

Constitutional Conservatism

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Abstract

The political label “Conservative” is over-used and subject to debate as to its true meaning. With neo-conservatives, paleo-conservatives, and compassionate conservatives, what is constitutional conservatism and how does it differ?

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

*Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed.*¹

1 INTRODUCTION

Political ideologies have many names: Liberal, Conservative, Republican, Democrat are among many. Conservatives became synonymous with the Republican party, liberalism with the Democrats. However, this is not always true; the political label Conservative can be confused from the many flavors of conservatives (not all of which would traditionally be classified as such).

We introduce a new term, “Constitutional Conservatism” (not the exclusive claim of any party) to express a set of principles, not a detailed political platform. It is an idea which anyone can ascribe to, Republican, Democrat or any other.

Why a new label? Most people associate conservative with Republican, but as the Republican party abandons its principles (barring little resemblance to conservatism), the conservative label becomes tarnished. In fact, they use the term neo-conservative to illustrate their break from traditional conservatives. On the other hand, Constitutional Conservatives don't fit into any one ideolog-

ical group. Paleo-conservative, blue-dog Democrat and traditionalist all have similarities (and differences).

Constitutional Conservatism flows from Judeo-Christian Biblical principles, but is religion-neutral — atheists can be (and are welcomed as) Constitutional Conservatives — Constitutional Conservatism does not seek to set up a religious government (as some conservatives desire). But in agreement with the original framers, freedom of religion is paramount to the Constitutional Conservative.

However, religious freedom is freedom *to*, not freedom *from*. More and more courts use an atheist view of government — as in freedom *from* religion. The Constitution bases religious freedom on freedom *to* religion (atheism also being a religion as it requires beliefs which must be taken on faith² — thus promotion of atheism is also wrong). The government must not hinder religious expression (of course, if your religion involves harming other people, the duty of government is protection for all and thus those ideas must be rejected), however,

¹This text should be immediately recognized and requires no reference. This footnote is only here in the event someone believes the author wrote it.

²Atheism states there is no god, an idea impossible to prove unless you have all knowledge. You must accept the idea on faith alone.

citizens must understand religious freedom means you may encounter beliefs you don't share. Tolerance is an over-used term, but it expresses the idea of religious freedom — freedom *to*.

2 SUMMARY OF IDEAS

The foundation of Constitutional Conservatism stems from four simple ideas, expanding from one core principle — a return to the Constitution as the supreme law of the land. Both major parties ignore the Constitution when it suits them, and this must not be.

1. *Textual interpretation of the Constitution* — The Constitution is not a “living document”.
2. *Fiscal responsibility* — If you spend more than you take in, you're in trouble. All levels of government must balance budgets each year.
3. *Charity* — It is not the role of government to take care of people. Each citizen has a moral responsibility to help those less fortunate.
4. *Personal responsibility* — It's time society stops allowing “victims” to shift the blame somewhere else — it's *not* the twinkie's fault³.

3 DETAILED DISCUSSION

3.1 Interpretation of the Constitution

The Constitution is *not* a “living document”. Once the Constitution becomes subject to varying interpretation, the rights guaranteed therein are not absolute, but become subject to popular whim — the precise problem the document is designed to avoid. This does not mean constitutional concepts are inflexible, as the document itself allows means to amend it if needed (a difficult process and one not to be undertaken lightly, but not impossible).

The proper method to understand the Constitution in the Courts is the “textualist method”⁴ espoused by Supreme Court Justice Scalia. Simply put, the text is plain and means what it says. An obvious concept to be sure, but unpopular to those desiring to subvert constitutional guarantees.

A textualist rejects the strict constructionist view as well (the most narrow view possible) which *does* make the Constitution inflexible to anything not in use in the 1700's; different groups want either a strict constructionist or living document

view — both are wrong; the textualist sits between two extremes and provides consistency, while allowing new situations to be addressed.

In ambiguous situations (as, for example, new technologies like radio and the Internet), textualists seek to determine original *meaning*, which differs considerably from original *intent*; original intent proves vague and highly subject to conjecture; writing legislation involves dozens of people (at least), each with their own reasons for desiring a piece of legislation passed. How can original intent of all the authors be determined? It can't. However, original meaning considers the application of the law in the past, and how it was understood by courts, people and society before. Thus, laws can't change meaning over decades and centuries. Textualism allows application to new situations and technologies, but remains uniform.

As an example of perils the living document view create, consider marriage laws which were universally understood to be between a man and a woman for many years; the law is not ambiguous in application and meaning. Yet recently some courts have “found” new ideas in an old law. Original meaning voids these rulings as they radically depart from the understanding and application of the law over time. You may or not agree with the definition of marriage as one man and one woman (that's not the point), but it's obvious the way laws have been understood and applied for decades.

Thus, if you disagree with the law you repeal it or change it — you can not simply “reinterpret” it to suit you. If you want gay marriage, polygamy or something else, change the law. Period. Judicial activism (by liberals, conservatives or any other group) subverts the separation of powers as legislation is the role of Congress, not the courts. By allowing the Constitution to change as a living document, laws change by the whim of courts, not legislative action. At worst, no one really understands what the law means until a court decides — which may itself change a year from now.

Constitutional Conservatives call for textual interpretation of the Constitution which both guarantees rights are truly unalienable (as the founders stated), and equally guarantees flexibility to apply constitutional law to new technologies and situations the framers couldn't conceive.

3.2 Fiscal Responsibility

This is obvious and shouldn't need to be stated, but politicians are not fiscally responsible (shock!

³The infamous “Twinkie defense” <http://dictionary.law.com/definition2.asp?selected=2177>

⁴“Scalia Dissents” 2004, page 2-9

⁵Senator H.L. Richardson “What Makes You Think We Read the Bills?” Caroline House Publishers 1978 page 68-72

horror!). It seems once elected, they become affected by what H.L. Richardson calls the “peer-group shift”⁵. Simply put, they lose touch with the common man by less contact with constituents back home and more with lobbyists and established Washington politicians — a situation even more pronounced as most politicians come from wealthy and isolated backgrounds. How much do *you* have in common with Ted Kennedy or President Bush?

Once elected their only goal becomes re-election. And what’s the best way to accomplish that? Pork! Bring home the bacon and re-election becomes much more likely — runaway spending is perhaps the biggest problem in Washington today (after ethics and integrity). But we avoid paying the bill, instead pushing off the problem to future generations. This must stop.

For example, the *increases* in federal spending under President George W Bush are more than the *entire* federal budget under President Carter. Federal spending has increased 33%, with a 48% increase in discretionary spending.⁶ This is most definitely *not* conservative.

The most pressing budgetary problem facing the nation comes from entitlement spending — Social Security, welfare, etc. It’s adequately documented the problems these programs have and continued unchecked eventually will bankrupt the country. At some point either massive tax increases are required (which won’t really raise revenue but can be devastating to the economy — see the *laffer curve*⁷), or massive benefit cuts. There is no free lunch.

In spite of this crisis, Constitutional Conservatives do *not* call for the elimination of these programs, as it would be unfair to people depending on them and believed in good faith the promises made by the government. However, it is reasonable to limit increases, and limit future benefits to those not already collecting them. The primary function of the Federal Government is national defense — other spending must be secondary; many programs the Federal Government involves itself in are the responsibility of states or private citizen groups.

Constitutional Conservatives call for holding (or reduction) of tax rates, balancing the budget, and

a priority on national defense as the primary duty of the Federal Government.

3.3 Charity

Charity is not the role of government, yet we delegate responsibility of children and seniors to the government. This must stop. It is the role of the private citizen to take care of his fellow man who is unable to. Welfare (whether corporate or personal) and other social programs must slowly be eliminated.

Additionally, income redistribution is to be flatly rejected. Taxes must be set such that every person has a stake in society. While progressive tax brackets are reasonable, vast differences in rates to place the burden of government on the few must be rejected. Each person has a stake in government, each person should shoulder some of the burden.

While socialist ideas of income redistribution are wrong and unethical, the Constitutional Conservative recognizes others may not be as fortunate as himself. Anyone blessed by the Creator has a moral responsibility to help their fellow man. Thus, each citizen should contribute to charity organizations.

Constitutional Conservatism requires (demands) assistance to the less fortunate, but it’s a private, not government, function.

3.4 Personal Responsibility

In the old days, ethics weren’t questioned. “My word is my bond” was the rule, with a handshake sufficient to seal the deal. Today, it’s who has the best lawyer. The erosion of personal integrity continues to have tragic consequences in business as well as personal life.

Personal responsibility and devotion to a commitment are foreign concepts to many people today as the divorce rate continues to climb. We see divorces after just a few months, citing “irreconcilable differences”. Really? It’s difficult to imagine even having time to fully explore options in a few months, let alone coming to a difference which can’t be managed.

Perhaps the problem is a lack of understanding what love is. The Greek language contains three words for love, with the highest being *agape*. It’s important to understand *agape* isn’t an emotion,

⁶Richard Viguerie, “Conservatives Betrayed” 2006, page 219

⁷The *laffer curve* shows a relationship between tax rates and revenue. Specifically, raising rates does not necessarily increase revenue, and reducing rates does not necessarily decrease revenue. Where the turning point is, of course, becomes a point of contentious debate. For more on the *laffer curve* see the following sites.

<http://financial-dictionary.thefreedictionary.com/Laffer+Curve>

<http://www.heritage.org/Research/Taxes/bg1765.cfm>

<http://www.investopedia.com/terms/l/laffercurve.asp>

it's a commitment, a theme echoing through traditional marriage vows — “for better or worse, in richer or poorer, in sickness and health, 'till death do us part”. That's a commitment. Today the vow is “until something better comes along”. This must not be.

Finally, everyone has their favorite examples from the justice system, from the twinkie defense to murdering your parents and throwing yourself on the mercy of the court because you're an orphan. We've changed criminal justice into situations where *everyone* is a victim (certainly some people have legitimate issues and need help—see charity above—but blaming your crime on twinkies? Get real).

Constitutional Conservatives call for a return of old-fashioned ethics and personal responsibility. Your handshake is your bond. Perform your commitments. Take responsibility for your actions.

4 SUMMARY

The Constitutional Conservative will not neatly fit into any specific political ideologies. Instead, he

works inside of the political spectrum for change to the existing political structure — returning to Constitutional law, fiscal responsibility, charity and responsibility.

LORD, *who shall dwell in your sanctuary? Who shall live on your holy hill? He who walks blamelessly does what is right, and speaks truth in his heart; He who doesn't slander with his tongue, nor does evil to his friend, nor casts slurs against his fellow man; In whose eyes a vile man is despised, but who honors those who fear the LORD; he who keeps an oath even when it hurts and doesn't change; he who doesn't lend out his money for profit, nor take a bribe against the innocent. He who does these things shall never be shaken. (Psalm 15)*

Government's view of the economy could be summed up in a few short phrases: If it moves, tax it. If it keeps moving, regulate it. And if it stops moving, subsidize it. (Ronald Reagan — Remarks to State Chairpersons of the National White House Conference on Small Business. August 15, 1986)⁸

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⁸Richard Viguerie, “Conservatives Betrayed” 2006, page 230