

Lesson #5

The "28th Amendment"

- Posted by [Publius Huldah](#) on March 25, 2010 at 10:49am in [Constitution Study Group](#)
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Folks, the proposed 28th Amendment is *a terrible* idea. It reads:

Congress shall make no law that applies to the citizens of the United States that does not apply equally to the Senators and/or Representatives; and, Congress shall make no law that applies to the Senators and/or Representatives that does not apply equally to the citizens of the United States.

1. Let's think this through: Ours is a Constitution of "enumerated powers" only. See:

<http://publiushuldah.wordpress.com/2009/09/08/congress-enumerated-p...> &
<http://publiushuldah.wordpress.com/2010/03/09/the-u-s-census-rule-o...>

2. The problem is that Congress, the Executive Branch, and the Judicial Branch IGNORE the Constitution.

3. How would an Amendment fix this? Why would any Branch of the federal government apply any such Amendment the way you think it should be applied? How could *any* Amendment MAKE them obey the Constitution, when they don't obey it now?

4. The reasons they disobey the Constitution are these: They want to, and We the People wanted them to. Social security, Medicare, government grants, programs for farmers, earmarks, etc., are all unconstitutional as outside the scope of the enumerated powers of Congress. But we wanted the handouts - we wanted the pork. So we didn't care that what they were doing was unconstitutional.

5. Now, listen carefully: The proposed 28th Amendment would have the effect of creating a "general" legislative power in Congress. A "general" legislative power is the opposite of enumerated powers only. With the "general" legislative power created by the proposed 28th Amendment, Congress could make *any law on any object* as long as it applied to them as well as to us.

So, while you might think that the 28th Amendment will "show them" that they can't pass laws for us and exempt themselves, the actual result of such an Amendment would be to destroy the concept of "enumerated powers" altogether. Plus, they would continue to ignore the Constitution!

6. Amendments to the Constitution are, in general, a *really bad idea*. In Federalist No. 84 (10th para), Alexander Hamilton warned against "bills of rights". He said that not only are they unnecessary, they are dangerous - for they provide, to those disposed to usurp, a pretext for doing so. He said:

I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that

a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

Hamilton was right. The U.S. Supreme Court has since used the 1st Amendment, which guarantees free exercise of religion & free speech, to BAN Christian speech in the public square. <http://publiushuldah.wordpress.com/category/separation-of-church-an...> Read also [Citizens United v. Federal Elections Commission \(2009\)](#) for a history of the Supreme Court's 1st Amendment jurisprudence respecting political speech! YES, they have long approved restrictions on political speech! Reconcile *that* with the text of the 1st Amendment! You can't.

The point is this: The federal courts will construe any new Amendment ***however they want!***

7. Our Constitution doesn't need amending except to repeal some of the previous ill-considered Amendments such as the 16th & 17th. Let's not blame-shift and say our political problems are due to defects in the Constitution. The defects are in our own plunder-loving hearts.

8. We fix our political problems by: (a) Learning the Constitution ourselves; (b) Supporting it and stop clamoring for unconstitutional handouts; (c) Electing people who will be faithful to the Constitution; (d) Demanding that our representatives impeach, try, convict and remove from office all who don't; and (e) Returning to personal morality and personal responsibility.