

WHAT DO LAWYERS KNOW ABOUT CONSTITUTIONAL AUTHORITY?

In the early days of the American state and national republics most of the citizenry who filled public offices were not “trained” to be lawyers. They came from every walk of life, yet many of them had foundational knowledge of constitutional law and the language of constitutional law.

Today, the majority of men and women sitting in state legislatures and the U.S. Congress have law degrees. Ditto regarding most executive branch offices at the state and federal levels. And it should go without saying this is the case regarding judicial branch offices. Joe and Jane Citizen couldn't be happier with the arrangement because after all they know it's important to have fellow citizens in the nation's public offices who are knowledgeable about the business of law and laws and especially the law pertaining to authority to govern. Joe and Jane Citizen are too busy enjoying the endless varieties of fruits continuously falling from America's tree of government in a season seemingly without end.

But what do America's lawyers and their law school professors – the nation's trusted jurisprudence priest class – know about the theory of constitutions, about constitutional law, about the language of constitutional law?

The answer should concern every American not drugged into senselessness from chasing a fading economy and consuming their fair share.

Where and how do America's jurisprudence priests, the lawyer class, learn the theory of constitutions and constitutionally based authority to govern? Where and how do they learn the elements of constitutional law? Where and how do they learn the language of constitutional law?

The first presumptive notion to pop into the heads of Joe and Jane Citizen surely is apt to be: *“In law school, where else?”*

Indeed, law schools offer courses in constitutional law. Investigation will reveal that law school's constitutional courses are taught using the “case law method.” The case law method of teaching law presents the subject law course as a survey of major court rulings regarding the subject of the particular law course. The student is introduced to opinions of the justices/judges in those cases as a matter of received judicial wisdom from the time of the ruling.

Constitutional law courses in law schools are taught exclusively using U.S. Supreme Court cases centered around rulings of said court. The student is introduced to various law issues relating to matters of governing authority, matters of rights of the people, and matters of the business of commerce and industry.

The scope of this constitutional survey is so broad of sweep as to create a contextual blur of abstractions in juristic ideas, concepts, doctrines, principles, and the like. Entire areas of great constitutional concern aren't even touched and those that are receive only the passing salute. There is no time for meaningful student cogitation and rumination. Further, law professors spin their classroom case studies to fit contemporary, politically correct notions losing most, if not all, of the law issues context which actually existed when the case was argued. In the process, they continuously spin and re-spin constitutional meanings in ongoing tortuous, pedagogic exercises getting ever further away from what were only too often the originally tortured constitutional interpretations as the case was first handed down and reported.

To compound the comedy, it should be obvious that a law school course in constitutional law is practically pointless if the student doesn't come to the class with prerequisite schooling introducing him to the theory of constitutions followed by the theory of government under constitutional authority.

Some students will have some exposure to the conceptual theory of government under constitutional authority via earlier political science classes in their undergraduate work, but none are likely to have any exposure to the conceptual theory of constitutions pursuant to the theory's origins in political philosophy.

And none will have a clue regarding the language of constitutions and, therefore, of the language of constitutional law for the same reason that most of them will have had no exposure to epistemological studies in the limitations of language generally. Without this knowledge of human language and its limitations and of constitutional language, the law school student has little working capacity to grasp the real significance of the various metaphysical pontifications passed down by U.S. Supreme Court justices and their law clerks. (Yes, sometimes law clerks fresh out of law school have a hand in drafting the opinions of U.S. Supreme Court justices.)

The typical law school graduate has little or no personal or intellectual interest in constitutional law and has his sights set either on **"going where the money is"** or he is focused on idealistic ideas of saving the world from ecological disasters or in righting the wrongs that society has visited upon its oppressed minorities, or some similar idealistic cause and agenda. But, he fails to realize he may do more harm than good because he has no proper understanding that no Rule of Law is possible without a proper understanding of constitutional processes and the limitations of law making in solving society's problems. There are attorneys who go into the specialties of public law, to include administrative law, who have no inkling of comprehension in the foundations of those fields of law because of rank ignorance of constitutional law. Worse, but to be expected, they don't know they lack this essential law foundation in the specialty in which they presume to practice.

The typical practicing attorney is guilty of not having looked at his state constitution in years and likely not the U.S. Constitution. There are attorneys nearing retirement age who will admit not looking at a constitution in years. The author has witnessed lower court judges who failed to recognize language taken directly from their state constitutions. Can a nation expect to "endure" indefinitely, when not only the people are ignorant and indifferent to matters of constitutional law, but even their self-appointed and self-anointed juristic priest class, the lawyers are equally ignorant and indifferent? The apocryphal tale relates that a woman asked Benjamin Franklin on the steps of Independence Hall when the Constitutional Convention had just finished drafting the U.S. Constitution, *"What kind of government have you given us?"* He is said to have replied, *"A Republic, if you can keep it."*

Among the nation's so-called founding fathers and their fellow educated Americans, it was generally thought the new American nation would be lucky if it lasted 100 years before breaking up on the reefs and rocks of political chaos. There were several movements by New England states to secede from the new American Union in the nation's early decades, but Southern states initiated the first movement resulting in an actual secession. The Southern act triggered a war between the states, stylized by the Northern states as a Civil War, after Lincoln decided to battle the Southern states back into the Union, notwithstanding every state of the American Union had a constitutional right to secede if they chose to do so.

Thoughtful students of political science, jurisprudence, economics, monetary theory, history, and all other subjects contextually related to comprehending the health of a civilization know it's only a matter of time before Americans' repeated propensities for folly result in the loss of their fabled kingdom.

In a nation where even the lawyers – save for a meager few – are linguistically too illiterate to understand constitutional language even if they had a proper introduction to the subject of political and constitutional law, it is no exaggeration to say the blind are leading the blind into a box canyon of constitutional oblivion.

For a meaningful introduction to the nature and substance of constitutions and constitutional law and the other political and juristic facts, points, and issues upon which authority to govern are wholly dependent, consider the author's 3-volume ***Win your Traffic Court Case*** referenced above.

Regards,

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