

The Importance of the U.S. Constitution and Bill of Rights: A Personal Realization
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Until shortly before I retired, like most people, I was a very hard working person who spent most of my time and attention attending to my job and to my family. I took the way of life of our country with its personal freedoms and rule of law for granted. While I knew something about our governmental structure and laws, I knew little about what had preceded them. However, as I approached and entered retirement I traveled a great deal. In that process, I became more aware of world history and of the conditions around the world that had preceded the formation of our republic and the development of our constitution. Because of my travels I realized how important and foresighted the U.S. Constitution and Bill of Rights were to our country and to subsequent developments in the world.

My first travels in this period were to Britain. My daughter and son-in-law moved to Oxford after they had completed all (in his case) or most (in my daughter's case) of their work toward PhDs. My wife and I visited them on several occasions, including before and after our first grandchild was born. Before the baby came, they usually took us to see interesting sights in England whenever we visited. In the event my wife wasn't there, I also read books on English history while they worked.

My first realization of why the US constitution and bill of rights were important came in Oxford. On the main boulevard that separated Oxford University from the town there was a prominent grim statue that depicted three clerics being burned at the stake. The statue commemorated their deaths which had occurred during the religious wars in Britain during the 1500s. I realized then why our founding fathers were wary of the marriage of religious piety to political force. Thus, they had included in Article VI of our constitution that “no religious Test shall ever be required as a Qualification for any Office or public Trust under the United States.” In addition the first Amendment to the Constitution (The first ten Amendments to the Constitution, called the Bill of Rights, were agreed to prior to the passage of the Constitution so the Constitution would be enacted by the required number of states) starts out: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;” Subsequently, I became aware of even more reasons why our founding fathers wanted to ensure that religious motives and political motives would operate in separate spheres.

On another trip that we took in Britain, we visited Warrick Castle northeast of Oxford. It was an impressive site with beautiful grounds and a small town right outside the outer walls. When we toured inside the castle we visited grand halls but also the dungeon and torture chamber. I found it curious that the dungeon was deep in the bowels of the castle while the torture chamber was above it and had a window that overlooked the town. Then, while waiting in the town while my son-in law ran all around the battlements of the castle, I realized that the window in the torture chamber had a purpose. It was positioned so the townspeople could hear the screams and moans of the people being tortured. The intent obviously was to intimidate the townspeople so they would not disobey the commands of the lords of the castle.

Thus, I realized why the Bill of Rights contained several important restrictions upon the powers of government. Amendment VIII in the Bill of Rights requires that no “cruel and unusual punishments” be employed against people. In addition, Amendment V requires that no person “shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law;” Thus, people cannot be tortured into making (possibly false) confessions and their

life liberty and property cannot be taken without due process of law. Unfortunately, in recent years, various US state governments and the US Congress have not always respected the Constitution's intent because they have enacted "civil forfeiture" statutes that allow them to arbitrarily seize private property merely upon suspicion that the property may have been related to a possible crime. Clearly the intent of our founding father has been subverted by greedy politicians. However, so far, US citizens are still protected against torture and coerced confessions, as our founder's intended.

On subsequent travels, I became more convinced of the wisdom and intent of our founding fathers in trying to prevent abuses that they were aware of in other governmental structures throughout history. One particularly insightful trip involved a visit to Venice, Italy. On that trip my wife and I were discouraged by the long lines outside St. Marks Cathedral, which almost every tourist visits. Thus, instead, we took an audio tour of the Doge's Palace located next to the Cathedral. My wife wanted to see some famous artwork, but we learned much more. First, we realized that at the end of the 1500s and in the early 1600s, Venice was possibly the richest and most important city in Europe. Less than 200 years later, our founding fathers were certainly aware of the dominance of Venice and its governance structure at the time of Shakespeare and Britain's Queen Elizabeth. Venice was rich since it was the center of trade between the European world and the Muslim lands to the East. Thus, Shakespeare's play "The Merchant of Venice" would be the equivalent of someone writing "The Financier of New York" today.

The Doge was the leader of Venice who was elected for life by the Senate, and the Doge's Palace was the center of government. In addition, there was a judiciary that met in the building that was called "The Council of Ten." The Council of Ten heard cases and meted out punishment to people who had been accused and convicted. Often convicted people were led across a bridge above a canal to a prison where they might be incarcerated, tortured, or executed. The bridge still exists and is called "the bridge of tears." What was interesting and relevant to our constitution is not only that people could be tortured or killed by judicial fiat, but that the judicial process could be flawed and arbitrary for several reasons. First, accusations could be made against someone anonymously. An accuser could merely submit an anonymous written accusation through a slot in a wall without having to appear personally. Second, many accusations could involve arbitrary assertions of crimes involving religious heresy; as someone could be accused of being insufficiently pious or of having or uttering heretical thoughts. Third, the trial might be held in judicial chambers where accused could not encounter his or her accuser and might have limited resources with which to mount a defense against the accusations. How, for instance, can one defend oneself against having forbidden thoughts?

Because of the prominence of Venice, much of Europe and, later, our well educated founding fathers were probably well aware of the deficiencies in the judicial system employed by the Council of Ten. Many provisions in our Bill of Rights try to prevent such abuses from happening in our country. Provisions in the fourth, fifth, sixth, seventh, and eighth amendments all try to protect the rights of citizens against the arbitrary exercise of judicial and political power. They include the right for persons to be safe in their "persons, houses, papers and effects" unless a prior proper warrant is obtained under "Oath or affirmation" that particularly describes the place to be searched, and the persons or things to be seized." (Amendment IV). They also require that a person be indicted by a grand jury in the case of capital or infamous crimes and that a person not be twice put in jeopardy, or deprived of life, liberty, or property without due process of law, or be compelled to be a witness against himself, and that no property be taken for public use without just compensation. (Amendment V). In addition, in all criminal prosecutions, the accused has the right to a speedy and public trial, to be confronted with the witnesses against him, have compulsory process for obtaining witnesses in his favor, and have assistance of counsel for his defense. (Amendment VI). Also, in suits at common law, whenever a

substantial amount is at stake (\$20 in the original amendment), the right to trial by jury shall be preserved and the rules of common law should apply in any retrial. (Amendment VII). Finally, Amendment VIII specifies that no excessive bail can be required or excessive fines imposed or cruel or unusual punishments imposed. Clearly, our founding fathers tried to prevent abuses that they had observed in other judicial and political systems from reoccurring in the United States.

Because of my travels I gained a greater appreciation for the protections for life, liberty, and property and the rule of law that were embodied in our Constitution and Bill of Rights.

In later trips I learned even more about why the US founding fathers tried so hard to prevent the marriage of religious and political power, as previously noted. While I had previously been aware of the horrors of the Spanish Inquisition and other related inquisitions that tried to enforce religious purity, I thought that inquisitions had ended by the mid 1600s at the latest. However, on trips to both Peru and Columbia in South America, I found that the inquisitions had persisted until much later and were ongoing during the founding of our country. In fact, in both countries they had persisted until the 1820s when Simon Bolivar overthrew Spanish rule of those countries. Until that time, Inquisition chambers in both countries existed where infidels were tortured until they confessed and converted to Catholicism before being executed for their religious or other crimes. Since the horrors of religious inquisitions were still ongoing at the time our Constitution was written, it is clear why our founders took such pains to ensure that religious and political powers would not be combined and used to coerce US citizens.

Because of my travels I realized that up until the U.S. Constitution and Bill of Rights were written, the general rule for governments was that they had tyrannical characteristics that gave all rights over life, liberty, and property to the king, religious authorities, or local lords. Individuals had very few rights under those systems of government and under most religious hierarchies.

During the Enlightenment period cracks had begun to appear in the absolute power of religious or secular hierarchies. Scientific discoveries were made that showed that the universe followed “natures” rules of behavior that differed from church and conventional beliefs (the earth revolved around the sun rather than vice versa). Martin Luther criticized the failings of the Catholic church hierarchy and instead claimed that people could directly communicate with their god without invoking the intervention of the church on their behalf. Following Luther, the Calvinists had also rebelled against the authority of the Catholic Church and introduced the notion that the path to heaven depended upon individual behavior and piety, not the church, per se. King Henry VIII had established the Church of England to legitimize his divorce from his first wife (which the Catholic Pope would not allow). These religious rebellions subsequently led to religious wars. Following those wars in England, a king was deposed and the new monarchs (William and Mary) were only allowed to take the throne (in the 1690s) if they first agreed to honor a “Bill of Rights” that was to be passed by the Parliament to ensure that individual citizens would be protected against specified abuses at the hands of the new monarchs.

While the British Bill of Rights applied to its citizens, the residents of the colonies still suffered under rather arbitrary laws and punishments established by the British monarch (King George) and the British parliament. That is why the U.S. Declaration of Independence specified many of those abuses and stated that individuals were endowed by their “creator” (not the secular or clerical “authorities”) with certain unalienable rights, including the rights of “life, liberty, and the pursuit of happiness”-- where the pursuit of happiness was intended to include the right to possess private property. In addition, the U.S. Constitution was written to prevent the U.S. from coming under the sway of a tyrannical leader, like most governments had experienced in the past. It did so by separating judicial,

administrative, and legislative powers and by providing for a system of checks and balances. The checks and balances included a system of representative government in which the representatives would hopefully represent the will of the people and the interests of the states without being subject to the emotionalism and tyranny of the majority that had caused the downfall of previous democratic systems of government. It reinforced these rules with provisions for supermajority voting for key votes and an electoral college system that would ensure that all sections of the country would be represented when important decisions had to be made. In addition, before all states would ratify the new constitution, they had to be assured that a “Bill of Rights” would be added to explicitly protect the citizens against specified potential abuses by the Federal government or other central authorities. The first ten amendments to the U.S. Constitution were passed as agreed as soon as the new Congress was established and were ratified shortly thereafter by the votes of the states.

What I learned through my travels was that prior to the passage of the U.S. Constitution and Bill of Rights, most people had suffered under the authority of various secular or religious tyrannies. Thus, the importance of the U.S. Constitution was that it established the first country that explicitly tried to limit the ability of powerful authorities from seizing powers that could be used to repress their citizens.

Unfortunately, today the U.S. Constitution is under attack. People who wish to assume tyrannical power over others resent the restraints imposed by the U.S. Constitution and Bill of Rights and have recently been trying to ignore its restraints or even to overthrow it by claiming that it is no longer applicable to modern times. That is a danger as it is applicable to human behavior and is still relevant since people have not changed. Many people still try to achieve personal gain or power by depriving others of their individual rights; so all people need to have their rights protected and the power of would-be tyrants limited. Our Constitution and Bill of Rights have done that very effectively throughout the years, which is why our country has thrived. Furthermore, the Constitution has made provisions for Amendments that may keep it abreast of modern requirements, provided that minority citizens and interests are protected due to the requirement that all Amendments require supermajority votes before a new Amendment to the U.S. Constitution is approved.