

# We the People

of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

## Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

# Trump vs. the Constitution

Representatives and electors in each State shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including Indians bound to Service, three fifths of all other Persons who are held as Servants or Apprentices within the United States, and the Number of free Persons within each State shall not exceed three fifths of the whole Number of free Persons in any State.

Section 3. The Senate shall be composed of two Senators from each State, chosen by the Legislature of the State for which they are elected, and they shall hold their Offices during the Term of Years which the Legislature may provide, not exceeding six Years, and each Senator shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

On Jan. 5, Portland City Commissioner Nick Fish delivered this keynote speech to students at the Classroom Law Project's annual "We The People: The Citizen and The Constitution" competition. This essay is a modified version of his speech.

**BY NICK FISH**  
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Let me begin with some statements from a presidential election that may go down as the most divisive in our nation's history.

Here is what one campaign said of the opponent: "If he were to become the president, we would see our wives and daughters the victims of legal prostitution." And "murder, robbery, rape and incest will all be openly taught and practiced."

Now there's a campaign tweet to remember.

The opposition responded in kind: He's "a lying, warmongering fellow," a "repulsive pedant," and "gross hypocrite" who "behaved neither like a man nor like a woman but instead possessed a hideous hermaphroditical character."

Pretty awful, right?

As the students of history know, these statements are from the bitter election of 1800. It featured two heavyweights: John Adams and Thomas Jefferson.

Think of it. Barely 11 years after the ratification of the Constitution, two of the great architects of our democratic republic were having a loud, vitriolic and personal fight about the future of our country.

Some things never change.

It turns out that what we witnessed during the dismal 2016 election isn't an aberration after all. It's the continuation of a debate, as old as the republic, about the meaning and application of our Constitution.

We live in challenging times. America is more divided than ever before. Our public debates are getting coarser, while civility and tolerance are casualties in our partisan battles. People are losing confidence in all of our public institutions.

But my role is to not discourage you. To the contrary, I am here to reassure you that even in these difficult times, we are in good hands.

I am not talking about the president or the Congress. No, I find my greatest solace in a document that has endured for over 228 years - and in each of you. The students in this room understand better than most Americans the enduring strength of our constitutional foundation.

On Jan. 20, Mr. Trump will place his hand on a Bible and take an oath prescribed by Article II, Section 1 of the Constitution: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

This oath reflects the genius of our system - and reminds us that no president is above the law. Let's take a few minutes to anticipate the new president's first 100 days and what the Constitution may have to say.

For starters, Mr. Trump has promised to revoke most of President Obama's executive orders. I am guessing that no one in this room will lose any sleep if he does. Why? Because nothing in Article II says he can't. But this is the low-hanging fruit.

Things will only get more interesting. Let's consider two other actions the president-elect has said he would take.

During the campaign, there was a lot of loose talk about Muslim bans, registries and even camps.

The first line of defense against these shocking proposals is the Bill of Rights. The Establishment Clause of the First Amendment prohibits the government from disapproving or favoring any religion. Under the due process and equal protection clauses of the Fifth Amendment, the government may not banish or prohibit a citizen's entry into the United States. And under the 14th Amendment's Equal Protection Clause, the government may not target anyone because of her or his religion.

Let's move to another hot-button issue. Mr. Trump does not think much of the media, and he has threatened to "open up our libel laws." You know that is not likely to happen any time soon.

First of all, most claims for libel are decided in state, not federal, courts. Second, the Supreme Court, in *New York Times v. Sullivan*, interpreting the First Amendment, ruled that a public person must prove

"actual malice" to make out a libel claim - a very high bar.

So unless the high court reverses a 50-year precedent or the states pass a constitutional amendment, our new president will find it difficult to erode the legal protections of a free press.

Looking forward, in the battle between the president and the Constitution, I wouldn't bet against the Constitution. But we must remain vigilant. That's why I carry a copy of the Constitution with me.

Last fall, I was honored to meet Mr. Khizr Khan at the Muslim Educational Trust. He is the Gold Star father who electrified the nation with his appearance at the Democratic National Convention. He signed a copy of the Constitution and gave it to me.

What a beautiful statement about our country - a Muslim-American, a proud immigrant from Pakistan, reminding all Americans that the Constitution applies to every one of us, equally.

And what a powerful reminder of the civic heritage that binds together Americans of all political persuasions. Bernie supporters and Tea Party activists, conservative legislators and card-carrying members of the ACLU. We may be sharply divided on the issues, but we share a responsibility to defend our Constitution and democracy.

In "Federalist 1," Alexander Hamilton wrote, "Of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing demagogues, and ending tyrants."

I can think of no time when this competition was more relevant. The young people in this room are not merely students of the Constitution, but, more importantly, you are its newest champions.

John Adams once said, "Liberty cannot be preserved without a general knowledge among the people." He was talking about you. And we look to each of you to reach out across the ideological divides of the moment and to find common ground with others. And the place to start is our Constitution.

You've taken the first important step. Don't stop now. We are counting on you.