

## On the Importance of the Constitution:

Man has lived under tyranny for most of history. It begins with a power vacuum, where the powerful fought each other for control. Government was established by the winner, the man powerful enough to expel his competitors so that only his clan was in charge (Charlemagne, Genghis Khan).

The commoner accepted his rule because he provided peace that was not possible during the struggles for power. But the tyrant was in it for his own benefit, and so a racket grew. He knew that all the commoner ever wanted was to provide for his/her family and live peacefully. I believe that this is what almost every person wants.

Pursuant to this, the tyrant forced the commoner to pay large sums of his money, and to fight whenever he deemed necessary, in return for the peace needed for honest work and trade. If the commoner refused this extortion, the tyrant effectively brought his own war against him. Most of the systems of government in human history have functioned on the same premise as *The Sopranos*. Even well-known examples of rule by the people, Athenian democracy and Republican Rome, eventually succumbed to sophisticated versions of this extortion racket (Alexander, Julius Caesar).

This simplified explanation essentially describes most systems of government before America's founding and many since. Government was set up by the powerful to take advantage of the weak, who accepted it because it was better than chaotic war and because they had no other choice. Rulers demanded, "what can we get out of the people?" The individual was a non-entity, existing purely for the service of the ruling body. Though arguably more sophisticated and at times imposed with better intentions, communism, fascism, and socialism are merely modern descendants of this understanding of government, operating under similar collectivist assumptions. In neither the early autocracies, nor in their bureaucratic offspring, are individual rights treated as a valid concept.

Americans have done it differently. Whereas governments once extended the people basic security in return for their obedience, no one extends us our rights. They are not privileges to be given or taken away. We are not meant to be obedient. We demand that the government obeys us. We recognize that all humans everywhere have rights naturally, that they can never be given or taken away like so many nickels and dimes, and we have designed a government that actually respects this evident fact. We have a right to live, not because we pay for protection, but inherently. We have rights to the things we own, including all of our own money. We have rights to express our ideas without coercion, and to defend ourselves if attacked, and to succeed and fail on our own merit. **PERHAPS MOST IMPORTANTLY, WE HAVE RIGHTS TO BE TREATED EQUALLY UNDER THE LAW.** These are negative rights, rights with which others have a moral and legal duty not to interfere. Everyone in the world has them; the United States

observes them (at least it is legally supposed to).

I believe that these things can almost never be legitimately taken away from us, not even by the State, which is not above other people, but instead even more arbitrary in most cases. Our Constitution doesn't go this far, but at the very least it holds that our rights cannot be taken from us without due process, without you or I having violated the rights of another and been justly punished in a Court of Law.

At least, this ideal is what ought to happen. This is what the United States Constitution mandates (actually to a lesser extent than the Articles of Confederation). My job exists in large part because this often does not happen (the other being that the law, even just law, is far too complicated for people who don't spend all day focusing on it to reasonably have time for).

From the moment they were set, individuals immediately began to erode the pillars of the Constitution (in too many ways, as well, the Constitution contradicted the ideas behind it, slavery and non-universal suffrage being important examples). Any government's natural impulse is to grow, a trend obvious from the earliest extortion rackets I describe. For better or worse, this expansion of the things for which the Leviathan is responsible necessarily strikes at the notions of individual liberty and rights on which this country is based. People with large enough egos to run for high political offices clearly enjoy power, and, much like the ancient tyrants, will do what is necessary to maintain it. Both recognize that people most desire peace and stability to move towards high standards of living, and both capitalize on this. The tyrants used swords and shields. As one maintains power in the United States by winning votes, our politicians rely on modern versions of these old weapons: promises and fear. They convince important voting blocs that they have various positive rights, that the rest of society owes them something (a good example being Roosevelt's proposed "Second Bill of Rights"). They take from Americans as a whole and give to concentrated groups that have influence (government-established monopolies, defense contracts, etc.). They also convince us that if they do not take certain steps, we will not be safe, even if these steps involve infringing on the Constitution (Adams' Alien and Sedition Acts, and now the PATRIOT Act). Without diverging too much into political banter about whether or not these political actions have been good for our country, it is no stretch to assert that they have acted in the same way as the tyrant's sword and shield: for good or ill, they have expanded the role of government, in this case beyond its original purpose. I do not believe it is much more of a stretch to add that in many cases the negative rights I believe are inherent to all individuals naturally suffer when this occurs. We ought to be wary of this erosion, even when it seems to benefit us. As Franklin asserted, we ought to "Sell not virtue to purchase wealth, nor Liberty to purchase security."

Though both sides of the political spectrum see us as moving away from its precepts, I hold the notions of the Constitution, indeed of this country's founding, as something worth

defending. The idea that human beings have inalienable rights is beautiful to me.

In no section of the Constitution is this better expressed than in its establishment of the judicial system. There is no more impartial a concept in the document than in the Sixth Amendment's establishment of the right to a fair and public trial by a jury of one's peers for all Americans. Every one of us can stand before the public as an equal, and even if guilty, defendants still must be treated with respect. Contrast this with the trial by tyrant, where an individual's life is determined in secret by the weight of his influence (not that this is fully eliminated, but at least it is feverishly opposed) and his guilt or innocence rests in the palm of one biased man's hand. There is nothing more prudent than the accused person's right against self-incrimination in the face of intimidation, or the individual's right to representation by someone who understands the confusing matrix that is the law. Indeed, much of the Bill of Rights concerns itself with ensuring a just judicial system. It protects our property from illegitimate seizure, and our bodies from cruel and unusual punishment. It is little surprise, then, that of the branches of government, none better delivers fair, just, and impartial decisions than the judicial system, and make no mistake, its day-to-day outcomes influence the way we live our lives more than any convention speech or sweeping legislation.

While you or I might only face trial once or a handful of times in our lives, the Constitution is put on trial every day in our court system. Its ability to deliver justice is tested. Its practicality, too, is tested, as its holdings are applied to day-to-day life and interpreted. I believe that it passes both tests. It bears the brunt of assaults from all perspectives.

This validates both the morality and pragmatism of individual rights. I hold that the members of my profession are the triers of this system's validity. We work under it, we push its limits, and the outcomes of our cases are determined by it. In advocating for you and your ability as a citizen to bring your grievances to the public forum, I consciously make a stand for the notions behind the United States Constitution and its Bill of Rights that I vehemently defend.

I implore you to recognize, and be motivated by, the powers that it affirms in each and every individual, and how this affirmation is profoundly different from anything the vast swath of human beings have experienced in history under the rule of tyrants. These are the powers to hear, to be heard, to be counted, to be free to live for yourself. Don't take them for granted, and, what is more, don't let them be abused.

-Anthony J. Macri, Esq.