

<http://www.iwf.org>

<http://www.iwf.org/inkwell/show/24059.html>



Inkwell

Is Reading the Constitution Aloud a Gimmick?

by Charlotte Hays

January 4, 2011, 8:34am

As political junkies know, Washington Post blogger Ezra Klein stirred up a mini-controversy by saying on MSNBC that it will be nothing more than a gimmick Thursday when the Republican-controlled House opens with a reading aloud of the U.S. Constitution. (We'll get back to Klein in a second.)

Roger Pilon of the Cato Institute realizes that the reading alone "will not bring us any closer to limited government. But it will help get a debate going that for too long has been dormant." In his piece this morning, Pilon shows how the Constitution in the past served to limit what government did:

In 1794, for example, James Madison, the principal author of the Constitution, rose on the House floor to object to a bill appropriating \$15,000 for the relief of French refugees who had fled to Baltimore and Philadelphia from an insurrection in San Domingo. He could not, he said, "undertake to lay [his] finger on that article of the Federal Constitution which granted a right to Congress of expending, on objects of benevolence, the money of their constituents." The bill failed.

Can you imagine Congress rejecting a similar bill today? It may have seemed cruel to the fleeing French refugees of the day, but a larger principal was at stake:

Throughout the 19th century, members of Congress and presidents alike rejected legislation because they believed there was no constitutional authority to enact it. The bedrock presumption of our polity, they understood, was individual liberty. The Constitution gave the federal government the authority to pursue certain limited ends, like national security and ensuring free interstate commerce, but otherwise left us free to pursue our ends either through the states or as private individuals. It did not authorize the federal government to provide us with the vast array of goods and services that today reduce so many of us to government dependents.

Klein says that he did not actually say, as has been charged, that the Constitution is 223 years old and therefore incomprehensible. As recounted in a subsequent blog, he said that what he actually claimed was something different:

Asked if [reading the Constitution aloud] was a gimmick, I replied that it was, because,

well, it is. It's our founding document, not a spell that makes the traitors among us glow green. It's also, I noted, a completely nonbinding act: It doesn't impose a particular interpretation of the Constitution on legislators, and will have no practical impact on how they legislate.

The rather toxic implication of this proposal is that one side respects the Constitution and the other doesn't. That's bunk, of course: It's arguments over how the Constitution should be understood, not arguments over whether it should be followed, that cleave American politics. The Constitution was written more than 223 years ago, and despite the confidence various people have in their interpretation of the text, smart scholars of good faith continue to disagree about it. And they tend to disagree about it in ways that support their political ideology. I rarely meet a gun-lover who laments the Second Amendment's clear limits on bearing firearms, or someone who believes in universal health care but thinks the proper interpretation of the Commerce Clause doesn't leave room for such a policy. ...

Yes, the Constitution is binding. No, it's not clear which interpretation of the Constitution the Supreme Court will declare binding at any given moment. And no, reading the document on the floor of the House will not make the country more like you want it to be, unless your problem with the country is that you thought the Constitution should be read aloud on the floor of the House more frequently. In which case, well, you're in luck!

What Klein actually said is more subtle (and more troubling) than what he is charged by critics with having said. He does believe the Constitution is binding. But what is binding is an interpretation of the Constitution that is not remotely what those gentlemen who voted against helping the fleeing French refugees would have entertained. Klein and many others see the Constitution as a 223 year old "living" document that can be twisted into a new shape interpreted to authorize just about anything they want to do. Most of the things they want to do make the government bigger.

Is that the right way to view the Constitution? Is that the interpretation that enabled the country to become great? That is the major debate in public life today, thanks in part to the Tea Party, which has quite effectively brandished copies of this founding piece of paper.

So, yes, Ezra, I'm in luck.