

Constitutional Conduct Board Proposed

The Constitution supports limited government.

Recognizing a potential danger, the founders of the United States created a Constitution that placed limits on plutocratic tendencies (undue governmental influence or rule by the wealthiest) and the corruption that must accompany it. Most obviously, Congress is limited to enumerated powers identified in Article I, Section 8 of the Constitution, but the entire Constitution of the United States may be viewed as the limits of power enjoyed by all federal officials. Similarly, state constitutions as well as the Constitution of the United States constrain the powers enjoyed by state, county and municipal officials.

Henry David Thoreau once wrote in *Walden, or Life in the Woods*, “Simplify, simplify, simplify.” Those who earlier framed our constitutions embodied that wisdom in constitutions. Constitutions simplify government by restricting the ways government can intrude in the lives of truly free individuals. When government exceeds its just boundaries to dictate individual behavior, it must do so with increasingly complex legislation and regulation. We should not be surprised when an unconstitutional 2,700 –page Patient Protection and Affordable Health Care Act is foisted on We the People, nor should we be surprised by the tidal wave of regulation which must necessarily follow this monstrous act.

Limited government demands constitutional conduct.

It is clear that if public office holders are to remain servants of “We the People”, we must enforce constitutional conduct. Our public officials have proven incapable. Impeachment is a toothless tiger that has never been used to convict a Supreme Court justice or a president in spite of widely recognized constitutional violations in both branches of government. Impeachment does not apply to the legislative branch. Only removal through the election process remains as a viable recourse to constitutional violations.

Flaws in the party endorsement process do not support constitutional conduct.

The endorsement by one of the two major political parties is a major milestone on the road to election to political office. Those endorsements are awarded by committee people at three levels depending upon the office – county, state and national. To be endorsed often means access to campaign funding from the political party as well as a “Good Housekeeping” seal of approval to others who wish to support the party’s most qualified candidate for the general election. To lose the endorsement is almost certain death in the pursuit of public office.

Endorsement places an awesome responsibility on committee people. They have many criteria to consider since success of an endorsed candidate enhances the party’s reputation, whereas loss erodes that reputation. It is too easy to fixate on perceived “electability” while downplaying integrity and accountability. Worse, a candidate’s endorsement may be unduly weighted toward the individual’s ability to raise campaign funds, thus moving the United States away from its republican roots toward a form of government despised by the founders – plutocracy.

The flaw in both parties' endorsement processes is that they fail to account for human nature. In today's media-saturated public square, it is too easy for those with wealth to buy the space that allows them to be perceived as having "momentum". In the case of a newcomer who lacks that personal wealth, there is always the temptation to accept the wealth of others, and the strings that are inevitably attached.

This aspect of the process favors maintenance of the status quo—some who have achieved a measure of political power are *less likely* to embrace candidates who would best serve the people. Instead, they are *more likely* to embrace the candidates of special interests whose support enables them to maintain their own power. Service to the people too easily takes a back seat to self-interest. Without some mechanism to ensure the people's interests are always paramount, the dynamism inherent in a healthy political process is replaced by apathy, and enthusiasm replaced by cynicism.

Constitutional conduct must be mandated at endorsement and enforced on an ongoing basis.

The most appropriate time to consider constitutional conduct of office seekers is at the beginning of the party endorsement process, before candidates are able to gain political momentum, before committee people are tempted to consider electability before integrity and accountability. A Constitutional Conduct Board can and should be created and formally instituted as part of the vetting process for every *candidate*, at all levels of office. Only after clearing this important first step in the screening process could *a candidate* hope to build momentum.

Further, *incumbents*, who at any time had violated their oaths of office, could be called before a Constitutional Review Board of their political party to answer charges specified by a given number of committee members. The existence of this mechanism is completely consistent with one of the principle themes of our republican government – *checks and balances*. Its greatest benefit, however, would not be in the sanctioning of incumbents, but in the inhibition of unconstitutional conduct of all public office holders.

Promoting constitutionalism best serves everyone.

The political party which first recognizes the advantage it has in promoting constitutionalism will gain credibility in the eyes of the citizenry, and it will be rewarded with more of its candidates reaching public office. The other party will at some time recognize that it must change its strategy to become more faithful to constitutions. Market competition benefits the consumer, and political competition benefits the citizen. This is competition that will move the United States away from government based upon special interest and social engineering toward government based upon constitutionality and individual liberty.

Phil Duffy and Christine Kantrowitz

(Note: The idea of a Constitutional Conduct Board has been proposed to the leadership of the Republican Committee of Chester County.)

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