

WHO FRAMED AMERICAN CONSTITUTION

Stephen Lendman

Before they're old enough to understand its meaning, young US children are taught to "pledge allegiance to the flag of the United States of America and to the Republic for which it stands," and, by inference, its bedrock supreme constitutional law of the land. At that early age, they likely haven't yet heard of it, but soon will with plenty of misinformation about a document far less glorious than it's made out to be.

This article draws on Ferdinand Lundberg's powerfully important 1980 book, "Cracks in the Constitution," that's every bit as relevant today as then. In it, he deconstructs the nation's foundational legal document, separating myth from reality about what he called "the great totempole of American society." He analyzed it, piece by piece, revealing its intentionally crafted flaws. It's not at all the "Rock of Ages" it's cracked up to be, but students at all levels don't learn that in classrooms from teachers going along with the deception or who simply don't know the truth about their subject matter.

The Constitution falls far short of a "masterpiece of political architecture," but it's even worse than that. It was the product of very ordinary scheming politicians (not the Mt. Rushmore types they're portrayed as in history books) and their friends crafting the law of the land to serve themselves while leaving out the greater public that was nowhere in sight in 1787 Philadelphia. Unlike the Venezuelan Constitution, "The People" were never consulted or even considered, and nothing in the end was put to a vote beyond the state legislative bodies that had to ratify it. In contrast to popular myth, the framers crafted a Constitution that didn't constrain or fetter the federal government nor did they create a government of limited powers.

They devised a government of men, not laws, that was composed of self-serving devious officials who lied, connived, used or abused the law at their whim, and pretty much operated *ad libitum* to discharge their duties as they wished. In that respect, things weren't much different then from now except the times were simpler, the nation smaller, and the ambitions of those in charge much less far-reaching than today.

The Constitution can easily be read in 30 minutes or less and just as easily be misunderstood. The opening Preamble contains its sole myth referring to "We the people of the United States of America." The only people who mattered were *white male property owners*. All others nowhere entered the picture, then or mostly since, proving democracy operatively is little more than a fantasy. But try explaining that to people today thinking otherwise because that's all they were taught from the beginning to believe.

They were never told the American revolution was nothing more than a minority of the colonists seceding from the British empire planning essentially the same type of government repackaged under new management. Using high-minded language in Article I, Section 8 of the supreme law of the land, the founders and their successors ignored the minimum objective all governments are, or should be, entrusted to do - "provide for....(the) general welfare" of their people under a system of constitutional law serving everyone. But that's not its only flaw.

This revered document is called "The Living Constitution," and Article VI, Section 2 defines it as the supreme law of the land. In fact, it's loosely structured for governments to do as they wish or not wish with the notion of a "government of the people, by the people, for the people", a nonstarter. "The People" don't govern either directly or through representatives, in spite of commonly held myths. "The People" are governed, like it or

not, the way sitting governments choose to do it. As a consequence, "The Living Constitution" was a "huge flop" and still is.

Popular myth aside, the 55 delegates who met in Philadelphia from May to September, 1787 were very ordinary self-serving, privileged, property-owning white men. They weren't extraordinarily learned, profound in their thinking or in any way special. Only 25 attended college (that was pretty rudimentary at the time), and Washington never got beyond the fifth grade.

Lundberg described them as a devious bunch of wheeler-dealers likely meeting in smoke-filled rooms (literally or figuratively) cutting deals the way things work today. He called them no "all-star political team" (except for George Washington) compared to more distinguished figures who weren't there like Jefferson, Adams (the most noted constitutional theorist of his day), John Jay (the first Supreme Court Chief Justice), Thomas Paine, Patrick Henry and others. Madison and Alexander Hamilton, who did attend, were virtual unknowns at the time, yet ever since Madison has been mischaracterized as the Constitution's father. In fact, he only played a modest role.

The delegates came to Philadelphia in May, 1787, assembled, did their work, sent it to the states, and left in a despondent mood. They disliked the final product, some could barely tolerate it, yet 39 of the 55 attendees knowingly signed a document they believed flawed while Americans today extoll it like it came down from Mt. Sinai. The whole process people call a first-class historical event was, in fact, an entirely routine uninspiring political caucus producing no "prodigies of statecraft, no wonders of political (judgment), no vaulting philosophies, no Promethean vistas." Contradicting everything we've been "indoctrinated from ears to toes" to believe, the notion that the Constitution is "a document of salvation.... a magic talisman," or a gift to the common man is pure fantasy.

The central achievement of the convention, and a big one (until the Civil War changed things), was the cobbling together of disparate and squabbling states into a union. It held together, tenuously at best, for over seven decades but not actually until Appomattox "at bayonet point." The convention succeeded in gaining formal approval for what the leading power figures wanted and then got it rammed through the state ratification process to become the law of the land.

After much wheeling and dealing, they achieved mightily but not without considerable effort. Enough states balked to thwart the whole process and had to be won over with concessions like legitimizing slavery for southern interests and more. Then consider the Bill of Rights, why they were added, for whom, and why adopting them made the difference. It came down to no Bill of Rights, no Constitution, but they weren't for "The People" who were out of sight and mind.

These "glorified" first 10 Amendments were first rejected twice, then only added to assure enough state delegates voted to ratify the final document with them included. Many in smaller states were displeased enough to want a second convention that might have derailed the whole process had it happened. To prevent it, concessions were made including adding the Bill of Rights because they addressed key state delegate concerns like the following:

- prohibitions against quartering troops in their property,
- unreasonable searches and seizures there as well,
- the right to have state militias,
- the right of people to bear arms, but not as the 2nd Amendment today is interpreted,
- the rights of free speech, the press, religion, assembly and petition, all to serve monied and propertied interests alone—not "The People,"
- due process of law with speedy public trials for the privileged, and

— various other provisions worked out through compromise to become the acclaimed Bill of Rights. Two additional amendments were proposed but rejected by the majority. They would have banned monopolies and standing armies, matters of great future import that might have made a huge difference thereafter.

In the end and in spite of its defects, the framers felt it was the best they could do at the time and kept their fingers crossed it would work to their advantage. None of them suggested or wanted "a sheltered haven....for the innumerable heavily laden, bedraggled, scrofulous and oppressed of the earth." On the contrary, they intended to keep them that way meaning things weren't much different then than now, and the founders weren't the noble characters they're made out to be.

There were no populists or civil libertarians among them with men like Washington and Jefferson (who was abroad and didn't attend) being slave-owners. In fact, they were little more than crass opportunists who willfully acted against the will of "The People" they ignored and disdained. In spite of it, they're practically deified and ranked with the Apostles, and one of them (Washington) sits in the most prominent spot atop Mt. Rushmore.

The constitutional convention ended September 17, 1787 "in an atmosphere verging on glumness." Of the 55 attending delegates, 39 signed as a pro forma exercise before sending it to the states with power to accept or reject it. Again, "The People" were nowhere in sight in Philadelphia or at the state level where the real tussle began before the founders could declare victory.

Contrary to popular myth, the new government wasn't constrained by constitutional checks and balances of the three branches created within it. In fact, then and since, sitting governments have acted expediently, with or without popular approval, and within or outside the law. In this respect, the American system functions no differently than most others. It's accomplished through "the narrowest possible interpretations of the Constitution," but it's free to go "further afield under broader or fanciful official interpretations." History records many examples under noted Presidents like Lincoln, Roosevelt and Wilson along with less distinguished ones like Reagan, Clinton, Nixon, GHW Bush and his son, the worst ever of a bad lot.

Key to understanding the American system is that "government is completely autonomous, detached, (and) in a realm of its own" with its "main interest (being) economic (for the privileged) at all times." Constitutional shackles and constraining barriers are pure fantasy. Regardless of law, custom or anything else, sitting US governments have always been freelancing and able to operate as they please. They've also consistently been unresponsive to the public interest, uncaring and disinterested in the will and needs of the majority, and generally able to get around or remake the law to suit their purpose. George W. Bush is only the latest and most extreme example of a tradition begun under Washington, who when elected unanimously (by virtual coronation) was one of the two richest men in the country.

wsThe Constitution then and since confers unlimited powers on the government constituted under its three branches of the Congress, Executive and Judiciary. Article I (with seven in all plus 27 Amendments) deals with the legislative branch. Section 8, Sub-section 18 states Congress has power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution....or in any department or officer thereof." It's for government then to decide what's "necessary" and "proper" meaning the sky's the limit under the concept of sovereignty. □□□