

Why do we care about the Constitution?

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September 6th, 2014

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Introduction

One of my friends, Keith Locke, is writing a book about America. He invited me to write this chapter, giving me only the title as a guide.

Apparently, Keith is staring down the conundrum between *winning elections and maintaining principles*.

When Keith asked me to write this chapter, I was first flattered, then frightened. After a fierce bout with denial over my ability to prepare something not only credible, but tangible, I succumbed to my work ethic and just began writing.

Why we care

The short answer is actually in Keith's conundrum. To wit, we should care about the Constitution because of the principles. After a moment of reflection, I realized that the short answer will not suffice because we have all become rather inured to principles by a couple of factors.

Inurement factor number one is the overworked phrase *It's all in the principle of the thing or I'm not doing it for the money, but for the principle*. The latter is most often used in defense of filing a rather substantial lawsuit. The excuse would be more believable if the award were to be donated to an appropriate charity. But I digress. The use of these phrases has become so hackneyed that all we hear is the excuse. Take this test. When you have heard this phrase, how many times have you also heard the follow up question; *Exactly what principle would that be?*

In short, claiming to stand on principle has become enough to excuse bad behaviour even though the actual principle is never stated. To me, that is a frightening thought. After all, Hitler had principles, Pol Pot had principles, Lenin had principles. Perhaps not the principles that you and I might espouse, but they all had principles.

Inurement factor number two is that so many people don't seem to have many principles at all anymore. In our daily lives, when undercharged at the cash register, would you say it is common or uncommon for the customer to point out the error to the clerk? In the first sentence of this paragraph I was careful to use the phrase *don't seem to have* because the principles are in fact there and rampant. The most commonly adopted principle is the *Principle of self-advancement*. That's not a bad principle. Many would even say it embodies the American Dream. They would be at worst wrong and at best incomplete in their assessment.

To explain my assessment on this, I must first correct the common misunderstanding of the American Dream. Most people might say that the American Dream is earning a living wage; getting promoted; and owning your own home where you raise your 2.4 children with your stunning and supportive wife who also has a career, which endeavor you support as well because you are not a sexist. It is having a 401 or IRA or any other vehicle which allows you to take that trip to Fiji when you retire. That's a pretty complicated dream. The real American Dream is much more simply stated. It is to live in a nation with a government which allows you to achieve all the above pursuant to your own energies. The dream is less complicated. Achieving it, however, is exceptionally complicated.

The point brings up "American Exceptionalism" which is also rather widely misunderstood. I'm not going to debunk the other definitions, but simply offer the correct one (Arrogant of me, isn't it?). What makes America exceptional is *the relationship the citizen has with the government*. That relationship occurs nowhere else in the world. Why? Principles.

We may now, finally, turn to the question at hand: Why we do (or should) care about the Constitution. Let's start by quoting myself (more arrogance, I know - sorry). In other works, I have summarized the Constitution as follows:

The U.S. Constitution is "The embodiment of a philosophy of free choice, born of a common moral code, which is to be enacted by legislation, implemented by the administration, and upheld by the courts while safeguarded by the Citizen Patriot."

I don't want to go off on a tangent here, but that last word, Patriot, is another one that is very often misunderstood and sometimes even used to "guilt" people into doing things that they not only should not do, but which are classically unpatriotic. I am including a definition of Patriot at the end of this chapter.

Let's take this sentence apart. *The Constitution is the embodiment of a philosophy*. That sentence, more than any other component of the answer to the question of why we should care about the Constitution, will give us the insight we need. If the Constitution is just a document that takes our philosophy of freedom and puts it into words, then the actual question becomes moot. We care about the Constitution because we care about our philosophy of freedom.

The next phrase in the sentence is that the philosophy of freedom is *born of a common moral code*. This is important because as a nation, or just as a group of people, there is a need to have a common moral code just so that we can have commonly held standards of behaviour. In this instance, the common moral code which birthed our philosophy of freedom was that we are bound to the morals of a higher power more so than we are bound to a system of government. That higher power gave us "free will" and we are free to exercise it to our benefit or detriment as we choose. As long as we don't exercise our free will to the detriment of others, the government has nothing to say about how we live our lives.

A little bit of a tangent is necessary here. Exercising our free will to the detriment of others is quite different from exercising our free will in a manner that does not aid others. It is the

difference between doing something harmful and failing to do something helpful. Failing to do something helpful does not necessarily result in the detriment of others. It simply allows the others to stew in their own bad decisions.

Our common moral code is also the source of our common understanding of our natural rights. Take a simple test. In the United States, it is considered a natural right to choose your own religion. As I write this (late summer of 2014) there are several thousand people in another country being threatened with the choice of *Convert or Die*. Where this is happening is irrelevant to this chapter. The fact that it does not happen here is important. If we dig a little deeper, we see that the threatening group in the above presented situation does indeed have a common moral code. It just involves killing those who espouse a different religion. The people being threatened also have a common moral code. Their code involves being true to their own religion. My point is that a common moral code all by itself is not quite sufficient to birth a *philosophy of freedom*. It can birth a philosophy replete with principles, but it may not be one of *freedom*.

In 1773, our common moral code included recognizing other people for who they were and accepting a raft of natural rights. I need to go off on yet another tangent now. Please forgive me. We need to have a clear distinction between natural rights and god-given rights. Why? Depending on whom you have declared to be your god (see above) the god-given rights can vary. In the example offered, the threatening group not only had a right to kill the non-converted, they have a responsibility to do so.

Natural rights, however, stem from basic biological assets. The brightest among the readers will also by now realize that this presentation of rights also avoids any need to discuss evolution *vs.* creation. But again, I have now digressed even from my own tangent. To get back on track, biology says that we, as organisms, have a right to eat. We have a right to sleep, growl in the night (or day), choose a mate, and choose to stay with that mate or subsequently choose another. We have a right to shoo others out of the place that we have chosen to sleep in. We have a right to gaze at the stars and invent a god of our own or choose to follow the god invented by our neighbor. We even have the right to decide we have no soul and that there is no god at all. We also have a right to join a pride, school, herd, or gaggle or to go through life solo. We have a right to defend ourselves against predators, whether they be of the same species or not, and to defend our mates and offspring from those same predators. Biology. That's all it is. Nature.

Now for a test (A test in a tangent? - wow. I wish I could stay on track.).

Go through the prior paragraph with a copy of the Bill-of-Rights and read them side by side. They're all in there. Almost. I couldn't quite link cave painting to freedom of the press, but you get the idea. These natural rights, our principles, are reflected in the amendments.

Okay, take the logic train on a big circle back to where I started this tangent and you will see that our common moral code stems from the recognition of these natural rights. There is but one key point of understanding that pins all this together. In accepting our own natural rights (moral code) we are obliged to accept that the person standing next to us has exactly the same natural

rights. That's how nature works. Therefore, if we can shoo him out of our space, he can shoo us out of his. If we can protect our family from him, he can protect his from us. If a third person violates our natural rights, we can join together (into a pride) and rebuff the violations of the third person. It's still just nature and biology and unalienable because we are biological organisms.

So, now our *philosophy of freedom born of a common moral code* is to be enacted by the legislature. All this means is that someone (maybe a clerk in the Library of Congress) is writing our philosophy and standards of behaviour down in a big book known as the U.S.Code.

Of course it is at this point that many may ask why we need to write it down if it is all natural. The answer to that question goes back to the examples I used in explaining different sorts of principles. Even in nature, there is often one among us (e.g. Pol Pot) who decides he is somehow deserving of his natural rights, yet has the ability to deny them to others through force. Whether this person is a guy who comes over and steals your firewood (We're sort of still in 1773 here) or a dictator, men like Hamilton, Jefferson, and Monroe recognized that the larger group of citizens needed to have a more powerful vehicle that might be used to constrain the rogues. There needed to be a government because not everyone followed the rules of nature and natural rights.

These same people also recognized that whatever government they created needed to be constrained as well lest it be hijacked by the same rogues. It is for this reason that the power was vested in the people (through the states) and the Constitution was arranged as it is.

Simply put: If you are forced to have a government, you need to have a document describing what it is supposed to do or the powerful will make it up as they go.

The next topic is the most important concept in understanding the Constitution. It is important because it is what makes it work. It is important because it is not actually spelled out in the Constitution as a goal. The Constitution was written to achieve this goal, not describe it. Simply put, the Constitution is designed to prevent any one man or any small group of men from accruing too much power. In the essay *Power and Freedom* (Appendix B), we find a minimum of forty-seven different places where power is vested in one place to the exclusion of others. The pervasive intent to distribute power is never stated outright and it is often over-simplified into a platitude about the three branches of government. This, then, is the first principle of the United States Constitution: *Power is to be distributed widely lest one man seize it all.*

With the information presented so far, it also becomes apparent why the Constitution was adopted and then immediately amended with the Bill of Rights. The Constitution simply lays out the functional structure of the federal government. The authors (unlike me) thought it unwise to pollute it with tangents and so left what, to many, was an unnecessary acknowledgment of the obvious to the amendments.

The next phrase in the definition, *enacted by legislation, implemented by the administration, and upheld by the courts*, is contained in Articles I through V.

To that structure of government based on natural rights (via moral code and principles) let us now add something not written down: Expectations.

Under this new government, the people of America could expect certain things in life. They could expect to be able to get a job, start a business, run a farm, raise livestock, hunt deer or quail, build a house, go to church, educate themselves and their offspring, and to do so by invoking their own choices of what it is they wished to do. They could expect to be free.

Compare the situation with some others in the world today. There is one nation in which the citizens can expect to run to a bomb shelter at least once a week and often once a day. There are other nations where citizens can expect to be executed for choosing the non-sanctioned religion. There are nations where a man can expect to be punished for teaching his daughter to read. There are nations where a woman who has been sexually violated can expect to be executed because she is subsequently deemed to be unsuited to be a part of the community. There are nations where a citizen can expect to see murders and robbery by those in drug cartels. Similarly, these same expectations can arise from the actions of the government or the police.

The Constitution of the United States offers us the expectation that we will not have to deal with these types of violations of our natural rights.

Recalling that at one time those living in America had a sufficiently common moral code to come to agreement on forming a nation, the people of that nation had little warning that the code might change. The men selected to represent the individual were chosen based on their character, sense of honor, duty, self-respect, and loyalty to their community. They were chosen because they held the same principles as those who selected them.

Over time, as the people literally wallowed in the American Dream (my definition) the principle of self-advancement seems to have crept into the mixture among those in positions of power. Perhaps it did less creeping and instead was only an attractant to those ill-suited to maintain personal honor.

I bring up *honor* because it is a natural outcome of the natural rights. At its core, honor is a self-acknowledgment of personal principles born of natural rights and measured in terms of self-esteem. An honorable man recognizes the rights of others as well as his own and conducts himself accordingly. How well he does in that endeavor is reflected in his self-esteem.

Abandoning principles in favor of the one regarding self-advancement serves only to lower the bar used to measure self-esteem and ultimately destroys any internal sense of honor a person may have had.

Abandoning the American Dream (my definition) for the American Dream (current definition of amassed wealth) has led to the replacement of the expectation of *ample opportunity* with the expectation of *free stuff from the government*.

Following the guidelines as well as the principle of distributed power can be used to reverse this trend and can be used to repair the nation and our society, but only if and when we acknowledge that we need it and that we care about it.

In summary, the long answer is the same as the short answer. We care about the Constitution because it embodies our principles.

To emphasize the point, take notice that the guidance document, the Constitution, of the greatest nation on the planet is only 137 sentences long. The brevity reflects another cornerstone principle of the authors. Specifically, the law, including the Constitution should be readable and understandable by the average citizen, for the final defense of the Constitution and the nation rests in the hands, hearts, and minds of the common man. The constitution was never meant to be *interpreted*. It was meant to be read for what it said and nothing more.

APPENDIX A

“TO BE A PATRIOT”

The word Patriot comes from the Latin, Pater, meaning Father.

To be a Patriot means to act towards one's country as a father would act towards his son.

In today's world, the description is not as gender specific and there are certainly as many women who are patriots as there are men.

Therefore, it is my belief that our daily conduct should always be considerate of the effect it may have on our country; just as we would adjust our daily conduct in light of the effect it may have on our children. The challenge, just as in raising children, is in asking ourselves what sort of country we choose to father.

Being a Patriot requires that we put the needs of our country before our own, just as being a parent requires that we think of our children first.

The greatest implication of a belief such as that above is that when a person is placed in a position of responsibility such as an elected office or an appointed post, they must actually LEAD. People in these positions have a responsibility to envision a desirable future, convey that vision to the people, seek validation of that vision, and take action to make that vision a reality.

Being a Patriot means being involved.

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APPENDIX B

On the Relationship between Power and Freedom

In a pure and utopian world, each person would have complete and absolute power to do whatever he wished. There would be no need for government or laws. People would just get along. But I shouldn't start at the end, so let's go back to the beginning.

Consider the relationship between Power and Freedom. When power is housed in one person, that power is exercised over all other persons and individual freedom is minimized. Objectors will say that even in the most oppressive societies, some personal freedoms remain. While true, the fact that they remain is through the exercise, or lack thereof, of the power of the person in charge. The freedoms allowed can be eliminated instantly.

This is the situation in which the colonists found themselves in 1772. The King held all the power and he could allow or disallow any freedom he chose at any time. He had the power to make crimes of things which had previously not been crimes and to hold people accountable for actions which were perfectly legal at the time they occurred. The most salient and explicit example of such power lies in the ownership of land. The King owned all the land. In a good mood, he would often bestow title to land on a good and faithful servant such as a governor, knight or warrior. If, however, the servant subsequently displeased the King, the land could be taken back. In fact the gift was superficial at best. Similarly, if the King admired your horse, it easily became his horse, and so on.

The concentration of power in the King was at the forefront of Madison's mind as he wrote the Constitution. The thoughts are first stated in the Declaration of Independence, but are laid as a foundation for future freedom in the Constitution. The challenge was to create a system in which no one person could acquire all the power, but that the government as a whole would still have enough power to operate and be effective.

Most people will recognize the three branches of government as the main vehicle for the "separation of powers." The common, but shallow, understanding is that the separation is limited to this division into the three branches of government. That view is, however, so simple and restricted that it conveys an entirely incomplete understanding of how power and freedom interact.

Let's take a closer look at how Madison broke up the power of the King. First, of course, there is the creation of the Legislative, Administrative, and Judicial branches. But within that division are many more.

Within the legislative branch there are two forums; together called "Congress." To make law, both groups of men had to agree. Within each, there were several men, again making passage of law more difficult and serving to give each man a small amount of power even though each house itself had substantial, yet still limited power.

To further distribute power, the Congress, even though already bicameral, was arranged so that each house derived its power from a different source. The Representatives were to be chosen by popular vote of the people within their geographic area while the Senators were selected by the legislatures of the State itself. In this way, even the method of selection served to distribute power, for one man was selected by the people while the other was selected by a secondary source of distributed power, the state legislature. The Representative was charged with representing the individual while the Senator was charged with representing the state. This distributive measure was destroyed by the 17th Amendment making both houses equal with the exception of the length of the term of office. The 17th Amendment, therefore, served counter to the philosophy of the distribution of power.

Power was further diluted by having multiple representatives. The two senators would often disagree and the several representatives from each state would have even more far flung opinions. At least that was the plan.

Should both of these houses, exercising decisions rooted in different origins (people and state), agree on a particular measure (a bill), it must still be signed by the Administrative representative, the President. The veto power itself is not absolute, for the Congress was provided a means to overturn a veto. A less emphatic, but still effective mechanism is the "signing statement." In attaching a signing statement to a bill he signs, the President informs Congress of his interpretation of the law as passed and advises Congress on his intentions regarding its enforcement and implementation. Congress has the authority to reject such a statement and correct the Presidential interpretation, but to my knowledge it never has.

Even after a bill has been sifted through all this distributed power, the courts still retain the authority to vacate all or part of the measure and potentially send it back to Congress. Distributed within the Courts, are even more levels of authority serving to even further distribute power away from individual whimsy.

Delving a bit deeper into the original intent of the Senate and the fact that each state was a sovereign and independent nation at the time of the adoption of the Constitution, we also can recognize that the concept of statehood and state's rights carries with it a distributive feature. Each state, while required to have a republican government, is unique and as individual as the people within it. The differences are reflected in the Senators, thus assuring that only laws suited to all, or at least most, of the states would be enacted.

What about the people who run the government? Even though the classic separation of powers puts the Administration in a different branch of government than the Legislative, the Senate has the power to affirm Presidential appointments to the higher offices within his administration. The Senate also affirms appointments to the Supreme Court. The House has no say in these matters, further distributing power. Treaties with other nations are also ratified by the Senate. In case you wonder why, refer back to the point that each State was an independent Nation. A treaty would be binding on the States, so they wanted the ability to approve treaties at the Federal level. To further dilute power, if the treaty required any spending, the House of Representatives would need to authorize it in the budget. So while the House does not affirm a treaty, it has the

ability to impede its implementation.

In fact, all spending must arise in the House, not the Senate. Sure the President and the Senate can submit suggestions, but it is up to the House to get things moving.

What about getting rid of a President? In an impeachment, the House has the power to impeach, or charge the President with wrongdoing, but the trial is held in the Senate. The Chief Justice presides. In this way, each has a distinct yet limited role and all must agree before a President is removed.

Consider the distribution of power within the very top levels of the Administrative Branch. The original election process did not have the President and Vice President on the same ticket. The winner was the President and the Vice Presidency went to second place. This assured debate even at the uppermost level of the Administration.

There are numerous other places where power is distributed. The greatest of these is in *Private Property Ownership* which prohibits the King (or the government) from owning it all. Further, for the Federal Government to purchase property within a State, even on the open market, the State legislature must approve the sale. Today, one must wonder whether control through regulation amounts to *de facto* ownership and serves to consolidate power once again.

The Tenth Amendment and Article I, Section 8 list both powers of the government and the specific absence of power (Constitutional Rights). It further states that the list is partial, most powers being held by the State and the Individual Person.

The First Amendment assures each citizen the right to voice his opinion freely. Such a provision assures debate and furthers the distribution of power through the avoidance of repression.

The Second Amendment goes even further. Originally designed to assure that the people would always be more heavily armed than the government, the aforesaid specific intent can no longer be met. Still, the general intent to distribute power is nonetheless salient to this paper.

Amendments Three, Four, Five, Six, Seven, and Eight do not serve to distribute power but are in place to protect individuals from whatever powers are left undispersed.

Article IV also has several statements which limit or distribute power. For example, the President cannot call out the National Guard without authorization from the State. This provision has been violated (Little Rock, Ark, 1957, Alabama 1965). The point on authorization is arguable since the Mayor (Little Rock) and the Attorney General (Alabama) did indeed ask the President to act, on the grounds that the actions of the Governors were improper.

Finally, there is the process of amending the Constitution. An amendment takes a very complex route through all kinds of power centers (legislatures) with distributed power bases (bicameral state government etc). Amending the Constitution was made difficult to protect it from whimsy. In sum, I casually count 47 mechanisms to distribute power among the members of the new

government, and those are only the ones I mentioned. There are more.

While the distribution of power was designed to prevent a future king, current events clearly indicate a return to concentrations of power in today's *Power Centers*.

So what happened?

Over the years people have found ways to consolidate power into Power Centers despite the intentions of the Constitution. Taken individually the actions seem innocuous. Taken together, they become a real and now present danger to our Constitution and our individual freedom. In the following paragraphs, steps to consolidate power are addressed in no particular order.

The 17th Amendment was a big step in the consolidation of power. Putting the President and Vice President on the same ballot as a team served to consolidate power. Perhaps here it might be worth noting that not much needs to occur to consolidate power beyond eliminating or minimizing the debate.

Only Congress shall have the power to declare war on another nation, according to the Constitution. In practice, with some clever word-smithing, several Presidents have entered into armed conflict without such a declaration. Yet, "A rose by any other name" still results in armed conflict.

The creation of the Department of Homeland security consolidated power and was not necessary. An effective President could have ordered the cooperation with a simple executive order or even a memorandum to his department heads.

In fact virtually all of the Federal Departments serve to consolidate power in the Federal Government and remove it from the States. There are Fifteen Federal Departments with untold subordinate agencies. These are the Department of Agriculture (USDA), Department of Commerce (DOC), Department of Defense (DOD), Department of Education (ED), Department of Energy (DOE), Department of Health and Human Services (HHS), Department of Homeland Security (DHS), Department of Housing and Urban Development (HUD), Department of Justice (DOJ), Department of Labor (DOL), Department of State (DOS), Department of the Interior (DOI), Department of the Treasury, Department of Transportation (DOT), Department of Veterans Affairs (VA).

Of these fifteen, how many are authorized in the Constitution?

The Federal Government has also created what are known as *Independent Agencies and Government Corporations*. The Federal Website USA.gov defines these Sixty-Nine agencies: "*Independent establishments are created by Congress to address concerns that go beyond the scope of ordinary legislation. These agencies are responsible for keeping the government and economy running smoothly.*" - USA.gov. One can only wonder whether actions, let alone entire agencies, which "go beyond the scope of ordinary legislation" can truly be deemed to be consistent with the intent of the Constitution.

Within these agencies, the consolidation of power is further removed one more step from the source of authorization going “beyond the scope of ordinary legislation.” The power within these agencies is derived from what is known as “Rulemaking.” Rules are contained in the Code of Federal Regulations or the CFR and are adopted independently by the agency and without consent of Congress. Congress can override a regulation, but that seldom happens. The CFR exists because, according to Congress, the administration of the laws they pass is too cumbersome for them to manage on their own. Taking a deeper look at the relationship among the lawmaker, the law, the agency, the rule, and the industry ruled, we realize that the very existence of a regulation serves to consolidate power, for the regulation eliminates or restricts the choices of the regulated.

Still, the directors of these Agencies are to be appointed by the President and affirmed by the Senate, so what could go wrong? Two events have served to consolidate power within the Office of the President. Both are within the reach of being corrected by Congress, but as yet, Congress has been unwilling to disperse the powers being accumulated.

The first event is the recess appointment. It seems that there is a provision that a President may appoint a Director without consent of the Senate if the Senate is in recess.

The recess appointment maneuver, is however, a minor feint when compared to the advent of the “Czar” or “Special Advisor to the President.” The dynamics behind a Czar appointment is that the appointment is not authorized by any statute and not affirmed by the Senate. What is created is an office with the power of Presidential influence and little to no accountability. The use of such an advisor is often criticized as being redundant with questions like, “Why do we need a Drug Czar when we have the Drug Enforcement Administration (DEA)?” In other situations, such as the appointment of the Baseball Czar in 1919, the President used his administrative power to become involved in issues which ought to have been a private matter.

The appointment of Czars could be reversed by Congress in the same way as could a rule in the CFR, but Congress has failed to do so. In the same manner, Executive Orders issued by the President are often used to initiate activities which were not approved by Congress. The most recent and extensive example weaves its way through the Kyoto Protocol. The Kyoto treaty was not affirmed by the Senate and yet many of the initiatives within the Protocol are being implemented through existing Federal Agencies through the power of the Executive Order. Alarming, this particular tactic has been used by more than one President to implement initiatives generated by the United Nations which failed to meet the approval of the US Senate. Presidents, past and present, have used the Executive Order to circumvent or even violate the intentions of Congress. The use, or rather misuse, of the Executive Order is a means to aggregate power within the Presidency but the failure of Congress to react is just as contributory to the aggregation of power as is the act itself.

Congress itself has served to accumulate power through accumulating wealth using such

mechanisms as exempting themselves from trading on stocks using their knowledge obtained as a legislator.¹

Power has also centralized outside the halls of government. These external Power Centers derive their own power from either money or votes which they can deliver to a candidate and will often have their own power bolstered by special favors from Congress. Among these are Unions, the Media, Banks, numerous other industries, certain non-profit organizations, and last but certainly not least, the Political Party.

Examined independently, the Political Party has none of the safeguards to the accumulation of power that the Constitution gave to the government. The party, however, holds a great deal of power over who is nominated and who is elected and how that person acts or votes once in office. Any office-holder is subject to this pressure.

The result is that the Power Centers evolving outside the government are serving to assist in consolidating Power Centers within the government. The government, along with the election process, is devolving into a spectator sport consisting of an ongoing series of games between only two contestants (the major Parties). As the sport evolves, the “players” write new rules designed more to enhance the playing of the game, and less to preserve the responsiveness of the government to the governed. When that struggle ends, when one “team” wins time after time, we will lose our Republic and be subjects of an as yet undefined oligarchy.

In some part, the creation of Power Centers is of our own making. We demand, for example, that a President make promises he cannot keep, for the President does not vote on legislation. Because we demand them, the candidates make them, then use our demand to manipulate Congress. If we were the informed electorate that Madison advised us to be, we would pay much more attention to electing our Representatives than our President.²

In concluding these thoughts, it is necessary to point out that these events are probably not part of some grand conspiracy to take down the Republic. It is much more likely that these conditions are brought about by a combination of inattentive citizens, legislators undereducated in the history of the Constitution, and the supremacy of expediency over protocol. The latter refers to the prevalent human condition of “taking the easy way out.” When faced with a problem, as legislators are, the most expedient options have often taken precedence over the Constitutionally appropriate options.

These conditions exist because, as post revolutionary war generations passed and history lessons prioritized memorization over understanding, the memory of life lived in a Monarchy faded.

So what about that utopian thing? The flaw in a utopian society is human frailty. If everyone

¹ This exemption is expected to be repealed, but remains troubling because it existed at all.

² “A well-instructed people alone can be a permanently free people” - - James Madison

espoused and actually followed the same moral code, and that code supported a utopian concept, then utopia would work. Without it, the same societal structure just leads to anarchy; And anarchy leads to monarchy because eventually the big dog will arrive and seize power. All of it.

The conclusion of this paper is that power and freedom exist along a continuum from complete Personal Power vested in each individual (dispersed) at one end, through a central node of Power Centers, to power consolidated in a Monarch or Oligarchy at the other end. In the absence of a universally held moral code which would guide the use of Personal Power, some government is necessary. But a complete moral code embodied in statute would eliminate Personal Power, or freedom of choice, entirely. The Constitution serves to define a place where Personal Power is maximized to the limits of the moral code. Unfortunately, the degradation of the moral code has led to behavioral mandates (laws and regulations) serving to dilute Personal Power on one hand and to the accumulation of power by government on the other. The resulting accumulated Personal Power being exercised by those in authority is frequently motivated by self interest and in the absence of a Constitutional Conscience has led to an erosion of Individual Freedom.

And now, in order to Repair America, it is time to *Redistribute Power*.

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