The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 17: Voting and Elections—Democracy—Cannot Save Our Republic

In today's ever-divisive political climate, the only thing upon which all sides readily agree is, "no matter which way you vote, just make sure you vote."

Nothing is so basic regarding government, or so important, we are told, as voting. Democrat, Republican, and independent alike all agree—no matter what else you do, just get out and vote.

Which begs the question, where does the U.S. Constitution fit into this "elections-determine-all-things-political" mindset?

Indeed, when election winners readily ignore the U.S. Constitution with impunity, why is voting the most highly-praised of all political actions?

What about figuring out how members of Congress and federal officials are able to effectively ignore their sworn oath to support the Constitution?

Given how extensive is this Democracy-rules mindset, a short exercise is in order to see if voting, elections and Democracy can possibly save our Republic.[1]

First, let's say John Doe is a motivated voter. He votes in every election, religiously. He knows American history and government theory, studies candidate positions, and makes informed votes.

Can John Doe save our Republic, with his vote?

No, of course, he can't; John is far from the only person who votes.

Thus, witness the untold hours of effort (and millions and even billions of dollars) spent every election season, in effort to make politics the center of all things, all the time, in every instance.

How about the push to induce every eligible voter to vote in elections, can it save our Republic?

Can the push to make politics the center of all things be an effective method to save our Republic and extend justice throughout the land?

For those who answer, "Yes," please realize that these United States of America were largely established in concerted effort to keep government and politics out of society to the extent possible.

Instead of concentrating on the voter side of the equation, what about viewing it from the position of the candidates, to see if they can save us.

Assume that a conservative Republican wins election to the U.S. House of Representatives. Can he or she save our Republic with his or her House votes? No, of course not, as their single vote is easily outweighed by 434 other voting Representatives.

About all that a single Representative can do politically, within an unconstrained Democracy, is vote "No" on every matter that comes before him or her that is beyond strict construction of the U.S. Constitution (even as that document is ignored, with impunity, by all others).

1. This newsletter isn't recommending to refrain from voting, simply to avoid being consumed by electioneering, while realizing its inherent structural limitations (that voting cannot save our Republic).

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Thus, the majority-rules struggle is far from over—a majority must be sought in the whole House.

Of course, the battle would still not be over even then—even if conservatives win a majority of the House of Representatives—because there is also another House, the U.S. Senate.

However, even a majority of both Houses does not mean success, because the President can always veto any proposed legislation.

Thus, one has to win both Houses of Congress plus the Presidency (or seek a super-majority of both Houses of Congress [to override the President's veto]).

Except, then there are still nine Supreme Court justices that occasionally overturn legislation, so one must get a majority there, also.

But, justices hold their offices "during good Behavior," which evidently includes behavior that runs contrary to their sworn oath to support the Constitution.

Thus, any given political faction must keep both Houses of Congress, plus the presidency, long enough, to outlive the current judges of the Supreme Court who are of an opposite political persuasion (or induce the judges to retire or impeach them).

Let's say that conservatives pull off this political coup—that conservatives find success across the board, for a generation—did or can Democracy save us?

No, because any party enjoying a clear political majority operating within a form of government that extends to inherent political discretion will invariably use that arbitrary power to advance their cause, against the rights of the minority party (with the rights of the private individual being the least of their concerns).

The Tyranny of the Majority will reign supreme in all things, allowing government servants to become our political masters in every corner of society.

But, even if the majority proved angelic and didn't seek to oppress all others, in a Democracy, one must still strive for a majority in all governing divisions, all the time, into perpetuity.

Thus, one may never rest in a Democracy. Nothing is ever certain. Nothing is ever stable. Nothing is ever safe. Everything is always up for grabs, because in a Democracy, it is mob-rule all the time, step-by-progressive-step.

No wonder James Madison said of Democracies in *The Federalist* #10;

> "Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths."

Spectacles of "turbulence" and "contention," indeed. And, don't these words adequately represent the tragic state of affairs today, growing ever more turbulent and contentious by the day?

The one thing that a majority-rules Democracy of inherent power actually does rather well is to polarize people, into opposing factions, as they all strive to gain control of the absolute power therein allowed, over their opponents.

Thus, our present path (towards an "anything-goes" Democracy) inevitably leads to anarchy, chaos and rebellion—the breaking apart of law and order—the quick formation of flash mobs ready to incite violence at every perceived act of injustice.

Concentrating on voting and elections while ignoring founding principles only leads us farther down a path toward political death (Madison tells us), all because we foolishly gave up our Republic of limited powers and accepted Democracy-of-Inherent-Power in its place.

Indeed, imagine the hypothetical example of a government decision to combat "shoelessness," by government taking on the manufacture and distribution of shoes.

Of course, with government standardization, only several types of shoes could be offered. Large percentages of the public would be inflamed into opposing camps with any outcome. Well, that is the inevitable result of bringing too much under the control of a majority vote that knows no bounds.

Given Democracy's unavoidable outcome, it is no wonder that our nation's Founders guaranteed to every State of the Union a Republican Form of Government, in Article IV, Section 4 of the U.S. Constitution.

A Republican Form of Government rests upon legislative representation, the fundamental building block of our Union. "Legislative representation" means elected legislators exercising their delegated powers using only "necessary and proper" means to implement them.

If a given means toward an allowed end is "necessary," but improper, the Constitution tells us it cannot be used throughout the Union. If a method is "proper," but unnecessary, the Constitution says "no" to its use—the allowed means to carry out named powers must be both "necessary and proper" (Art. I:8:18).

And, one of the most important of principles of our Constitutional Republic is that those who exercise delegated powers cannot change those powers.

While members of Congress may propose amendments to the Constitution, only States may ratify them into existence. Only States may change the allowed powers of Congress and the U.S. Government. The President and the Supreme Court never have any part in either proposing or ratifying constitutional amendments.

When the boundaries of allowable government action are kept intact, then even people exercising the highest positions of federal power can do little or nothing to expand their power in opposition to the Constitution. All ways to ends not allowed are foreclosed to those who exercise federal powers in our Republic.

Thus, one can see that the most important matter in our Republic is always *ensuring that the proper parameters of limited government are kept intact*.

And, when transgressions occur, the most important thing is not to look for angels to elect who can then continue to exercise omnipotent power without being corrupted, but to learn how opponents of limited government subverted our founding principles.

So, go ahead and vote, but do not be consumed with electioneering, because it only distracts one from the primary task of discovering how government servants effectively bypassed their sworn oaths to support the Constitution to become our political masters

And, never buy into Democracy's game plan—that election winners get to make all the rules they want followed throughout the whole Union.

Indeed, those who exercise federal authority in our Republic cannot change their own powers—only States ratify proposed amendments to our federal Constitution.

It is understandable why proponents of unlimited power push for pure Democracy, with the winners able to exercise inherent discretion—for that is the only way they could ever hope to exercise the power they so badly want to use to rule the country absolutely.

That said, why would limited-government proponents ever accept that same game plan (voting as the "be-all and end-all" in politics), for that is really the only way they can lose?

Thankfully, our Republic isn't fragile—look how much abuse it has withstood for decades and even centuries. Not even 200 years of errant federal action against the spirit of the Constitution will remain relevant after we take the few appropriate steps to throw off the tyranny that has gained an improper foothold in these United States of America.

Indeed, no member of Congress and no federal official has ever done anything to change the U.S. Constitution. Period. They cannot. There is no need to trim back oppression, step-by-grueling-step. Everything beyond strict construction of the whole Constitution is nothing but a sham, a fraud.

Everything that members of Congress, American Presidents and Supreme Court justices have done in the past, contrary to the spirit of the Constitution, are but temporary actions that may be swept aside by understanding how appearance does not equal truth.

The ~90% of all federal action that is in excess of the Constitution strictly-construed ultimately rests upon the most fragile of [false] legal foundations. They are but legal mirages that don't exist in the real world.

Thus, the only true route to restore limited government and individual liberty is to expose to the purifying light of day the covert secrets of Democracy's resounding success in our Constitutional Republic.

Proponents of liberty must discover the clever loophole used to circumvent normal constitutional constraints.

And, that loophole consists of two parts. The first part is the highly-unusual exception to all the normal rules of the Constitution—Article I, Section 8, Clause 17—the clause for the District constituted as the Seat of Government of the United States.

In the back of their minds, Americans should already realize that the District of Columbia is a highly-unique place—a federal enclave. It is wholly different from the States of the Union. It was created out of States, but is not part of any State of the Union.

Elsewhere, governing power is *divided*—by the U.S. Constitution—into enumerated federal powers and the powers reserved unto the respective States.

But, in the District of Columbia, all governing power is *united* within Congress, by the express constitutional authority of said Clause 17—Members of Congress are expressly empowered to exercise "exclusive" legislation "in all Cases whatsoever."

That members exercise "exclusive" legislation directly acknowledges that no State exercises any governing powers therein. All power is united in Congress, *even the powers normally associated with States*, in D.C.

In the District of Columbia, members of Congress exercise powers that are elsewhere exercised by States—without contravening the remainder of the Constitution, including even the Tenth Amendment!

Patriots foolishly ignore this special clause, because they don't live in D.C. and don't see how laws enacted by Congress for this special place can affect the Union.

In fairness, no laws of any State ever affect any other State, so it is perhaps understandable why Patriots would think that D.C.-based congressional laws don't either, at least at first blush.

But, that is not how the Supreme Court ruled in 1821, when the issue came before the Court.

In 1821, the Supreme Court ruled that:

> "The clause which gives exclusive legislation, is, unquestionably, a part of the Constitution, and, as such, *binds all the United States*."[2]

That laws enacted by Congress in pursuance of said Clause 17 "bind" the States means that the laws enacted by Congress under this special power, do indeed stretch *beyond the geographic confines of the District of Columbia*, and affect all the States.

The Court's ruling does not describe the limited extent of that binding, which, of course, is the vital piece of information crucially left unmentioned.

But, do not expect those who wish to exercise the unlimited power of the District Seat throughout the whole Union to ever volunteer that critical bit of information. It is up to Patriots to learn that missing piece of the American Tyranny puzzle.

Until a new amendment is ratified overturning *Cohens*, the necessary route to resolve the vast overstep of proper authority allowed since 1821 will be by parsing out the true extent that otherwise-local laws of Congress enacted under said Clause 17 actually "bind all of the United States."

That the answer is "only to the smallest of extents" will never be openly admitted, even as that is the answer that must be given when properly pressed.

For instance, the laws of Congress enacted under said Clause 17 "bind" the States to the degree that federal marshals may chase into surrounding States suspects who have allegedly broken D.C.-based congressional laws, without having to seek an extradition order (i.e., without formally requesting any State that captures these suspects to send them back to D.C.).

The Court was able to hold that even Article I, Section 8, Clause 17 "binds all the United States" because even this clause is part of "This Constitution" which Article VI, Clause 2 expressly details is "the supreme Law of the Land" that binds States through their judges.

Nowhere in Article VI is there an express exception to that [firm] rule that the [whole] Constitution is the supreme Law of the Land. Since Article I, Section 8, Clause 17—for the District Seat—is unquestionably part of that Constitution, then even it is part of the supreme Law of the Land, so says the Court.

Thus, laws enacted by Congress "in pursuance" of even said Clause 17 thereby "bind" the States through their judges. The letter of the Constitution directly supports this holding, even as this holding directly opposes the spirit of the Constitution (in order to make the remainder of the Constitution applicable).

Thus, while said Clause 17—the highly-unusual exception to all the normal rules—is the first part of the one-two knockout punch that allows the Constitution to be sidestepped (in D.C.), the Constitution's Supremacy Clause is the other (that allows D.C.'s congressional laws to "bind" the States).

Members of Congress and federal officials may ignore the vast bulk of the Constitution because it was never meant to restrict Congress when acting locally within the District Seat, essentially as a State-like legislature.

Given this 1821 ruling, federal actions will have a presumption of constitutionality, because almost anything may be done where they may and must make up all the rules. They need only to keep from doing the few things expressly prohibited—all else may be done within their inherent discretion in D.C.

2. *Cohens v. Virginia*. 19 U.S. 264 @ 424. 1821. Italics added.

Members of Congress have always been able to enact local laws in the District of Columbia that had nothing to do with the vast bulk of the Constitution. The primary purpose of the U.S. Constitution is to guide and direct members of Congress and federal officials as they act for the whole Union.

But, one clause allows for members to do whatever they decide, in D.C. In a government that does whatever it wants, do not let this important information pass you by, without studying it further!

Indeed, the idea that Supreme Court justices can "interpret" words found in the Constitution into meanings their opposite for the whole Union is the biggest fraud of all time.

All that the justices have done is take words found in the Constitution and give them a different meaning *in the District Seat*, under their power where all the rules must be made up by those who are to exercise them.

After all, without any applicable State-like or District Constitution in D.C., it is up to members of Congress and federal officials *to make up all the needed rules as they go along*. Who is to say that they cannot take words and phrases found the U.S. Constitution (which have fixed meaning, for the Union), but give them a *different* meaning, for the District of Columbia [that is next extended by deception throughout the Union]?

For instance, nothing in the Constitution prevents judges from taking the words "necessary and proper" from Article I, Section 8, Clause 18 and changing them to mean—in the District Seat—"convenient" (as the 1871 *Legal Tender Cases* remarked, in reference to the 1819 *McCulloch v. Maryland* case [both cases of which ultimately found their authority in Clause 17]).

No wonder Patriots' assertions of "unconstitutional" behavior are so often proven wrong—they foolishly ignore the most powerful clause of the Constitution (that allows anything and everything to be done, excepting only those things expressly prohibited).

One cannot ignore the highly-unusual exception and expect to win legal arguments or court cases (let alone maintain liberty).

Exploring this devious constitutional-bypass mechanism in greater detail is beyond the purpose of this brief newsletter issue. Readers are thus invited to the www.PatriotCorps.org website, where 11 public domain books explore the matter, including the latest novel, *"Trapped by Political Desire: The Treatise."*

It is imperative that Patriots interested in limited government explore the Constitution's highly-unusual exception to all the normal rules of the Constitution, for the future of our Republic is at stake.

While Article VI, Clause 2 does not currently provide any express exemption to its firm rule that the [whole] Constitution is the supreme Law of the Land, that doesn't mean that we cannot correct this oversight. Indeed, we need only to propose and ratify a new amendment that would expressly exempt Article I, Section 8, Clause 17 from being any part of the supreme Law of the Land under Article VI.

No laws of any State legislature bind the Union—neither should the otherwise-local laws of Congress enacted under said Clause 17, either. This correction would allow the inherent discretion within the District Seat to continue to operate, but this allowed tyranny would thereafter be "confined" to district boundaries.

Or, alternatively, we can repeal said Clause 17 entirely, and "eliminate" tyranny from every square foot of American soil.

Our Constitutional Republic of limited powers, exercised only with necessary and proper means, lies in wait for us to reclaim, once we adequately diagnose the single political problem we face (how members of Congress and federal officials are able to ignore the Constitution's constraints, with impunity).

All federal action, exercised throughout the Union, beyond the strictest construction of the U.S. Constitution, may be absolutely contained or entirely eliminated, once Patriots finally diagnose that single political problem we face and apply the appropriate cure as detailed above.

God Bless these United States of America, and to the Republic for which it stands.

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