



Written by [Joe Wolverton, II, J.D.](#) on October 1, 2010

## Never Forget Our Matchless Constitution: Cornerstone of the Republic

Not a single news broadcast passes without mention of the so-called “Tea Party” and its rise to political prominence or the imminent toppling of the Establishment that will be caused by that increasing power. Candidates from Delaware to Kentucky to Colorado to Alaska are banking on the spending power of the Tea Party’s newly minted political capital, and all of that makes for good copy.

What is not mentioned as often, in fact, what is nearly never mentioned, in conjunction with the Tea Party is the Constitution. What scant attention the media or pundits pay to the Constitution typically comes in the form of derision of those who revere that document and are determined to see it re-enshrined as the supreme law of our republic.



The party that opposes a return to constitutional restraint (members of which are found in both major political parties) takes every opportunity to divert focus from the black letter of that document, as well as from the informed words of those whose ideas gave it life — our Founding Fathers. These *anti-Constitutionalists*, calling themselves by whatever designation they please, regard that text, as one commentator put it, merely “the larval stage of a living document” which has “evolved into [a] four trillion dollar monarch butterfly.” The metaphor is apt, as those who espouse this view prefer to imagine that the plain and simple language of the Constitution is enshrouded by life-giving layers of penumbras, emanations, and elastic clauses.

Most anti-constitutionalists, however, are not content to wrest the Constitution into a “living document” whose stretched and pocked parchment would be unrecognizable to those whose names are signed on it. These enemies of freedom and limited, enumerated government gleefully take aim at the individual foibles and follies of high-profile representatives of constitutionalists. One such [pointed comment](#) was made recently by Richard Cohen of the *Washington Post*: “This fatuous infatuation with the Constitution, particularly the Tenth Amendment, is clearly the work of witches, wiccans and wackos.”

His impressive use of alliteration aside, Mr. Cohen makes not one coherent critique of the Tea Party/constitutionalist movement in that comment. He begins by insulting one’s admiration of the work of our Founders (and the timeless principles upon which they drew) and goes on to point a signaling finger at those admirers, and screeches, “Something wicked this way comes.” What evil lurks in the heart of these proponents of constitutional restraint? The Cohen knows: “It [the above-mentioned “infatuation”] has nothing to do with America’s real problems and, if taken too seriously, would cause an economic and political calamity.” Using the transitive property of punditry we discover that America’s “real problems” are the result of insisting “too seriously” on a retreat of government to a



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place within the boundaries drawn by the Constitution.

Or, perhaps Mr. Cohen is correct in his assertion that the Constitution is no more than a quaint 18th century legal charter of no greater operational value than the Code of Hammurabi or the Twelve Tables of ancient Rome. What is it about the Constitution that makes it relevant to our 21st century political state? Why should we adhere to guidelines the establishment of which we had no say? What harm could come from a new constitutional convention whose aim would be a more era-appropriate document that would accommodate the particulars of modern political existence? The answer: *irreparable* harm. Harm the severity for which there would be no remedy, and in fact, the search for a remedy would merely give rise to a spiraling sequence of constant conventions, none of which would improve our situation in any appreciable way.

Such clamoring for a constitutional mulligan is not new. Before the ink was dry on the product of the Convention in Philadelphia of 1787, disaffected delegates and other so-called anti-federalists were promoting the virtue of a second convention (or multiple ones) to correct the errors extant in the new Constitution. Alexander Hamilton, deputy from New York, and one of the hard-driving pistons that propelled the Constitution through to ratification by the several states, sought to quell the crescendo in the final pages of the Federalist Papers:

No advocate of the measure can be found, who will not declare as his sentiment, that the system, though it may not be perfect in every part, is, upon the whole, a good one; is the best that the present views and circumstances of the country will permit; and is such an one as promises every species of security which a reasonable people can desire.

I answer in the next place, that I should esteem it the extreme of imprudence to prolong the precarious state of our national affairs, and to expose the Union to the jeopardy of successive experiments, in the chimerical pursuit of a perfect plan. I never expect to see a perfect work from imperfect man. The result of the deliberations of all collective bodies must necessarily be a compound, as well of the errors and prejudices, as of the good sense and wisdom, of the individuals of whom they are composed. The compacts which are to embrace thirteen distinct States in a common bond of amity and union, must as necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?... This is not all. Every Constitution for the United States must inevitably consist of a great variety of particulars, in which thirteen independent States are to be accommodated in their interests or opinions of interest. We may of course expect to see, in any body of men charged with its original formation, very different combinations of the parts upon different points. Many of those who form a majority on one question, may become the minority on a second, and an association dissimilar to either may constitute the majority on a third. Hence the necessity of moulding and arranging all the particulars which are to compose the whole, in such a manner as to satisfy all the parties to the compact; and hence, also, an immense multiplication of difficulties and casualties in obtaining the collective assent to a final act. The degree of that multiplication must evidently be in a ratio to the number of particulars and the number of parties.

There are now those who seek to chase that chimera of constitutional perfection; the question to be asked is: to what end? Do they expect the result of such an experiment to be a charter superior to the one we've already thrived under for over 200 years? If improvement — true, measurable improvement — is not the goal of these advocates of abolition of constitutional restrictions, what is their purpose?

We simply do not know. We may ascribe to them any one of a roster of nefarious, conspiratorial, self-



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serving aims, but the truth is, not one of us is able to plumb the depths of the cranium of another. We may judge them, it is true, by their fruits, but of their motivations we are unalterably ignorant. There is one thing we do know with certainty, however. We know whence our Founding Fathers mined the raw materials with which they built the framework of our Republic.

We know that the enumeration in the Constitution of specific powers delegated to the federal government is the cornerstone of American political theory and of the constitutional Republic erected by the Founders in 1787.

The basic definition of enumerated powers is that the best limitation on power is to not give it in the first place. Powers, as understood by Madison, Jefferson, *et. al.*, were only legitimate if they had been granted to the government by the people and written specifically in the document through which the governed gave life to the government — the Constitution.

"We the People" says the Preamble to the Constitution, established this government. All powers assigned to the government in the document were originally (and ultimately) held by the people. No original, organic, or self-possessed powers existed in the government. The government is an artificial creation of the people and is powerless but for their endowment of a specific roster of powers to it.

"Herein granted" is a phrase that follows quickly after the Preamble. In Article I, the people proclaim: "All legislative powers herein granted shall be vested in a Congress...." Those two words completely encompass the principle of enumerated powers. There are, it seems, a limitless variety of legislative powers, but those that may be executed by the federal government (specifically Congress) are few, limited, and written down "herein." Outside of those powers, the people are still sovereign.

Whether or not our Constitution is rescued from the brink of obscurity and irrelevance is the principal (and principle) question to be answered in November. Party affiliation (be it Democrat, Republican, Tea Party, or other) is not, we have sadly learned, an accurate guide to one's true purpose in seeking office. The message to Mr. Cohen and those that share his point of view is that far from being the *cause* of "America's real problems," a zeal for a return to a limited government as established by the Constitution is the only potent *cure* for our nation's maladies.



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