

What's a Constitution?

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Introduction

Every year, Masons in the United States dedicate the month of September to the Constitution of the United States. Our own Grand Master, the Most Worshipful Bruce R. Galloway, recently issued his proclamation which can be found on the Grand Lodge's web site. Link: (<https://www.freemason.org/doc/PROCLAMATION:%20September%20Constitutional%20Observance%20Month%202018.pdf?id=70087>).

Unfortunately, there are some inaccuracies in the Proclamation. The Grand Master's mistaken interpretation of the structure of our government and the founding premise of our country is all too common. I believe that he means well. But, his inaccuracies illustrate a fundamental ignorance of the Constitution, it's history, and its foundations. Additionally, it furthers a false narrative that is both at odds with history and with Freemasonry.

In this paper, I will compare the Grand Master's Proclamation to our founding documents, the Constitution, and the history of the founding of our nation. Along the way, the reader will see a stark contrast as it relates to a fundamental truth: what does it mean to be free? In discovering the answer to this question, the reader will understand the concept of freedom and the source and security of that freedom in the United States – the Constitution.

Section I: What is Freedom? What is Liberty?

In the ritual of the Entered Apprentice Degree, the Candidate is interrogated by the officers of the Lodge. The questions presented to the Candidate ask about his fitness for membership across a number of categories. His presentation for this interrogation is rich with symbolism and many of the questions asked of him deal with these symbols. Towards the end of the interrogation, the officers ask questions that are seemingly out of place in modern society but contain within them a powerful link to the past.

The Candidate, through his guide, is asked if he is a man. He is asked if he is free born. He is asked about his good reputation, and if he comes well recommended. By the time he's standing there, experiencing the initiation, he's been through a criminal background check as well as a thorough investigation by the Lodge. When he is asked these questions by the officers, the answers are presumed to be in the affirmative.

Consider, however, the second question. What does it mean to be "free born?"

The adjective, freeborn, means to have been born free, rather than in slavery, bondage, or vassalage. This seems silly today. Slavery in the US ended with the North's victory in the Civil War. Or, did it? As an aside, you may be surprised to know that there are more slaves alive in the world today than existed in the entirety of the 400 years of the Transatlantic Slave Trade. But that's not what we're talking about here. The thing we're talking about is freedom as it relates to the concept of **vassalage**.

Vassalage, a noun, is defined as the state of condition of a vassal or the homage or service required of a vassal. A vassal is a person granted the use of land, in return for rendering homage, fealty, and usually military service or its equivalent to a lord or other superior. Also, a vassal is a person holding some similar relation to a superior; a subject, subordinate, follower, or retainer.

Now, you're likely thinking, what does this medieval concept have to do with modern society? To answer this question, we'll rewind the clock to 1936 and a disagreement between two very prominent Freemasons: Brothers Franklin Roosevelt and Sir Winston Churchill.

In his address to the Democratic National Convention, Bro. Franklin Roosevelt utilized many Masonic themes to pitch his concept for a new Bill of Rights. He believed, as many do today, that the Constitution is too limiting, that it doesn't define what the government should do for the people. He framed his talk within the Masonic themes of Faith, Hope, and Charity – declaring, unmasonically, that charity should properly come from government rather than coming from a benevolent association of free individuals.

Remember, of course, that our nation was in the middle of the Great Depression. These Masonic themes, Roosevelt surmised, were just what the nation needed. Except, Bro. Roosevelt wasn't advocating for a Masonic solution to the nation's ills. He was advocating for increased federal power over all areas of American life, just as his progressive predecessors had done. There was only one problem, much of what he wanted to do (indeed, the entirety of the Progressive agenda) was unconstitutional.

Remember, the Constitution serves a two-fold function. It restrains government to only those things enumerated within its clauses and amendments and, in the process of doing so, secures the liberty of the individual citizens of the United States.

The dilemma was both simple and profound. Bro. Roosevelt saw **the Constitution as an impediment** to "*progress*" and his vision for the country.

In rebuttal, Bro. Sir Winston Churchill noted that the American Constitution is an enduring source of strength for **the American republic**, not an obstacle to be overcome. His famous letter, *What Good's a Constitution?*, was a strong rebuke from across the Atlantic.

Bro. Churchill wrote, "*No one can think clearly or sensibly about this vast and burning topic without in the first instance making up his mind upon the fundamental issue. Does he value the*

State above the citizen, or the citizen above the State? Does a government exist for the individual, or do individuals exist for the government?" (This is the underlying theme of the 30th Degree of the Ancient and Accepted Rite).

"I hold that governments are meant to be, and must remain, the servants of the citizens; that states and federations only come into existence and can only be justified by preserving the 'life, liberty and the pursuit of happiness' in the homes and families of individuals. The true right and power rest in the individual."

All of this serves to reinforce my first disagreement with our Most Worshipful Grand Master. He opens his proclamation by noting, "Whereas, the Constitution of the United States is the foundation of our democratic government and responsible for the multitude of freedoms we enjoy today ..."

This is simply not true. Alexander Hamilton said that the rights named in both the Declaration and the Constitution "are not to be rummaged for, among old parchments," but rather "they are written, as with a sun beam, in the whole volume of human nature, by the hand of divinity itself." The Founders believed that every human being—regardless of race, gender, birth, national origin, or religion—is a creature of God and, as such, endowed with a right to life, liberty, and property. Human beings are unequal in many respects, but they are equal in their possession of natural rights. The Constitution and our government are not responsible for our rights and freedoms. Our rights and freedom come from the **Laws of Nature and Nature's God**. Natural rights exist prior to any government. Thus, government is not the source of rights. Rather, governments are created to secure man's natural rights – the rights that we already have.

WM Galloway's statement, however, is perfectly in line with the Progressive view of the relationship between the subject and the state. Of socialism and democracy, Woodrow Wilson noted in his 1887 paper, "*The difference between democracy and socialism is not an essential difference, but only a practical difference — is a difference of organization and policy, not a difference of primary motive.*" He continued, "*For it is very clear that in fundamental theory socialism and democracy are almost if not quite one and the same. They both rest at bottom upon the absolute right of the community to determine its own destiny and that of its members. Men as communities are supreme over men as individuals. Limits of wisdom and convenience to the public control there may be: limits of principle there are, upon strict analysis, none.*"

This conflict presents a dilemma. If the state is valued above the citizen, then then citizen is a not a citizen at all. The person, subject to state control, becomes a vassal. Remember, vassalage requires service and allegiance. Vassals are permitted to possess things and perform activities, or not, at the will and pleasure of the Laird. In the modern sense, the Laird has been replaced by the State. If the individual exists for the government, then the individual is a vassal.

Do you pay taxes, or does the State take taxes? Would you pay willingly if not required? You can pay more than your assessment. Do you? Every aspect of your life is taxed. You don't really own your home – you pay rent on the land in the form of property taxes. Your liberties have been removed and licensed back to you – driving licenses, occupational licenses, fishing permits, and concealed carry permits are just some examples of the loss of liberty over time.

If you don't really own anything, and the State gets a piece of everything you make, are you really free born, or are you a vassal? If you are a de facto vassal, can you claim the status of a free born man?

Section II: The Point Within the Circle

Let's go back to the ritual of the 1st Degree. We speak in symbols in Freemasonry. In the 1st Degree, we speak of the Circumpunct, or the Point Within the Circle. There is so much meat on that bone. It's been a topic of a previous paper of mine. As it relates here, the Circumpunct deals with the concept of restraint – keeping passions within due bounds. The Circumpunct is a powerful symbol. But, just like the US Constitution, it lacks an enforcement mechanism.

John Adams, our second President, is quoted as saying, *“Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”* Many have used this quote to support various unrelated opinions. Consider morals. What are the enforcement mechanisms of morals? Consider religion. What are the enforcement mechanisms of religion? Consider Freemasonry. What are the enforcement mechanisms in Freemasonry? What happens if you choose to not keep your passions within due bounds?

The US Constitution, like the ancient rules of our venerable fraternity, does not enforce itself. A moral and just people are required to enforce the boundaries found in the Constitution and keep government within due bounds, just as a moral and just membership is required to keep Freemasonry on track.

From before the founding of the country, Statists have attempted to subvert every restriction placed upon the state by its citizens. Virginia's Patrick Henry and Maryland's Luther Martin warned that the shift of government from the state-centered Articles of Confederation to a central federal authority, as defined within the new Constitution, would not alleviate the problems of the Confederation but magnify them. The concentration of power, authority, and wealth in the counties that surround the Federal City speak to the correctness of their predictions.

Time after time, Statists have used their power to abridge freedoms. Some of the Founders believed a separate enumeration of individual rights to be redundant. The US Constitution, after all, restricts the federal government to only those powers specifically listed on its pages. Others, understood the fallen nature of man. They knew future administrations would seek to limit assembly, the press, movement, speech, and the citizens ability to petition government to resolve grievances (the 1st Amendment). They knew that the natural right to life, liberty, and property meant the natural right to defending the same (2nd Amendment). They knew

that the natural right to liberty and property meant the citizen must have the right to control what is done with that property (3rd Amendment). In order to protect the people from future state tyranny, the principles of justice are affirmed in the 4th – 9th Amendments.

Since the Bill of Rights, Amendments have been added to correct the overreach of government. Others have been added to extend the reach of government beyond the Constitution – to expand the Circle, if you will. The 16th, 17th, 18th, and 22nd Amendments are examples of the latter. When was the last time a Senator's primary residence was in his home state? The 17th Amendment made a state's senators full time federal employees and permanently moved them to the Federal City.

We now live in a society governed by a confusing matrix of regulations; what philosopher Hannah Arendt calls the Tyranny of Nobody. You need the state's permission to drive on the roads that you pay for. You must wait hours in line to receive your permission slip. You'd like to complain about the wait, to suggest improvements to the process. To whom do you petition (1st Amendment)? Nobody. You want to opt-out of Social Security and plan for your own retirement, managing your own estate. To whom do you petition? Nobody.

The 10th Amendment notes that anything not found in the Constitution is not a proper function of the federal government. Those things not specifically enumerated are left to the individual states, and the people. Where in the Constitution can I find the Department of Commerce or the Department of Education? Where in the Constitution can I find the authorization for the more than 60 federal law enforcement agencies? Pick any three letters of the alphabet, economist Milton Friedman said, put them in any order, and in the acronym, you will discover an unnecessary federal agency.

Clearly, the federal government does not believe itself restrained. It does not see itself as the point within the circle. In a Tyranny of Nobody, what precisely is the Constitution for?

Section III: What's a Constitution?

The history of mankind is primarily the history of governments founded on usurpation, force, or fraud of one kind or another. Most governments throughout recorded history have been tyrannies. Many have usurped legal authority through force. Others have been the result of fraud, usually by a monarch surrounded by willing flatterers who employ deception, persuading the weak that the king rules by divine right. All of these governments are illegitimate.

Alexander Hamilton, in Federalist 84, argues that the Constitution is fit for the purpose of securing man's liberties against usurpation. *"Here, in strictness, the people surrender nothing; and as they retain everything they have no need of particular reservations, "We, the people of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."*

Hamilton sets the stage for my second point of disagreement with MW Galloway, that we have a “democratic government.” We should have no such thing. But, in as much as MW Galloway is incorrect, so too was Hamilton. The massive regulatory administrative state is proof of Hamilton’s folly.

If we had a Constitution, and a government that believed itself constrained within its bounds, then Madison’s Federalist 10 would be perfectly on target. But, it’s not. Madison argues that whereas democracy entails direct rule of the people, in a republic the people rule indirectly, through their representatives. A republic can therefore encompass a greater population and geographical area. This difference is decisive in the American experiment, as James Madison argues in Federalist 10, for an expansive republic is able to control the inherent danger of majority faction – or mob rule. But mobs are ruling America – mobs of administrators.

To this point, we return to Bro. Churchill. He notes in the previously cited work the strength of a republican form of government, believing itself restrained by principles, lies in its independent judiciary and its protection of minority groups and minority opinions. *“... judges extend impartially to all men protection, not only against wrongs committed by private persons, but also against the arbitrary acts of public authority. The independence of the courts is, to all of us, the guarantee of freedom and the equal rule of law. It must, therefore, be the first concern of the citizens of a free country to preserve and maintain the independence of the courts of justice, however inconvenient that independence may be, on occasion, to the government of the day.”*

We see today that Bro Churchill was right in observing just how far astray our judiciary has gone from the original intent of a weak but independent justice system. Statists look to the Judiciary to enforce by fiat those ideals that are completely unpopular and unconstitutional and stack the courts with likeminded jurists. The 95% plea rate in the federal courts speaks to failure of the Constitution to secure man’s rights.

In a democracy, majorities rule. Winners take all. Minorities have no input. Again, we return to James Madison in Federalist 10. *“Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time be perfectly equalized and assimilated in their possessions, their opinions, and their passions.”* We are witnessing such spectacles nightly as we tune in for news.

Given all this, I cannot see MW Galloway’s assertion that “through [our Masonic Founding Fathers] efforts we developed a society that promoted democracy ...” as anywhere near correct. If harmony is the strength and support of all societies, why then would a group of Freemasons create a society and enshrine within its founding documents the seeds of *“turbulence and contention?”*

Conclusion

To conclude, I want to offer my recollection of two important events in my life: move-in day, my freshman year at college and my first experience attending a Reunion at the Scottish Rite in Guthrie, OK.

I arrived at Long Beach City College's football dorms with two boxes of possessions. I placed my clothes in their appropriate places, put a few pictures up, and put my wallet in my dresser drawer. I went into the rest room to wash up. I was out of my room for about 10 minutes. In those ten minutes, most of my possession and all of my money were gone – stolen. I encountered a student wearing my coat a week later and confronted him. Incredulously, he noted that a white kid from the suburbs shouldn't try to wear a blue jacket in Long Beach – that I could be killed for doing so. He opined that he was doing me a favor and that I should thank him for saving my life. He, and his cohorts, laughed heartedly and they walked away. Even with the thief identified, the school did nothing about my stolen jacket.

30 years later, I arrived at the Guthrie Cathedral for my first Reunion and checked into the dorms. I asked about the security of my possessions. The Brother attending to visitors noted, "if you have to worry about your wallet here, we're in the wrong business."

What was the difference? The Masons in Guthrie believed themselves restrained and respected my property. My fellow students at the LBCC dorms didn't.

What good is a set of rules to a people that ignore them? Theft is against the law. Theft is against the rules of the dorms. Yet, theft occurred with such speed that the Resident Advisor hardly believed me.

What's a Constitution, a set of foundational principles, to a people that ignore them? 99.9% of the federal regulatory and administrative state is unconstitutional. Yet, it's there. How did it happen? Who let it happen? Is there anything that can or should be done about it? Given all that has transpired, what's next?

So I ask you, on this Constitutional Observance Day, what's a Constitution?

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About the Author

Jim Hoerricks, Ph.D. , was initiated, passed, and raised to the sublime degree of Master Mason in North Hollywood Lodge #542 (2003-2004) but now spends his time at the Archimedes Lodge UD in Pasadena, CA, as well as travelling the world visiting Masonic bodies in his spare time. Being very busy professionally, he has also been a member of Oasis Lodge #854 (Chaplain, 2012), Lancaster Lodge #437, Reseda Lodge #666, and Beverly Hills Lodge #528 (Treasurer, 2006). He is a member (33°) of the Scottish Rite bodies in Pasadena, CA and Guthrie, OK., the San Fernando Valley York Rite bodies, the Allied Masonic Degrees, the Grand College of Rites, the Royal Order of Scotland, MSRICF (VII°), Al Malaikah Shrine, the Scottish Rite Research Society, the WSB Club, and the Oklahoma Lodge of Research.

Jim is an active Masonic speaker and can be found on the Grand Lodge of California's Masonic Education Speaker List. He is a graduate of the Grand Lodge of California's Lodge Management Certification Program. He is certified by the Grand Lodge of California to deliver the Masonic Funeral Service.

Jim has been most active in the Ancient and Accepted Scottish Rite of Freemasonry, SJ. He has served the Valley of Pasadena, Orient of California, in many ways. He was Wise Master of the Pasadena Chapter of Rose Croix (2012) and served as Classroom Director from 2008-2014. Prior to his receiving the investiture of K.C.C.H., he served in the Valley's Knights of St. Andrew service organization, attending to the Valley's needs as necessary. In 2018, he earned the Scottish Rite Master Craftsman I Certification.

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