

OUR IMBECILIC CONSTITUTION

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Advocating the adoption of the new Constitution drafted in Philadelphia, the authors of “The Federalist Papers” mocked the “imbecility” of the weak central government created by the Articles of Confederation.

Nearly 225 years later, critics across the spectrum call the American political system dysfunctional, even pathological. What they don’t mention, though, is the role of the Constitution itself in generating the pathology....

Our vaunted system of “separation of powers” and “checks and balances”—a legacy of the founders’ mistrust of “factions”—means that we rarely have anything that can truly be described as a “government.” Save for those rare instances when one party has hefty control over four branches—the House of Representatives, the Senate, the White House and the Supreme Court—gridlock threatens. Elections are increasingly meaningless, at least in terms of producing results commensurate with the challenges facing the country.

But if one must choose the worst single part of the Constitution, it is surely Article V, which has made our Constitution among the most difficult to amend of any in the world. The last truly significant constitutional change was the 22nd Amendment, added in 1951, to limit presidents to two terms. The near impossibility of amending the national Constitution not only prevents needed reforms; it also makes discussion seem futile and generates a complacent denial that there is anything to be concerned about.

It was not always so. In the election of 1912, two presidents—past and future—seriously questioned the adequacy of the Constitution. Theodore Roosevelt would have allowed Congress to override Supreme Court decisions invalidating federal laws, while Woodrow Wilson basically supported a parliamentary system and, as president, tried to act more as a prime minister than as an agent of Congress. The next few years saw the enactment of amendments establishing the legitimacy of the federal income tax, direct election of senators, Prohibition and women’s right to vote.

No such debate is likely to take place between Barack Obama and Mitt Romney. They, like most contemporary Americans, have seemingly lost their capacity for thinking seriously about

the extent to which the Constitution serves us well. Instead, the Constitution is enveloped in near religious veneration....

What might radical reform mean?

We might look to the 50 state constitutions, most of which are considerably easier to amend....

Another reform would aim to fix Congressional gridlock. We could permit each newly elected president to appoint 50 members of the House and 10 members of the Senate, all to serve four-year terms until the next presidential election. Presidents would be judged on actual programs, instead of hollow rhetoric.

If enhanced presidential power seems too scary, then the solution might lie in reducing, if not eliminating, the president's power to veto legislation and to return to true bicameralism, instead of the tricameralism we effectively operate under....

One might also be inspired by the states to allow at least some aspects of direct democracy....

What was truly admirable about the framers was their willingness to critique, indeed junk, the Articles of Confederation. One need not believe that the Constitution of 1787 should be discarded in quite the same way to accept that we are long overdue for a serious discussion about its own role in creating the depressed (and depressing) state of American politics.

