

The Constitution In 10 Lessons

Lesson 7

Paper #15 - The Oath of Office: The Check on Usurpations by Congress, The Executive, and Federal Judges.

Paper #16 - The U.S. Census: Rule of Law or Rule of Men?

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The Oath of Office: The Check on Usurpations By Congress, The Executive Branch, and Federal Judges.

OATH, n.

A solemn affirmation or declaration, made with an appeal to God for the truth of what is affirmed. The appeal to God in an oath, implies that the person imprecates his vengeance and renounces his favor if the declaration is false, or if the declaration is a promise, the person invokes the vengeance of God if he should fail to fulfill it. A false oath is called perjury.



Constitution: Oath of Office

I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.

Article 2 Section 2 Clause 8

To What Does the Oath Pledge?

To the

**Constitution
of the**

United States of America.

To what does the oath NOT pledge?

- To another branch of government: Executive, Legislative, or Judicial.
- To a Political Party.
- To the Majority/Minority Leaders in Congress.
- To campaign contributors.
- To the majority of a given poll.

How can one determine what's Constitutional?

- Read the Constitution.
- Is this potential law an enumerated power?
- Read the Federalist Papers.
- Understand the concept of our Creator's FIXED principles.

An Oath as a check

CHECK, n.

- 1. A stop; hindrance; rebuff; sudden restraint, or continued restraint; curb; control; government.
- 2. That which stops or restrains, as reproof, reprimand, rebuke, slight or disgust, fear, apprehension, a person; any stop or obstruction.

“Constitution Speak”: Check

A check is simply a control device employed to stop unconstitutional actions.

In past history, horse’s bridles included a “check” or a leather strap that prevented the horse from extending his neck out fully as he would when at a full gallop making it less likely the horse would get out of control.

The purpose of an oath to the Constitution.

When honored, the Oath functions as a “check” on the powers of the federal government and protect us from usurpations.

Each Branch of the federal government has “the *check* of Oath” on the other two branches.

Likewise State officials' Oath of Office.

State Officials who also take the Oath of Office, have the same *check* on all three branches of the federal government.

This is why they have the power of Nullification.

Federalist 22 - Hamilton

It has not a little contributed to the infirmities of the existing federal system, that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers, and has, in some instances, given birth to the enormous doctrine of a right of legislative repeal.

Federalist 22 - Hamilton

*Owing its ratification to the law of a State, it has been contended that the same authority might repeal the law by which it was ratified. However gross a heresy it may be to maintain that a **PARTY to a COMPACT has a right to revoke that COMPACT**, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority.*



Federalist 22 - Hamilton

The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.



7 Founding Principles

1. We the people are the source of all power and authority.
2. Congress' Powers are enumerated.
3. Not all laws are legitimate.
4. Adherence to the "Rule of Law".
5. An Oath is a binding statement.
6. An Oath is therefore a check upon authority.
7. The People have both the ultimate power and responsibility to enforce the Constitution.



1. We the people are the source of all power and authority.

Because, we *created* the federal government when we ratified the Constitution for the United States of America. [Articles 1, 2, and 3.]

We the people are the *creator*, the Senators, Representatives, Federal Judges, President and all other officials are merely our "*creatures*".



1. We the people are the source of all power and authority.

Nothing may be lawfully done by any *creature* authority unless *We*, the *creator*, authorized it in the Constitution.

When the *creatures* disobey the Constitution, *WE* are to take action.

1. We the people are the source of all power and authority.

“If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, **the people, whose creature it is, must appeal to the standard they have formed [the Constitution], and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify.**”

Federalist 33 - Hamilton

2. Congress' Powers are enumerated.

Article 1, Section 8, Clauses 1-16 (and in a few Amendments).



3. Not all laws are legitimate.

- An usurpation is not a law.
- All civil governments try to expand their power, but in our constitutional republic, any law not authorized by the Constitution is null, void, illegitimate.

3. Not all laws are legitimate.

In **Federalist 33**, Hamilton states that a law made by Congress which is not authorized by the Constitution, ...

“would not be the supreme law of the land, but a usurpation of power not granted by the Constitution....”

3. Not all laws are legitimate.

“every act of a delegated authority, contrary... the commission under which it is exercised, is **void**.”

No legislative act...contrary to the Constitution, can be valid. To deny this, would be to affirm...that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.”

Federalist 78 - Hamilton

4. Adherence to the “Rule of Law”.

- Article VI, clause 2, says the Constitution, and the Laws & Treaties **authorized by the Constitution**, are the “supreme Law of the Land”.

4. Adherence to the “Rule of Law”.

Constitution

*“... In free states, the constitution is **paramount** to the statutes or laws enacted by the legislature, **limiting and controlling its power**; and in the United States of America, the legislature is created, and its powers designated, by the constitution.”*

Webster's 1828 Dictionary

4. Adherence to the “Rule of Law”.

If any Branch of government fails to obey the Supreme Law, then in order to preserve the Rule of Law, the other Branches, or failing that, the States of THE PEOPLE, **must *overrule* them.**

5. An Oath is a binding statement.

Article II, Sec. 1, last clause.

“I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my Ability, preserve, protect, and defend **The Constitution of the United States.**”

Article VI, clause 3, provides that all other representatives, officers and judges (Federal and State) are bound to support **the Constitution.**

6. An Oath is therefore a check upon authority.

The Key is this: One's Oath is pledged to
The Constitution.

- The Oath is NOT to go along with Congress, or to obey the Executive Branch, or submit to Federal Judges.

6. An Oath is therefore a check upon authority.

The President's Oath is not to obey Congress unless and until 5 people on the Supreme Court say you don't have to.

- Even if the President's veto is overruled by Congress.
- Even if the Supreme Court approves the legislation as “constitutional.”

6. An Oath is therefore a check upon authority.

Because, what is unconstitutional is clear and self-evident truth...

- Not whatever law a majority of people in Congress pass and 5 Supreme Court Justices approve.

Therefore, your Oath to the Constitution will cause you to denounce the pretended law and Judge's opinion as "mere usurpations" and you will instruct the Attorney General & U.S. Attorney's NOT to prosecute violations of that pretend "law."



6. An Oath is therefore a check upon authority.

Four Checks on Federal Judges

1. The Oath of Office (Article VI, last clause) does require judges to strike down “laws” made by Congress which are unconstitutional.

Federalist 78 - Hamilton

“The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.”

6. An Oath is therefore a check upon authority.

Four Checks on Federal Judges

2. Congress must impeach and remove federal judges who usurp power - they serve during “good behavior” only. (Article III, Sec. 1).

Federalist 81 - Hamilton

“And the inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption, by degrading them from their stations.”



6. An Oath is therefore a check upon authority.

Four Checks on Federal Judges

3. The President must refuse to go along with unconstitutional opinions. He must reject unconstitutional “laws”

Federalist 78 - Hamilton

“The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.”



6. An Oath is therefore a check upon authority.

Four Checks on Federal Judges

3. The President must refuse to go along with unconstitutional opinions.



6. An Oath is therefore a check upon authority.

Four Checks on Federal Judges

4. The States must nullify unconstitutional opinions. State officers & judges are bound by Oath to support the Constitution (Art. VI, last clause).



Federalist 16 - Hamilton

“But if the execution of the laws of the national government should not require the intervention of the State legislatures, if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of an unconstitutional power. No omissions nor evasions would answer the end. They would be obliged to act, and in such a manner as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a constitution in any degree competent to its own defense, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the legislature, but the concurrence of the courts of justice and of the body of the people. If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional, and void. If the people were not tainted with the spirit of their State representatives, they, as the natural guardians of the Constitution, would throw their weight into the national scale and give it a decided preponderancy in the contest. Attempts of this kind would not often be made with levity or rashness, because they could seldom be made without danger to the authors, unless in cases of a tyrannical exercise of the federal authority.”

7. The People have both the ultimate power and responsibility to enforce the Constitution.

Federalist 44 - Madison

“...the success of usurpation [by Congress] will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in the last resort a remedy must be obtained from the people, who can, by the election of more faithful representative, annul the acts of the usurpers.”

7. The People have both the ultimate power and responsibility to enforce the Constitution.

Federalist 78 - Hamilton

“And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments; that as all the effects of such a union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as, from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its co-ordinate branches; and that as nothing can contribute so much to its firmness and independence as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution, and, in a great measure, as the citadel of the public justice and the public security.”

But, when the Judiciary ceases to be lawful...

- We the people must elect members of the House and Senate who will fulfill their oath by impeaching lawless, unconstitutional Justices and Judges.
- They are our “creatures” accountable to the people and The Constitution.



Our Responsibility

We must as Madison advises, defeat elected Federal and State officials who have betrayed us; and replace them with faithful servants who will annul the acts of the usurpers.



Our Responsibility

1. Learn our State's recall statutes.
2. Learn about Nullification by States
3. Learn about Federalism. Urge repeal of the 17th Amendment to restore "federalism".



Paper 16

The U. S. Census:
Rule of Law or Rule of Men?

What is the rule of law?

When civil authorities act in accordance with a body of Law which is established by a higher authority.

The Constitution of the United States says it is ordained and established by We The People. It is OUR *creature*.

Constitution - Definition

“...In free states, the constitution is paramount to the statutes or laws enacted by the legislature, limiting and controlling its power; and in the United States, the legislature is created, and its power designated by the constitution.”

Webster's 1828 Dictionary

Purpose of the Census

Article 1, Sec. 2, clause 3, provides that an enumeration of the people shall be taken every 10 years for the purposes of apportionment of (1) direct Taxes and (2) Representatives to the House.



Federalist 54 - Madison

“In one respect, the establishment of a common measure for representation and taxation will have a very salutary effect. As the accuracy of the census to be obtained by the Congress will necessarily depend, in a considerable degree on the disposition, if not on the co-operation, of the States, it is of great importance that the States should feel as little bias as possible, to swell or to reduce the amount of their numbers. Were their share of representation alone to be governed by this rule, they would have an interest in exaggerating their inhabitants. Were the rule to decide their share of taxation alone, a contrary temptation would prevail. By extending the rule to both objects, the States will have opposite interests, which will control and balance each other, and produce the requisite impartiality.”

If the program is Unconstitutional?

Then the need
for the information
is certainly
unconstitutional.



**So, how do we answer
unconstitutional questions?**



Alexander Hamilton understood that ***the people*** are the “*natural guardians of the Constitution,*” and he expected us to be “*enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority*”.

Federalist 16 - 10th paragraph



The only two enumerated reasons for census according to the Constitution are:

- 1) To determine direct taxes,
- 2) To determine number of Representatives in the House.

Article 1, Sec. 2, clause 3.

To what does Congress, the
President, and Federal Judges
swear their oath?

To the Constitution
of the
United States of America.

The Constitution ONLY

- Not to a person.
- Not to a political party.
- Not to any piece of legislation.
- Not to any branch of government:
 - Not to the Executive Branch.
 - Not to Congress.
 - Not to the Supreme Court.