

The Constitution's Week in Review – 30 Oct 15

First Amendment. The First Amendment is under daily assault in this country. That may come as a shock to some, but it is a fact, and this fact is ironic given the groundbreaking way this country championed the five different protections found therein.

There are many today who seem to fear the free exchange of ideas and who fight hard to keep such from happening. Perhaps even more alarming than where we currently are in this fight to retain free speech are the clear trend lines forming, on college campuses and elsewhere. A [new poll](#) has been released which finds college students increasingly stating that the First Amendment is outdated. “By a margin of 51 percent to 36 percent, students favor their school having speech codes to regulate speech for students and faculty. Sixty-three percent favor requiring professors to employ “trigger warnings” to alert students to material that might be discomfiting.” Perhaps fittingly, “[o]ne-third of the students polled could not identify the First Amendment as the part of the Constitution that dealt with free speech.”

Just try to express conservative views on a college campus today and see how that works out. Conservative speakers are threatened with bodily harm and, if they dare show up anyhow, liberal student groups pull out all the stops to shout them down, as if the hearing of views contrary to their own will cause them irreparable psychic harm.

I've written in the past about the problem the Supreme Court created when they decided that “symbolic speech” was speech. Contributions to political campaigns could not be restricted because they were seen as “speech.” After opening that door where do you close it?

Bob McNair, the owner of the Houston Texans [found out the hard way](#) that some people want to control how you symbolically speak just as they would like to control how you verbally speak. Leftwing activists, got McNair to retract a \$10,000 donation he made to the campaign to repeal Houston's infamous “bathroom bill,” a bill that “allows a biological male to enter the women's restrooms and other private areas if he identifies as a female.”

In a similar tantrum, LGBT groups demanded that Utah Governor Gary Herbert cancel plans to welcome the World Congress of Families, a global organization of pro-family lawmakers, scholars, and advocates. Governor Herbert's reply was classic: “we invite diversity and different opinions to Utah.” What liberal group can be seen suppressing “diversity?”

I thought [this essay](#) by Jonathan Turley on the subject was well-written.

Related to this are [the efforts by LGBT groups](#) to build upon the recent success the Supreme Court handed them in *Obergefell v. Hodges* by pushing the “[Equality Act](#).” The Equality Act would amend the Civil Rights Act of 1964 “to include sex, sexual orientation and gender identity among the prohibited categories of discrimination or segregation in places of public accommodation.” Churches that follow the Bible, which teaches homosexual behavior is a sin, would be forced to hire homosexuals or face debilitating lawsuits.

Opposing this plan is the "[First Amendment Defense Act](#)," which would protect people and groups from unwarranted lawsuits when their actions are based on their religious beliefs about marriage.

Your Congressman or woman needs to hear from you on this issue. I suggest you call or send a letter to your Senators and Representative and tell them which of these competing Acts you would have them support.

Freedom of Conscience. We've followed for months the plight of Jack Phillips, owner of Masterpiece Cakeshop in Lakewood, Colorado, who was found guilty of discrimination after declining to make a cake for a homosexual wedding. Particularly onerous was the decision of the Colorado Court of Appeals, which ruled that Phillips cannot cite his Christian faith in explaining his actions. Phillips has decided to appeal to the Colorado Supreme Court on the grounds that what amounts to a gag order by the Court of Appeals flies in the face of Freedom of Speech guarantees. We'll continue to watch this (as will many others).

Are Children permitted Freedom of Conscience Too? The government-run schools (I'm going to stop calling them "public" schools because they increasingly fail to reflect the belief system of the American public), are becoming more brazen in their attempts to proselytize their students in the secular humanist faith (or, increasingly, in the [Islamic faith](#)). [This 7th Grader](#) was forced to deny the reality of God or accept a failing grade on a classroom assignment. Twenty or thirty years ago a headline like that would have seemed preposterous; now it is becoming commonplace. Why Christian parents would keep their children in public, government-run schools is beyond me. The chances of them graduating with their faith intact are quite low, demonstrably low.

Jury Trial. One of the common misconceptions about the Constitution is that it guarantees you a "jury of your peers." Sorry, it doesn't. The 6th Amendment gives you the right to an impartial jury, and other provisions provide for jury trial in certain circumstances; but the words, or even the concept, of a "jury of your peers" is just not there. Therefore, there is no guarantee you will get a jury of your socio-economic level, education level, or even your race. [At least one judge in Kentucky](#) apparently believes that race plays a role in verdicts and/or sentencing and has, on more than one occasion, sent an all-white jury packing when the defendant was otherwise. I'm not sure where I come down on this issue; I think the bigger question is why blacks (in this case) are not showing up in the jury pools.

Sharia Law. It was bothersome last year to see Sharia Courts being allowed in Texas, now it seems [they didn't want to play by the rules](#) of our legal system, who could have guessed? At least one is being shut down.

Impeachment. We normally think of impeachment only in terms of the President (twice) or federal judges (many times). Part of this confusion comes from the fact that, although impeachment is mentioned in both Article 1 and Article 2, the grounds for impeachment are discussed only in Article 2 and begin with the words: "The President, Vice President." Some

people, mentally, stop reading there. But the clause goes on to add: “and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High crimes and Misdemeanors.”

Only twice have non-Presidents/judges been impeached:

Senator William Blount was impeached on July 7, 1797 for “conspiring to assist Britain in capturing Spanish territory” (i.e. Louisiana Territory) to recover his over-extended land purchases. Instead of conducting the Constitutionally-required trial, the Senate refused to accept the House’s impeachment and instead expelled Blount from the Senate on their own authority (as found in Article 1, Section 5, Clause 2)

Secretary of War William Belknap was impeached on March 2, 1876, after he had resigned in the face of intractable evidence of having received kickback payments. He was acquitted in the Senate probably because a large number of Senators believed that the Senate did not have jurisdiction to put someone who was by then a private citizen on trial.

There was talk earlier this year about [impeaching Hillary Clinton](#), which would have obviously made the Clintons the only impeached couple in U.S. history; quite a distinction. That idea went nowhere for the same reason Belknap was acquitted.

This week we were treated to [the beginning of impeachment proceedings](#) against the head of the IRS: [John Koskinen](#) primarily over his handling of the “[Lois Lerner affair](#).” Representative Jason Chaffetz and 18 of his fellow Republicans on the House Oversight and Government Reform Committee seem serious. I’m guessing today’s news of the [IRS employing cellphone tracking technology](#) that also captures data on the cellphone locations of non-targeted (i.e. innocent) citizens is not going to help Mr. Koskinen’s cause, especially when the concern in the Senate appears bi-partisan. I predict we see Mr. Koskinen resign soon.

And finally. I’ll conclude this week with this bit of good news: the [number of citizens who feel](#) the states should push back against an over-reaching federal government is growing. Let’s face it, despite its position in last place, the 10th Amendment was not an afterthought, it describes a concept the Founder’s firmly believed in. I would only ask that if you hold to the belief that the states need to pushback and employ nullification with greater frequency that you share your convictions with the state delegate and senator – soon.

Upcoming Events:

Voting - 3 November is voting day in Virginia (and probably in most other states as well. Typically turnout in an off-year election is dismal, which is sad when you realize [the difference single votes have made over the years](#). Suppressing the turnout even more are a large number of uncontested races (at least here in my area), which is equally sad; nobody is so important that they can’t be replaced, and every incumbent should be forced to justify their continuance in office. Even when someone is doing a reasonable job that is no reason, by itself, that they should be continued in office. To paraphrase the Virginia Declaration of Rights:

“...members of the [legislative and executive branches] should, at fixed periods, be reduced to a private station, (and) return into that body (of plain ordinary citizens) from which they were originally taken [so that they might] feel[] and participat[e] in the burdens of the people.”

Please, everyone who can, VOTE on November 3rd and drag your reluctant neighbor with you.

Constitution Seminar – 14 Nov. For those in the Tidewater area of Virginia I’m putting on another Constitution Seminar for youth aged 14-18, on Saturday, 14 November. This one will be at Ingleside Baptist Church, 925 Ingleside Road, Norfolk, VA. There are only about three (3) seats left, so don’t delay if you want to get your teenager in the class. Once again, there is no charge for youth, courtesy of CLI’s Young Patriots Fund. Juliette Turner, author of “Our Constitution Rocks” will be addressing the students via Google Hangouts. To enroll, send an email to gary@constitutionleadership.org

Constitutional Conversations – 16 Nov. For the last five years the William & Mary Law School has conducted an outreach program called “Constitutional Conversations.”ⁱ The program is co-sponsored by the Institute of Bill of Rights Law at William & Mary Law School, the Williamsburg Regional Library, and the Colonial Williamsburg Foundation.

On Monday, November 16th from 7:00-8:30 pm, Christopher Newport University’s Phi Alpha Delta Pre-Law students and the Constitution Leadership Initiative will play host to William & Mary Law students as the William & Mary students lead a Constitutional Conversation for the first time on the CNU campus. November’s topic: “The U.S. Constitution Compared with International Constitutions.” Two other events are planned at CNU for February 8th and April 11th, 2016. All events will take place in the Freeman Center, Room 201.

Lessons in Liberty – 16 Nov. Author Stephen McDowell will speak on “The Ten Commandments: God’s Blueprint for Life, Liberty and Property. 6:30-8:30 EST, Foundation for American Christian Education classroom. \$10 for either classroom attendance or online via Livestream.com.

Five Signs Summit – 20-21 Nov. Mark Beliles, of The American Transformation Company, will present a two-day seminar which will outline a strategy to “reclaim the America God intended.” The seminar, for church leaders in the Tidewater area, will take place at the Foundation for American Christian Education, 4225 Portsmouth Blvd., Chesapeake, VA 23321. For more information see AmericaTransformationCompany.com.

News Flash, Action Required: I’m trimming my mailing list soon to ensure I’m sending only to people who actually read my mailings. The hand full of you who read all the way to the end of the last Constitutional Corner discovered that I asked for your response by [clicking here](#). (if the link tries to use Outlook or something other than your preferred email program, just send me an email saying you wish to remain subscribed). Clicking on that link should generate a “Keep me on the list” email, to which I will reply. You need only do this once, but if I have not received a response from you by 15 November, the mailings will stop.

The “Constitution’s Week in Review” is a project of the Constitution Leadership Initiative, Inc. To unsubscribe from future mailings by Constitution Leadership Initiative, [click here](#).

ⁱ <https://law.wm.edu/news/stories/2015/constitutional-conversations-celebrates-five-year-anniversary.php>