In What Ways Is The United States Constitution A Conservative Document? What Might Have Been The Mot Essay, Research Paper

The United States Constitution has been a cornerstone of the United States political system since its ratification in 1789. It has remained largely unaltered and continues to have a significant effect on political life. It is largely a conservative document in terms of its content. It can however be viewed as quite radical when it is noted that it was a pioneering document instilling a system of government with many new ideas. In this essay, I will firstly define what I mean by conservative; I will then explain some of the reasons why the document is conservative; I will go on to show how the document is in fact quite radical and it is only by our modern ideas about conservatism that it appears so; I will then examine the problems and influences which led the document to take the form that it did. The term ‘conservative’ can be taken in many ways. In this essay, it will essentially be taken to mean restrictive of any change or action which could be considered radical. Therefore, conservative ideas attempt to maintain the current political order and keep the system stable. With this in mind, the United States Constitution can be viewed in two ways. The document today looks very conservative and restrictive of change, but in 1789 it was very radical. “The Framers have undergone miraculous metamorphoses: at one time acclaimed as liberals and bold social engineers, today they appear in the guise of sound Bukean conservatives.” To the Twentieth Century mind, concepts such as stability and order are conservative notions, to those in the Eighteenth Century, the United States idea of a codified Constitution with a different notion of sovereignty and the separation of powers are quite liberal. The United States Constitution is essentially conservative by the way it limits the use of power in the system. It attempts to a create stable system where radical change is difficult. It is also in this way that short term extremes have a minimal effect. This is done by separating the system into three distinct areas – the executive, legislature and judiciary – and giving each one checks and balances on each other. These three institutions each perform their own duties but also have powers over each other to prevent any one part from acting out of context with the other two. For example, Congress can pass a bill but it can be vetoed by the President who can himself be overruled by a two-thirds majority in both the Houses, furthermore, the Supreme Court can deem a law unconstitutional and insist it is changed. Since it is extremely difficult to control more than one institution and the other institutions have vetoing rights over the controlled one; It reduces the chance of a concentration of power by any one person of group of people (faction) who would then be able to dominate the system. The United States Constitution has a difficult amendment process which shows that it aspires to stability and continuity. It has only been amended 27 times in its life, 10 of which are the Bill of Rights and two relating to the introduction and subsequent repealing of prohibition. It therefore has only had 15 serious amendments which generally relate to the election process and the powers of federal government. It is very difficult to have an amendment ratified; such as the Equal Rights Amendment (ERA) relating to sex discrimination, has been before Congress since 1923 and the Balanced Budget Amendment which would require the federal government to balance its annual budget has effectively been ’shelved’. When it is examined how much the United States has changed over the last two hundred years, from a relatively small agrarian country to a massive, industrialised world power; it is amazing how the Constitution exists at all when so few amendments have been passed. This shows a number of ideas inherent in the Constitution, of which, some can be seen as conservative. The difficult amendment process is conservative in that it prevents radical change to the document, it maintains a similar order of power throughout time and has become a benchmark which Americans can use to firstly understand what should be occurring and secondly draw government accountable for its actions. For example, the Constitution played a key part in the removal of Richard Nixon from office following the Watergate scandal. The system of checks and balances were in place to prevent further damage being done by an alleged corrupt President. During the scandal, the Constitution allowed the Supreme Court to sopeana key evidence, and begin the process of impeachment before Nixon resigned. The Constitution can however be seen as radical because it is short and remains flexible. Changes in the American society and economy have led to different interpretations of the Constitution without making the Constitution defunct. The main changes have been the assertion of the Federal government and the executive within that government; the growth of power of the supreme court and the protection of rights by the Federal government. The changes America have occurred and the different interpretation of the Constitution can be argued to have been necessary and could not all have been envisaged by the Framers, but the Constitution survives and remains an active document. The United States Constitution is radical in certain key concepts, the main ones are Sovereignty and Republicanism. In terms of Sovereignty, there was a radical change in emphasis away from the traditional notion that sovereignty resided at the top of the system and filters down. Under the Constitution, sovereignty rests at the bottom with the citizens, this is best demonstrated by the first words of the Constitution “We the people of the United States”. This leads to some different implications for the United States system. It enshrines the people as the source of authority and gives them the right to demand responsible government, something which other countries could not claim to have at the time of its’ inception. This is directly opposed to the then English system where sovereignty lies at the top with the monarch and the people are subjects. In theory, the people of England had less of a right for good government or to overthrow a bad one. It also allowed for the Republican system of government. This system with its’ relatively weak centre was revolutionary, many countries at the time were still monarchies, while some were beginning to have some democracy. This system went much further and could be said to be pioneering. It definitely is not conservative. The very concept of a single written codified document was a radical one in the eighteenth century. No other country had such a document, the only precedents were the ‘Articles of Confederacy’ and the individual states Constitutions. This Federalist system of government was a check on the system. The centre had powers over the states to make them work together as one nation, but each state has powers over the centre, such as with the amendment to the Constitution, where as discussed earlier, the states have to ratify any proposals. The concept of the Constitution being radical is further bolstered when the theoretical assumptions underpinning the ideas are expressed. Writers such as Rousseau, Paine and Locke all argued for the concept of individual rights guaranteed by the government. Rousseau and Locke were trying to paint an idealised picture of what a perfect state would be like and it seems quite apparent that the Framers were attempting to create that state. Paine was a strong voice for the American revolution and had very strong beliefs in individual inalienable rights This is best shown by his books “The Rights of Man” where he argues against Edmund Burkes’ “Reflections on the Revolution in France” and “Common sense” which argues for an independent United States. These writers at the time were quite radical in their thinking. especially in their arguments for democracy, accountability, justice and rights. All of the Framers were of an educated standing and is of little doubt that they would have come across these writers and had been influenced by them. There are a number of motives for the Constitution being a conservative one. These can be seen to fall in to two categories, problems and influences. The first obvious problem is ‘the Articles of Confederacy’ because it was because of its’ failing that the conference of Philadelphia was called to create a new Constitution. Its problems were that the Federal government was too weak and could do nothing, it had no revenue raising powers, was unable to regulate money, allow free trade between states, create a common foreign defence policy and raise an army and it could not enforce any contracts. The second problem was the worry of creating a system of government no better than that of King George III which had been the underlying cause of the War of Independence. This system which appeared tyrannical to the unrepresented Americans who still were expected to pay tax could not be repeated. An obvious measure to prevent this was to give the House of Representatives, the elected chamber, the sole right to raise taxes – allowing taxation with representation. This fear of a concentration of power was a very real motive for the Framers, and is one of the main objectives that the Constitution sets out to prevent. A third problem relates to practicality, the Framers wished to create a workable document but it also had to be accepted by the people who were to agree to be governed. “What they did was to hammer out a pragmatic compromise which would both bolster the ‘National interest’ and be acceptable to the people.” For Example, New York had to be ‘democratically coerced’ into firstly sending delegates who were instructed to only revise the Articles of Confederation, not create a new document;and secondly ratifying the Constitution, without New York, the project was doomed to failure and the only weapon those wishing the Constitution was “an effective mobilisation of public opinion.” On top of this, the Framers wished to create a document which would work, creating free trade between the states, a common defence policy and hold the Union together. This was obviously a very real problem for the initiators and the Framers of the Constitution, therefore it was a real motive behind it. There are a number of influences on the Framers which motivated them to form a conservative Constitution. These are; the fear of abuse of power; ‘life, liberty and happiness’; and a pessimistic view of human nature. The notions of ‘life, liberty and happiness’ where very important concepts for the Framers, It was these notions which had caused America to declare independence from Britain, naturally they would want them protected in the Constitution. These are protected in its’ limitation of powers to each of the institutions, the separation of powers and the system of checks and balances. The fear of abuse of power is probably the most important influence, the recent experiences of colonial rule were still in living memory. A system needed to be created which would prevent this perceived dominance from occurring again. This however included the fear of democracy and majority rule, where minorities would be discriminated against. The separation of powers and the federal system of government is the Framers attempt to prevent this. As discussed earlier, this system limits the amount of power any one person or faction can have. The influence of abuse of power rests on a pessimistic notion of human nature – given the chance most people would try to abuse the system, “There is a degree of depravity in mankind which requires a certain degree of circumspection and distrust.” This argument for the Framers outweighed the possibility that the legislative system could easily ‘clogged’ up by one institution and a stalemate result; for them no legislation is better than bad legislation. It can be seen that from the problems and influences, the document was always going to be conservative in its content. The Framers were not trying to create a perfect liberal democracy, they were reacting to a set of given problems and how to remove them from the system. This was done by limiting the powers of the individual states over the centre and fragmenting the federal government to prevent any abuse. If it is taken that the term ‘conservative’ means restrictive of any action which could be seen as radical then The United States Constitution is a conservative document; although, at the time of its’ ratification it was considered quite radical; that is, conservative in twentieth century terms but radical in the nineteenth century. It is conservative because of its content and implications of implementation. The document focuses on the constraint of power through separating the institutions, giving each of them a series of checks and balances over each other and allowing individual states power over the centre in other issues. The document can however be viewed as radical in that it was the first document of its kind and pioneered a new system of government based on controversial concepts of sovereignty and federalism. These radical concepts being based on writers such as Rousseau, Locke, and Paine. The main motives of the Framers to create a conservative document fall in to two broad categories, problems and influences. The most important problems were the failure of the Articles of Confederacy; the past problems of the colonial government not allowing representation but still demanding taxation and the practicality of creating a popular document. The influences included the fear of an abuse of power; ‘life liberty and happiness’ and a negative notion of human nature. These problems and influences motivated the Framers to create a conservative document, it could be argued that given these problems and influences, a conservative document was inevitable because the Framers were attempting to limit power, change and dominate within the system. Bibliography. Ackerman, B We The People. 1 Foundations. Harvard University Press. Cambridge Massachusetts. 1991. Adams, D.K (editor) Studies In US Politics. 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