



Written by [Joe Wolverton, II, J.D.](#) on November 11, 2010

The Original Constitution: Roadmap to Restoration

For decades constitutionalists of all stripes (read: Tea Partiers, Tentherers, etc.) have mourned the demise of our constitutional republic. They feel that despite their often heroic (and unheralded) efforts to fend off the near constant attacks on our founding charter by the enemies of limited government, the vigorous eradication of the first principles of liberty continues unabated.

To a man, these harried patriots undauntedly crusade for a return to the foundational and timeless tenets of republicanism that informed our Founding Fathers; specifically as those tenets are expressed and interpreted in our Constitution.

Recently, however, there has been a bloc of erstwhile patriots that, considering the cause lost, have abandoned the struggle and have declared the campaign to reestablish our republic upon its former footings hopeless.

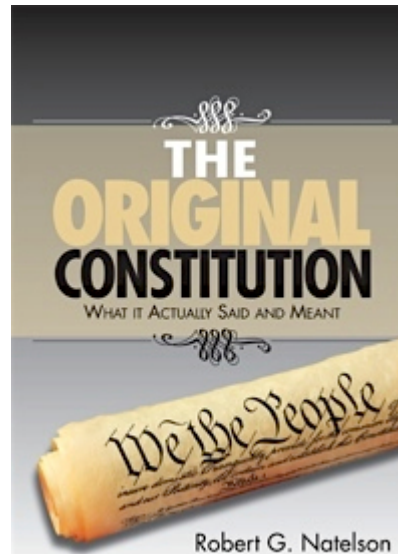
While wearied friends of liberty may often suffer from a strain of this brand of battle fatigue, there was recently published a remarkable work that offers a renewal of hope and a firm scholarly basis upon which to moor those hopes.

The book is called [*The Original Constitution: What it Actually Said and Meant*](#), and its author is former law professor Robert G. Natelson. Published by the [Tenth Amendment Center](#), the book is the product of years of diligent and broad study on the part of Natelson. In fact, according to acknowledgements listed in the first few pages of the book, Natelson visited libraries at Oxford University, the Middle Temple in London (the alma mater of several of our Founding Fathers), and the University of Virginia. Natelson patronized these particular institutions in order to benefit from their impressive collections of eighteenth century sources.

Such sources are, Natelson asserts, vital to acquiring a proper comprehension of the minds and motives of the men who framed our remarkable Constitution. Without an appreciation of the raw materials used by the Founders and the quarries from which the foundation stones were cut, it is impossible to rebuild the temple of American freedom.

In this valuable contribution to the library of liberty, Natelson presents this invaluable material in a most engaging manner. Rather than a clause-by-clause constitutional exegesis, Natelson begins “by surveying some history and values shared by the Founding Generation....” The thematic approach employed by Natelson endows the book with an encyclopedic heft. This academic reliability is bolstered by the ample index and a rich bibliography.

While unquestionably accessible by all who wish to drink from the fountain that nourished our Founding





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Fathers, *The Original Constitution* merits scholarly consideration, as well. The footnotes are miniature theses and comfort the reader with the knowledge that Natelson is leading them along a path that has been trodden by patriots and philosophers for centuries.

Perhaps the best way to illustrate the impressive scope of this irreplaceable book is to rehearse the five “basic political values and principles that seem to have been fully accepted by Federalists [those who supported the Constitution of 1787] and Anti-federalists [those opposed to the ratification of the Constitution] alike.”

Professor Natelson identifies these five core values and principles as:

1. liberty, in the sense of Lockean natural rights,
2. effective government,
3. republican government,
4. decentralization, and
5. fiduciary government.

Each of these five heads is covered in its turn.

As for the first shared tenet listed above, Natelson hails English philosopher John Locke as one of the primary sources of the natural rights doctrine espoused by our Founding Fathers. He ably makes the case for the preeminence of Locke’s theories of natural rights in the interpretation thereof propounded by the men who wrote and influenced the Declaration of Independence and the Constitution.

While it is undeniable that the whorls and arches of Locke’s fingerprints are found on both of our founding documents, his role has perhaps been exaggerated by generations of historians and political scientists. Although not completely guilty of too abundant attribution of all things constitutional to John Locke, Natelson does fail to credit others whose influence in the area of natural law and the rights associated therewith was arguably greater than that of Locke — Samuel Pufendorf, Jean Jacques Burlamaqui, and Algernon Sidney, to name a few. None of these men is mentioned in Mr. Natelson’s book. (For more information on these “forgotten influences” on the Founders, please see [this article](#).)

Each of the remaining five key concepts is given rather short shrift by the professor. Of particular note, however, is that the final principle receives lengthier treatment than all but that dealing with Lockean liberty.

The concept of “fiduciary government” is described by the author as “one of the most important Founding Era principles.” He goes on to explain that etymologically speaking, “fiduciary” is a legal term of art referring to the “special obligations one assumes when one manages the property and affairs of another.”

Evidence of the significance of this relationship between government and the governed is gathered from the many references in writings of the Founders to government officials as “agents,” “trustees,” “servants,” or “guardians.” This understanding of the right role of government convinced the men and women of the Founding Generation that the power exercised by governments was limited according to the dictates of the demands of trust imposed upon those obliged to govern.

After grounding the reader upon the sure footing of these first principles, the bulk of the book remarks upon the limitations on the powers granted by the Constitution to the three branches of government: legislative (considered by the Founders to be the most powerful), executive, and judicial (described by Alexander Hamilton as the “weakest of the three departments of power”).



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From that commendable examination, Natelson goes on to describe the Founders' intent to restrain the powers of the central authority by specifically enumerating very limited powers, while reserving to the states and to the people the bulk of the sovereignty with which nature had endowed them.

As one would expect from a book published by the Tenth Amendment Center, there is a brief though impressive section of the book devoted to the principles underlying the Ninth and Tenth Amendments and the restrictions on power imposed by those two devices.

The author rightly asserts that Americans, once they had withdrawn from the British Empire via the Declaration of Independence, were in a sort of "state of nature." In this state the people were in absolute possession of the full panoply of unalienable rights by which they were "endowed by their Creator." Upon finally and fully dissolving the ties that bound them to the Crown, Americans were free to enact state constitutions wherein they ceded some of those rights to a state government.

Next, upon creating the Constitution of 1787, those sovereign states in turn granted some of their power to the new national government. "Thus, through the medium of the Constitution the American people transferred some rights/powers, such as most authority over foreign commerce, from the state governments to the federal government."

Summarizing the legislative history of the Ninth and Tenth Amendments, Natelson writes:

The Ninth and Tenth Amendments were both rules of construction without substantive force of their own. The words "rights" and "powers" in the two provisions were essentially interchangeable. The Ninth Amendment reminded the reader that although the Constitution created exceptions to some federal powers, it limited federal powers in other ways, too. The Ninth Amendment implicitly acknowledged that the federal government had implied, incidental powers, but warned the reader not to construe them too broadly. The Tenth Amendment embodied a similar caution about construing powers too broadly. The Tenth Amendment also reminded the reader that the *designatio unius* maxim applied to the Constitution's enumerated powers, and expressly excluded the theory that the federal government enjoyed unenumerated powers arising from "inherent sovereign authority."

With unqualified eagerness I recommend this book to all who read this review and consider themselves Constitutionalists. All true Constitutionalists will yearn to enlighten themselves with the wisdom of the ages regarding the metes and bounds of good government. Mr. Natelson's book is a storehouse bulging with stock of this type.

Professor Natelson concludes his book by frankly stating, "Whether 'We the People' want our real Constitution back is ultimately for us to decide." There is no disputing that. As the maxim enjoins, "Pray as if everything depended on God and work as if everything depended on you."

If you decide that you do indeed desire the return of the constitutional republic bequeathed to us by our Founding Fathers, then do yourself a kindness and purchase this extraordinary book. Its length is not daunting (271 pages) and should be manageable by all with an interest in its contents. And, if you wish to contribute in a meaningful way to the cause of the restoration of our Constitution, then you must begin by learning whence were derived the ideas, precepts, and propositions upon which that document was established. This book is an important first step toward that goal



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