



THE VIEW

Issue #49

April 21, 2008

PREPARING TO SCORE THE PRESIDENTIAL CAMPAIGN ON THE CONSTITUTION

BY

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As the Democratic Presidential primary rumbles on unabated perhaps it is time to examine a preview of what some of the issues might be if indeed we do finally reach the point of pitting a Democrat against a Republican. As we await the definitive decision on the Democratic nominee one thing is becoming quite apparent. Clear philosophical divisions between the conservative Republican candidate John McCain and the decidedly more liberal positions of either Democratic candidate are becoming more evident. Perhaps because of the moves made toward a more centralized government under the current Republican Bush administration the campaign currently under way has hinted that more than a few basic Constitutional issues will be find their way into the campaign debates. The following is a preliminary look at some of the Constitutional issues that have surfaced in the political discussions so far. If you were in my class I would tell you to pay close attention since a pop test may await you at the conclusion.

Article I of the Constitution addresses the Legislative Branch and thus outlines the power of the Congress. Presumptive Republican presidential nominee has railed against Congressional "Earmarks" in the federal budget and he has insisted in one of his major campaign positions that he will veto any budget containing such appropriations bound for specific congressional districts. Article I, however, quite clearly gives to the Congress the power to "lay and collect taxes..to pay debts and provide for the common defense and general welfare of the United States". Not only does this appear to cover the wisdom of Congress in recognizing district specific projects but also the ability of

Congress to allow the Bush tax cuts passed early in his term to "sunset" out of existence. Both of these issues will be prominent during the partisan Presidential debates.

Article II addresses the powers of the President and two of those powers come immediately to mind as having already surfaced as topics of discussion. In Section 2 of this article it states that "The President shall be the Commander in Chief of the Army and Navy of the United States and of the militia of the several states." Both of the Democratic hopefuls have stated what they planned to do in the way of bringing the troops in Iraq home while Republican candidate McCain has adopted the course of the current administration.

Also in Article II it is stated that "The President shall have the power to appoint ..the judges of the Supreme Court." The continued rightward march of the court will certainly be high on the Republican campaign agenda while reversing the trend set in motion by the appointments of conservatives Chief Justice John Roberts and Justice Samuel Alito will be a crucial stance taken by the Democratic nominee. This will be a continuously present campaign theme since liberal Justices John Paul Stevens and Ruth Bader Ginsberg are up in years and their time on the court is viewed as growing short.

Article IV deals with the Full Faith and Credit provisions of the Constitution. This means that each state must recognize and give credit to the public acts or laws of every other state. Any time the status of same sex marriage, civil unions, or domestic partnerships are discussed as matters of public policy it is this section of the Constitution that applies but the debate over states' rights in this area is far from over.

The First Amendment freedoms of religion, speech, the press, the right to assemble, and to petition the government, are all contained in this most important governing language in the world today. No doubt, however, outbursts like those of Barack Obama's former minister Jeremiah Wright will draw the attention of those wanting to limit the role of religion and specific churches in a political campaign. Stay tuned on this one.

The Second Amendment debate is already heating up also. A continuing rash of shootings on our college campuses as well as Democratic candidate Obama's allusion to guns as something to cling to by the embittered in small town America insures that the right to keep and bear arms will be put on the table for thorough discussion by the respective candidates.

The protections of the Fourth Amendment against unreasonable searches and seizures will no doubt find their way onto the campaign stage via a review by the Democrats of the Bush administration activities related to listening to the cell phone conversations of American citizens as well as the massive review of bank records. Guantanamo Bay and other exotic locations where prisoners or "enemy combatants" related to international terrorism will draw on the language of the Fifth Amendment and its promise that no one shall be denied "Life, liberty, or property without due process of law." Due process along with the power of habeas corpus, the power of the court to release persons being detained unconstitutionally, will no doubt make for lively debate regarding the handling of prisoners captured in time of war.

These are the topics that have surfaced so far. I notice that all the bookstores have available for sale a handy pocket sized copy of the Constitution. This may be a good time for every voter to buy one and use it to keep score.

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