfare
- Secure the Blessings of Liberty (to ourselves and our posterity)

Do Ordain and Establish this Constitution for the United States of America
Seven Institutions

- The People
- The Militia
- The States
- The United States
- The Legislative
  - *Congress (House & Senate)*
- The Executive
  - *(President)*
- The Judicial
  - *(Supreme Court)*

The People exist. Only one of these institutions is deemed necessary. The rest are authorized.

- *Later in the Bill of Rights, The Press is recognized*
Main Body (Text): Seven Articles

- Article I: The Legislative – 18 Powers
- Article II: The Executive – 11 Powers
- Article II: The Judicial – 7 Powers
- Article IV: Relationship between states & federal government
- Article V: Oath of Office, Amendments / Impeachments
- Article VI: Supreme Law of the Land
- Article VII: DONE, Recognizes the Lord & 39 Signatures

Signed on September 17, 1787 and Ratified by ¾ of the States in June 1788. In 2004 Congress declared Sep. 17 as National Constitution/Citizenship Day, Requiring all federal employees to receive training.
Article I

- The Legislative: Section 1
  - Congress Bicameral
  - House of Representatives
  - Apportionment of Representatives
  - 3/5 Clause
  - Senate (State Creatures)
Article I

The Legislative: Section 8

Enumerated Powers Herein (18)

- **Taxes** (Direct & Indirect) (**Power of the Purse**)
- **Coin Money, Regulate, Standards of Weights & Measures**
- **Declare War, Letters of Marque & Reprisal**
- **Raise Army** (**Standing Army 2 years**) + Regulations
- **Build & Maintain Navy** + Regulations
- **Borrow Money** (**Washington & Jefferson**)
- **Uniform Rules for Immigration** (sole explicit exclusive mandate)
- **Bankruptcy**
- **Regulate** **INTERSTATE Commerce** (**not compel**)
- **Define Felonies & Punish Counterfeiting, and Piracy**

- **Make all Laws Necessary and Proper** for carrying to Execution the **FOREGOING** powers and that of the **CONSTITUTION**!!!
Article I

- Forbidden to all government
  - *Ex post Facto Laws*
  - *Unapportion tax (must be backed by Census)*
  - *Taxes on exports*
  - *No Titles of Nobility or Foreign Offices*
  - *Suspension of Habeus Corpus (Invasion or Rebellion)*
  - *Bill of Attainder*
  - *States engage in war with other states unless invaded*
  - *Bills of credit or paper money (Only gold and silver)*
  - *Spending Money without a Law*
  - *Corruption of Blood*
Article II

- Presidential Powers – (11)
  - Head of the Executive Branch (EO’s)
  - Commander in Chief of the Armed Forces
  - Commission Officers
  - Sign Treaties (With the Advice and consent of the Senate)
  - Sign Bill into Law
  - Veto
  - Fill vacancies in the Senate (Temporary)
  - Nominate Ambassadors, Ministers, Supreme Court Judges
  - Appoint anyone else congress allows by Law.
  - State of the Union Address
  - Grant Reprieves and Pardons for crimes against the US

- Must be 35 years old, Natural born citizen, living in US 14 years
- Must take an oath: Preserve, protect, defend the Constitution
Article II
• Executive / Presidency?
  • Provide Jobs
  • Health Care
  • School Lunches
  • Drugs
  • Lifestyle changes
  • Citizenship
  • Spend Money
  • Foreign Aid
  • Make Laws
  • Start Wars
  • Spy on the people
  • Make Enemies List & kill citizens at will
  • Fundamentally Transform America
  • Regulate the Economy
  • Police the World
Article III

• Judicial Branch Supreme Court – (7)
  • Set up inferior courts from time to time
  • Try all federal cases involving United States, Ambassadors, Ministers, between the States, the
  • Except Impeachment
  • Good Behavior

• Judicial Review? Activism: Laws without Amendments.

• Sec 3 Defines Treason: Treason against the United States shall consist in levying war against them, or adhering to THEIR enemies, giving them aid and comfort.

• 2012 NDAA; Sec 1021,1024, 1031, 1032
• Old Senate Chambers (1935), bound or Lord & Masters?
Article IV

• Relationships between Federal and State Governments

• States to give each other full faith and credit in public acts, records and judicial proceedings
• Citizens of each state shall be entitled to the Privileges and Immunities of Citizens in the several States
• States must surrender fugitives of other States upon request
• New States Admitted by Congress
• Formation of new States cannot come from parts of existing States without permission of both States and Congress
Article IV

• What kind of Government?
• Sec 4
  • The United States shall guarantee to every state in the Union a Republican Form of Government,
  • And shall protect each of them against Invasion,....and domestic Violence.
  
  • 1) Representative Republicanism
  • 2) Invasion
  • 3) Domestic Violence

• How will this be done?

“A Republic Ma’am. If you can keep it.”
Article I

• Section 8
  • **Clause 15:**
    • “To provide for the calling forth of the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;”

  • 1) Laws of the Union *(Republican Govt)*
  • 2) Suppress Insurrections *(Domestic Violence)*
  • 3) Repel Invasion *(what sort of arms would an invader have?)*

• **Clause 16:**
  To provide for organizing, arming, and disciplining the Militia,…

Even a rabble can organize and discipline themselves eventually. Disarmed people are helpless, hapless, & hopless
Disarmed Militia are no Militia at all
2nd Amendment

• A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

• Preamble: 1) A more perfect Union, Justice 2) Domestic Tranquility 3) Provide for Common Defense

• 1) Laws of the Union (Republican Govt)
• 2) Suppress Insurrections (Domestic Violence)
• 3) Repel Invasion

Article II Section 2 Clause 1 makes a clear distinction between the Militia and Military. They exist weather Congress acts or not. No recognized Militia of the US.
“A free people ought not only be armed and disciplined, but they should have sufficient arms and ammunition to maintain a status of independence from any who might attempt to abuse them, which would include their own government.”

-George Washington
The Constitution Lists:

- Piracy
- Counterfeiting
- Treason

Only Three Federal Crimes

Don’t be fooled: Beware Rules, Regulations, Codes, Titles & Policies. They are not the rule of law, merely internal government operating procedures.
The United States is not a democracy

IT IS A REPUBLIC

"DEMOCRACY IS TWO WOLVES AND A LAMB VOTING ON WHAT TO HAVE FOR LUNCH. LIBERTY IS A WELL-ARMED LAMB CONTESTING THE VOTE."
~BEN FRANKLIN

IN A DEMOCRACY THE MAJORITY RULES

IN A REPUBLIC THE INDIVIDUAL IS PROTECTED FROM THE MAJORITY.
Article V

- Rules for Constitutional Convention
  - 2/3 States to Propose, ¾ States to ratify. No Presidential Say

Article VI

- Lays Down The LAW:
  - This Constitution, Laws of the United States which shall be made in PURSUANCE Thereof; and Treaties shall be the Supreme Law of the Land
  - Accept No Excuses: Bring the Pain

Article VII

- Acknowledges the Lord. 39 Signatures, 6 from the Declaration. Ben Franklin, James Wilson, Roger Sherman, Rob Morris, George Read, George Clymer
27 Amendments

• Bill of Rights (First Ten Amendments)
  • Non Repeal-able or Revocable (Also have a Preamble)

• 13 Codified Slavery: Freed Slaves (Not Convicted of Crimes)
• 14 Rules for Citizenship
• 15 Black Men Vote
• 16 Income Tax Reviewed 8 Times by Supreme Court 1916-1919
• 17 Transformed Senators to glorified representatives
• 18 Prohibition
• 19 Women Vote
• 21 Repeal of Prohibition
• 22 Term Limits for President
• 24 No Poll Tax
• 26 Voting Age to 18
Sweeping Clauses

- “General Welfare” clause.
- “Commerce” clause.
- “Necessary and Proper” clause.
- “Supremacy” clause.
- The reduction of the Constitution to a series of “clauses.”
What Kind of Constitution?

Three Types of Constitutions

- As Intended
- As RATIFIED
- As Interpreted
Questions?