

It Doesn't Need to Be Rewritten, It Needs to Be Reread



By Paul Engel

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- Does the Constitution matter any more?
- Is there something wrong with the Constitution?
- Does the Constitution need to be rewritten, or just reread?

I've spent a lot of time the last few years wondering why Americans do not celebrate Constitution Day. Then it occurred to me that we have spent so much time and effort trampling the document, along with the freedoms and liberties it's designed to protect, We the People are simply too apathetic to celebrate the Constitution or too ashamed to do so. However, for those of us not embarrassed by our founding document, there is still hope to secure the blessings of liberty for ourselves and our posterity.

Treatment of the Constitution

Like most Americans, I went through school without learning very much about the Constitution. Sure, I learned about the three branches of government, but most of what I was taught about that fact was a lie. I learned about the Bill of Rights, too, but most of what I was taught about that was a lie as well. While I didn't think that much about it at the time, this lack of education turns out to have been extremely

dangerous.

One Generation Away from Extinction

Ronald Reagan warned us about the impact apathy has on freedom.

But freedom is never more than one generation away from extinction. We didn't pass it on to our children in the bloodstream. The only way they can inherit the freedom we have known is if we fight for it, protect it, defend it and then hand it to them with the well thought lessons of how they in their lifetime must do the same. And if you and I don't do this, then you and I may well spend our sunset years telling our children and our children's children what it once was like in America when men were free.

[Ronald Reagan, "Encroaching Control" \(1961\)](#)

Think about the freedoms you enjoy. The ideals and concepts that are so much a part of the warp and woof of society, we've come to believe they are normal. However, a look at history shows that freedom is not the natural state of man, subjection is. A vast number of people throughout human history have been subjects of one form of autocratic rule or another. Kingdoms and empires are the norm. Greece tried a democracy, but they eventually conglomerated and centralized into another form of autocracy. Rome was as a republic, until Octavian became the first emperor. Then, in 1776, a group of freedom fighters declared independence from their mother country, winning their freedom in 1783. Then in 1787, in an attempt to stabilize the union they had created, they replaced the Articles of Confederation with a new Constitution. However, there were still those who sought to enslave their fellow countrymen.

Necessities Plea

Of course most of those who wanted to control others didn't see it as enslaving them. Rather, I believe most of them

simply thought they knew better how things should be done, and the necessity was for others to agree.

Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.

William Pitt (the Younger), Speech in the House of Commons, November 18, 1783

Every infringement on human freedom starts with the idea that the ends justify the means. What was true when William Pitt (the Younger) was speaking from the House of Commons in 1783 is just as true today. The need to deal with COVID was the necessity to take control of your health and, in fact, your life. The need to keep you safe is the claim behind every act to infringe on your right to defend yourself. And the need to make sure you have the “correct” facts stands squarely behind all the calls for censorship and your right to both express yourself and to hear what others think. And We the People simply go along, in large part I believe, because of our ignorance. And for many years, I included myself in that cabal of ignorance.

Fundamental Education

Several years ago I was in North Carolina, working with a couple of international teams. It was a presidential election year, so one day at lunch, someone asked about the electoral college. Since I was the only American on the teams, they expected me to explain this system to them. This was before I had started studying the Constitution, so I stumbled through what I had been taught in school, but ultimately I failed. Here I was, a natural born citizen of the United States, yet unable to explain to a curious group of foreigners how the President was elected. To my great shame, even that was not enough to get me to actually read the Constitution, which explains the process so well.

How can it be that so many born and raised in this country

don't know how its governments work? I believe the answer is simple: We don't read the foundational laws that created it.

Every member of the State ought diligently to read and to study the constitution of his country, and teach the rising generation to be free. By knowing their rights, they will sooner perceive when they are violated, and be the better prepared to defend and assert them.

John Jay, First Chief Justice of the United States

Why do you think the first Chief Justice of the United States thought it so important that everyone read and study the Constitution of the United States? He gives the answer in this quote: So we will sooner perceive when our rights are violated and be better prepared to defend and assert them.

Which to me, begs the question: If reading and studying the Constitution is so important, why do we not teach the rising generation to be free? After all, the Constitution isn't taught in public or most private schools. Based on my research, it's not even taught in our law schools, where you think it would be most important for it to be taught. So why isn't this foundational document taught? I believe the evidence is plain, there's only one reason the rising generation is not taught to be free.

No people will tamely surrender their Liberties, nor can any be easily subdued, when knowledge is diffused and virtue is preserved. On the Contrary, when People are universally ignorant, and debauched in their Manners, they will sink under their own weight without the Aid of foreign Invaders.

Samuel Adams

How better to get the people to give up their rights and liberties without a fight? Without knowledge about our rights, and the tools we have to defend them, the people are more easily persuaded by the siren song of "necessity". For

generations the American people have allowed our public schools to train a more and more ignorant people. I'm not simply talking about our ever falling math and English test scores, I'm talking about people who do not know the Constitution, what their rights are, and certainly not how to defend and assert them.

For 25 years, Freedom Forum has surveyed Americans regarding their knowledge and opinions regarding the First Amendment. According to their last report, [The State of the First Amendment: 2019](#) 29% of those surveyed could not name a single freedom protected by the First Amendment. This was a vast improvement over the 2018 survey, where 40% could not recall a single freedom. Is it any wonder that the concepts of Freedom of Religion, Speech, and Press are no longer regarded to be as central to American society as they once were? We the People have blindly handed over the rising generations to government schools, without any supervision or oversight. Now we're shocked, shocked that government schools did not teach our children to be free, but to be dependent on government.

Benjamin Franklin – Can we keep it?

After the Constitutional Convention in 1787, Benjamin Franklin was famously asked "Well, Doctor, what have we got, a republic or a monarchy?" His response should be ringing in the ears of every American in this day and age: "A republic, if you can keep it."

Listen to politicians and pundits and you rarely hear the United States referred to as a republic anymore. We hear about threats to our "democracy," champions of our "democracy," and even the necessity of protecting our "democracy". Which all shows how universally ignorant We the People have become about our nation. How are we supposed to keep our republic if we don't even recognize it as one? Which may explain some of the calls for change we keep hearing in the media.

Take for example, the attempt to abolish the so-called “electoral college.” I say “so-called” because not only is the term “electoral college” nowhere in the Constitution, but there is not single gathering of the presidential electors.

The Electors shall meet in their respective states and vote by ballot for President and Vice-President

[U.S. Constitution, Amendment XII](#)

Yet every four years we repeatedly hear about the “electoral college” from politicians, pundits, media, and everyday citizens. And based on what they are saying, they are just as ignorant about the Presidential election process as I was back when I tried to explain it to my international colleagues. Another example of our universal ignorance is the repeated discussion of the “national popular vote” for President. There is no national popular vote for President, and there never has been. Since the beginning of the republic, the states have elected the President, not the people.

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress:

[U.S. Constitution, Article II, Section 1, Clause 2](#)

Even the states have gotten into the game of making sure the American people are ignorant of their Constitution. Just eight years ago, the majority of state ballots stated that the people were voting for “electors for President and Vice President”. Four years ago, three-fourths of the states lied to their citizens, telling them they were voting for “President and Vice President.” However, the states still appointed electors that then voted for President and Vice President.

How can we keep a republic when we not only do not know who is

electing people to what positions or even that we are a republic in the first place?

It Doesn't Need to be Rewritten

It still amazes me to this day that roughly 90% of federal agencies are not constitutional. I found out while researching my book that 90% of federal departments and agencies are not exercising powers delegated to the United States by the Constitution, as the Tenth Amendment states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[U.S. Constitution, Amendment X](#)

Now consider that while Congress generally passes a few hundred laws each year, these federal agencies promulgate thousands of rules each and every year. And each year those rules are having a greater impact on our society. As if that isn't bad enough, based on some research I did on the website [USASpending.gov](#), approximately 60% of every dollar the federal government spends is for unconstitutional purposes.

For these, and many other reasons, there have been repeated calls to amend the Constitution. Some have called for Congress to propose amendments to "fix" some of these problems. Joe Biden has asked Congress to propose an amendment stating that there is no Presidential immunity. Others have called for a convention for proposing amendments to do everything from imposing term limits to requiring a balanced budget. Many are concerned that such a convention would lead to an overall rewriting of the Constitution. The problem is, the Constitution doesn't need to be rewritten, it just needs to be reread.

It Needs to be Reread

One of the major reasons I hear people talk about amending the Constitution is to rein in these out of control federal agencies, and especially the rules they keep promulgating. However, a quick reading of the Supremacy Clause and the Tenth Amendment proves we already have the tools to do so.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land;

[U.S. Constitution, Article VI](#), Clause 2 – The Supremacy Clause

While this clause makes quite clear what is the supreme law of the land, it also allows us to determine what is not the supreme law of the land. Federal regulations are not listed as the supreme law of the land, so they are not. In fact, they are not law at all since, as Article I, Section 1 clearly states:

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

[U.S. Constitution, Article I, Section 1](#)

All power for making laws (legislative power), is vested in Congress. Since all federal departments and agencies are part of the executive branch, they are prohibited from making laws, or anything treated as such. And since the Constitution does not delegate the power to make laws, every piece of legislation where they claim to is, itself, unconstitutional. And according to Alexander Hamilton and several Supreme Court decisions, such acts are void and of no effect.

No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are

superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

[Federalist Paper #78](#)

Certainly all those who have framed written Constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be that an act of the Legislature repugnant to the Constitution is void.

[Marbury v. Madison, 5 U.S. 137 \(1803\)](#)

An unconstitutional law is void, and is as no law. An offence created by it is not a crime. A conviction under it is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment.

[Ex parte Siebold :: 100 U.S. 371 \(1879\)](#)

An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation as inoperative as though it had never been passed.

[Norton v. Shelby County :: 118 U.S. 425 \(1886\)](#)

Since the Constitution did not delegate to Congress the power to create federal departments and agencies that enforce powers not delegated to the United States, all the legislation that created these agencies are unconstitutional and therefore void. Furthermore, all the legislation that appropriated monies to these agencies is also void, making their funding embezzlement.

But, Paul, if the Supreme Court has already weighed in on the legitimacy of these agencies, how can you claim they don't legally exist? Go back to the Supremacy Clause and do you know what is not listed as the supreme law of the land? The

decision of a court, any court, including the Supreme Court. I know, you've been taught that the Supreme Court is the final arbiter of what the Constitution says, but that simply is not true. Nowhere in the Constitution is any part of the United States delegated the power to be the final arbiter of its meaning, so according to the Tenth Amendment, that power is reserved. Who is that power reserved to? Since it is not prohibited by the Constitution to the States, and since the States are the only legitimate ratifiers of the Constitution and its amendments, they are the final word on what it means.

Conclusion

Ladies and Gentlemen, this is only the beginning. We have before us the questions of how to enforce the limited and enumerated powers of the United States, how do we balance the federal budget, and how do we handle the powers that the federal government has illegally assumed? Let's face it, depending on where you start, we've been ignoring the Constitution between 100 to 200 years. That means a lot of mistakes have been made, and it is a giant mess to clean up. Regardless of how you would prioritize fixing this mess, I believe it starts with education:

I know no safe depository of the ultimate powers of the society, but the people themselves: and if we think them not enlightened enough to exercise their controul with a wholesome discretion, the remedy is, not to take it from them, but to inform their discretion by education. this is the true corrective of abuses of constitutional power.

Thomas Jefferson

Furthermore, I do not think we fix it through the public schools, or even through private schools. Go back to what John Jay said:

Every member of the State ought diligently to read and to study the constitution of his country, and teach the rising

generation to be free. By knowing their rights, they will sooner perceive when they are violated, and be the better prepared to defend and assert them.

John Jay, First Chief Justice of the United States

It is up to us, to both diligently read and study the Constitution of the United States. I know it sounds daunting, but I can tell you from personal experience, it's not nearly as hard as you've been led to believe. Only after we have a grasp of the fundamental and paramount law can we judge if other laws are complaint with it, if our states should abide by them, and if our representatives are fulfilling their oath to support it. We will also be in a position to teach the rising generation to be free. Note, I did not say have schools teach the rising generation to be free; that is part of our responsibilities as parents. Also, we'll be able to prepare to defend and assert our rights, and do so legally and legitimately.

As we celebrate Constitution Day, I can think of no better way to honor those who pledged their lives, fortunes, and sacred honor to bring us freedom, than to reread the document they gave us to help keep the republic.

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