



Written by [William F. Jasper](#) on September 19, 2008

Turn Off the TV, Dust Off the Constitution

The nation's newspapers were not much better. Typical of coverage by our dailies, was this mention in the *Washington Post*, provided by the Associated Press feature "Today in History" for September 17:

In 1787, the Constitution of the United States was completed and signed by a majority of delegates attending the Constitutional Convention in Philadelphia.



One sentence — 23 words — devoted to Constitution Day. But I suppose we should be thankful even for this, which may be more than appeared in many newspapers. And besides, at least it was four more words than this entry in the same AP story on important September 17 events:

In 1920, the American Professional Football Association, a precursor of the National Football League, was formed in Canton, Ohio.

The *Washington Post* also featured — in its "[KidsPost](#)" section — a short interview with John Roberts, Chief Justice of the U.S. Supreme Court, in which Justice Roberts told students:

Our Constitution is the oldest written constitution in the world. As you grow older, you will have the right under the Constitution to vote, to serve on juries, to run for political office and to participate in government in other ways. So get ready: Study the Constitution. Remember, the Framers designed the Constitution for you — but you have to make it work.

Good advice, Judge Roberts, but advice, unfortunately, that you and your fellow jurists in the federal judiciary regularly ignore at will, greatly to the detriment of our Republic — a point we will return to momentarily.

Presidential Proclamation

Some factotum at the White House, apparently, noticed the date, and President Bush, like his Oval Office predecessors, issued a perfunctory Constitution Day/Week [proclamation](#). It reads, in part:

Americans are united by the ideals of equal justice, limited government, and the rule of law. On Constitution Day and Citizenship Day and during Constitution Week, we remember the vision and determination of the Framers to build a free society, and we celebrate the historical document they created to achieve that goal.

More than two centuries ago, our Founding Fathers gathered in Philadelphia and produced a charter that would promote justice and preserve the liberty of all our citizens. The Founders established three separate branches of Government with a system of checks and balances among them. Ours is the oldest written constitution in the world, and the American experiment remains



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the world's best hope for freedom....

In recognition of the signing of the Constitution and of Americans who strive to fulfill the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106, as amended), designated September 17 as "Constitution Day and Citizenship Day," and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as "Constitution Week."

It is all well and good for presidents, judges, and other politicians to praise our Constitution and commend it for our study. It is far more important for them to obey the Constitution, and to preserve it and pass on its benefits to future generations. That is what all public officials solemnly swear to do when taking their oaths of office.

The Constitution (Article II, Section 1) specifies that before assuming office the President must take [the following oath](#) or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

The Constitution does not give the specific oath for other officials, but [states](#) (Article VI, Section 3): "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution."

Members of Congress all take the following oath:

I, [member's name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

But what do these pledges to "faithfully execute," "faithfully discharge," and to "preserve, protect and defend" and "support" the Constitution mean? That is obvious, or should be, for the most part. The Constitution, as President Bush correctly notes above, was principally concerned with establishing "limited government" and the "rule of law." That is, it was designed to strictly limit the government — not the people. The Founders intended the Constitution — our "law of the land" — as an instrument to tightly bind the central government, to keep it as the servant of the people, rather than the master.

As Thomas Jefferson famously remarked, in 1789: "Free government is founded in jealousy, and not in confidence; it is jealousy, and not confidence which prescribes limited constitutions, to bind down those whom we are obliged to trust with power." He further noted that the Constitution had "fixed the limits" of political power, and declared:

In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Looking around today, however, one sees endless mischief, with government run amok, completely without restraint. Most of what the Federal Government now does — from bailing out Fannie Mae, Freddie Mac, and AIG, to regulating every aspect of our daily business, to engaging in foreign wars and interventions, to providing foreign aid and domestic "welfare" — is patently unconstitutional. How do we know? We simply follow Justice Roberts' advice and "study the Constitution."



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And, as for clarification of what the Founders meant concerning any particular matter, we can easily consult their own writings, such as *The Federalist Papers*. James Madison, "Father of the Constitution," explained in *The Federalist*, No. 45, one of the most fundamental principles underlying our rule of law. "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." The federal powers, he observed, "will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce." The federal government's jurisdiction, he explained in *The Federalist*, No. 14, "is limited to certain enumerated objects, which concern all the members of the republic, but which are not to be attained by the separate provisions of any."

Since federal powers are "few and defined," Congress does not have carte blanche to pass whatever laws it wishes, or to create new departments, agencies, and programs beyond those powers specifically enumerated in Article I, Section 8. This fundamental principle was later reaffirmed with even greater force through the Tenth Amendment, which reemphasizes that the federal government has only those delegated powers specified in the Constitution, whereas all other powers are reserved to the states or the people.

Everyone seems to at least pay lip service to the well-known checks and balances provided by the separation of powers among the executive, legislative, and judicial branches of the federal government. However, the Founders were just as emphatic (if not even more emphatic) about the important check provided by the states against the dangerous concentration of power in the central government. This "compound republic" feature is one of our greatest defenses, they averred. In *The Federalist*, No. 51, Madison writes:

In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments [the states and the federal government], and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.

But, rare is the politician who pays heed to this principle today.

According to our Founders, any federal legislation that supercedes the federal government's constitutional remit is automatically null and void. "No legislative act ... contrary to the Constitution can be valid," Alexander Hamilton noted in *The Federalist*, No. 78. "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."

By this very simple test, many — if not most — of the federal laws on the books today are invalid, i.e., de facto unconstitutional, illegal. Yet our government "servants" continue onward, unabashed and undeterred, with more of the same, exercising unconstitutional powers that are turning them into our masters. The Founders warned that such gradual "encroachments" and "usurpations" presented a far greater danger to our republic and our freedom than the threats of sudden coup from within or invasion from without.

Democrats and Republicans alike are guilty of promoting and supporting vast new unconstitutional



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expansions of federal powers through encroachment and usurpation. Every perceived problem or crisis presents an opportunity for these bipartisan termites to propose "solutions" that will further destroy the foundational limitations on federal power. However, in most cases the crises cited have been exacerbated by — if not actually caused by — previous unconstitutional government actions. So, most frequently, the proper and constitutional solution is to get the government out of the particular activity that is causing the crisis, not to get it even more deeply involved.

When surveying any problem for which government action is being proposed, the first question to be asked should be, "Is government action really necessary and proper?" If that question is answered in the affirmative, then the next questions to be asked, under our system, must be not only which level of government can most efficaciously deal with the issue at hand, but which level of government may legally, constitutionally deal with the matter. For, if there is no authority in the Constitution for said action, then the action is prohibited, no matter how "brilliant" or "necessary." Case closed. If, in spite of constitutional impediments, the proponents still are absolutely convinced of the necessity of their proposal, then they must succeed in amending the Constitution.

This is precisely the point President George Washington was pressing in his Farewell Address, when he stated:

If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Unfortunately, modification by usurpation has become standard operating procedure in Washington, D.C. Democrats and Republicans are competing to promise the most goodies to the most influential constituencies, without any concern for constitutional restrictions against the same.

Where, then, lies the solution? Take a hard, unflinching look in the mirror, John Q. Citizen. The Constitution is not self-enforcing. It is you and I — "We, the people" — who must enforce it, if we hope to preserve our Republic, and our Freedoms. We must bind down the politicians, the judges, and the bureaucrats — as Jefferson said — with the "chains of the Constitution."

As Madison noted in *The Federalist*, No. 49, "a mere demarcation on parchment of the constitutional limits of the several departments is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands."

Madison, writing in *The Federalist*, No. 37, notes:

The genius of republican liberty seems to demand on one side not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people by a short duration of their appointments.

And again, in *The Federalist*, No. 46, Madison declares that "the ultimate authority, wherever the derivative may be found, resides in the people alone."

How can the citizen properly exercise this awesome civic responsibility, this "ultimate authority," unless he knows how his elected officials are using (or abusing) their powers? The answer, of course, is that he can't. He must either examine the publicly available voting records, or simply rely on campaign rhetoric, media spin and party propaganda. Unfortunately, far too many Americans opt for the latter option. However, we need not follow suit; the voting records of all incumbent members of Congress



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(including both major party candidates for president — Senators McCain and Obama) are available from *The New American's* "Freedom Index."

The consequences for failing to avail ourselves of this information before election day could be catastrophic. Daniel Webster admonished his fellow Americans in these stirring words more than two centuries ago:

Hold on, my friends, to the Constitution and to the Republic for which it stands. Miracles do not cluster and what has happened once in 6,000 years, may not happen again. Hold on to the Constitution, for if the American Constitution should fail, there will be anarchy throughout the world.

The economic, social, moral, and political anarchy now growing throughout the world is, in large measure, due to our failures as a nation to heed this admonition. We will have only ourselves to blame if we continue down this course. So, at least for the remainder of Constitution Week, as well as the remainder of the election season, it may seriously behoove us to transfer a small portion of our time and energy from less critically important pursuits to supporting, defending, and preserving the Constitution so that our youngest Americans — along with those still unborn — may have the opportunity to enjoy the freedoms that we have been so blessed to receive.



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