The Commandments

The Constitution and its worshippers.

by Jill Lepore

It is written in an elegant, clerical hand, on four sheets of parchment, each two feet wide and a bit more than two feet high, about the size of an eighteenth-century newspaper but finer, and made not from the pulp of plants but from the hide of an animal. Some of the ideas it contains reach across ages and oceans, to antiquity; more were, at the time, newfangled. “We the People,” the first three words of the preamble, are giant and Gothic: they slant left, and, because most of the rest of the words slant right, the writing zigzags. It took four months to debate and to draft, including two weeks to polish the prose, neat work done by a committee of style. By Monday, September 17, 1787, it was ready. That afternoon, the Constitution of the United States of America was read out loud in a chamber on the first floor of Pennsylvania’s State House, where the delegates to the Federal Convention had assembled to subscribe their names to a new system of government, “to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.”

Then Benjamin Franklin rose from his chair, wishing to be heard. At eighty-one, he was too tired to make another speech, but he had written down what he wanted to say, and James Wilson, decades Franklin’s junior, read his remarks, which were addressed to George Washington, presiding. “Mr. President,” he began, “I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them.” Franklin liked to swaddle argument with affability, as if an argument were a colicky baby; the more forceful his argument, the more tightly he swaddled it. What he offered was a well-bundled statement about changeability. I find that there are errors here, he explained, but, who knows, someday I might change my mind; I often do. “For having lived long, I have experienced many instances of being obliged by better Information, or fuller Consideration, to change Opinions even on important Subjects, which I once thought right, but found to be otherwise.” That people so often believe themselves to be right is no proof that they are; the only difference between the Church of Rome and the Church of England is that the former is infallible while the latter is never wrong. He hoped “that every member of the Convention who may still have Objections to it, would with me, on this occasion doubt a little of his own Infallibility, and to make manifest our Unanimity, put his name to this Instrument.” Although the document had its faults, he doubted that any other assembly would, at just that moment, have been able to draft a better one. “Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best.”

Three delegates refused to sign, but at the bottom of the fourth page appear the signatures of the rest. What was written on parchment was then made public, printed in newspapers and broadsheets, often with “We the People” set off in extra-large type. Meanwhile, the secretary of the convention carried the original to New York to present it to Congress, which met, at the time, at City Hall. Without either endorsing or opposing it, Congress agreed to forward the Constitution to the states, for ratification. The original Constitution was simply filed away and, later, shuffled from one place to another. When City Hall underwent renovations, the Constitution was transferred to the Department of State. The following year, it moved with Congress to Philadelphia and, in 1800, to Washington, where it was stored at the Treasury Department until it was shifted to the War Office. In 1814, three clerks stuffed it into a linen sack and carried it to a gristmill in Virginia, which was fortunate, because the British burned Washington down. In the eighteen-twenties, when someone asked James Madison where it was, he had no idea.

In 1875, the Constitution found a home in a tin box in the bottom of a closet in a new building that housed the Departments of State, War, and Navy. In 1894, it was sealed between glass plates and locked in a safe in the basement. In 1921, Herbert Putnam, a librarian, drove it across town in his Model T. In 1924, it was put on display in the Library of Congress, for the first time ever. Before then, no one had thought of that. It spent the Second World War at Fort Knox. In 1952, it was driven in an armored tank under military guard to the National Archives, where it remains, in a shrine in the rotunda, alongside the Declaration of Independence and the Bill of Rights.

Ours is one of the oldest written constitutions in the world and the first, anywhere, to be submitted to the people for
their approval. As Madison explained, the Constitution is “of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed... THE PEOPLE THEMSELVES.” Lately, some say, it’s been thrown in the trash. “Stop Shredding Our Constitution!” Tea Party signs read. “FOUND in a DUMPSTER behind the Capitol,” read another, on which was pasted the kind of faux-parchment Constitution you can buy in the souvenir shop at any history-for-profit heritage site. I bought mine at Bunker Hill years back. It is printed on a single sheet of foilscape, and the writing is so small that it’s illegible; then again, the knickknack Constitution isn’t meant to be read. The National Archives sells a poster-size scroll, twenty-two inches by twenty-nine inches, that is a readable facsimile of the first page, for twelve dollars and ninety-five cents. This item is currently out of stock.

Parchment is beautiful. As an object, the Constitution has more in common with the Dead Sea Scrolls than with what we now think of as writing: pixels floating on a screen, words suspended in a digital cloud, bubbles of text. R we the ppl? Our words are vaporous. Not so the Constitution. “I have this crazy idea that the Constitution actually means something,” one bumper sticker reads. Ye olde parchment serves as shorthand for everything old, real, durable, American, and true—a talisman held up against the uncertainties and abstractions of a meaningless, changeable, paperless age.

You can keep a constitution in your pocket, as Thomas Paine once pointed out. Pocket constitutions have been around since the seventeen-nineties. The Cato Institute prints a handsome Constitution, the size and appearance of a passport, available for four dollars and ninety-five cents. The National Center for Constitutional Studies, founded by W. Cleon Skousen, a rogue Mormon, John Bircher, and all-purpose conspiracy theorist, prints a stapled paper version, the dimensions of a datebook, thirty cents if you order a gross. I got mine, free, at a Tea Party meeting in Boston. Andrew Johnson, our first impeached President, was said to have waved around his pocket constitution so often that he resembled a newsboy hawking the daily paper. Crying constitution is a minor American art form. “This is my copy of the Constitution,” John Boehner, the Speaker of the House, said at a Tea Party rally in Ohio last year, holding up a pocket-size pamphlet. “And I’m going to stand here with the Founding Fathers, who wrote in the preamble, ‘We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights including life, liberty and the pursuit of happiness.’” Not to nitpick, but this is not the preamble to the Constitution. It is the second sentence of the Declaration of Independence.

At some forty-four hundred words, not counting amendments, our Constitution is one of the shortest in the world, but few Americans have read it. A national survey taken this summer reported that seventy-two per cent of about a thousand people polled had never once read all forty-four hundred words. This proves no obstacle to cherishing it; eighty-six per cent of respondents said that the Constitution has “an impact on their daily lives.” The point of such surveys is that if more of us read the Constitution all of us would be better off, because we would demand that our elected officials abide by it, and we’d be able to tell when they weren’t doing so and punish them accordingly. “This is what happens when our Constitution starts shaking her fist,” Sarah Palin tweeted in October, about calls for an end to federal funding for National Public Radio, which she charged with violating the First Amendment by firing the commentator Juan Williams. “The American people’s voice was heard at the ballot box,” Boehner said on Election Night, and what the American people want is “a government that honors the Constitution.” Rand Paul thanked his parents, in his victory speech, “for teaching me to respect our Constitution.” Michelle Bachmann told ABC News that she plans to offer Constitution classes in the House. Glenn Beck asked his listeners to urge their representatives to join Bachmann’s constitutional caucus. Sharron Angle said that she took comfort in the knowledge that Harry Reid carries a copy of the Constitution in his breast pocket: “We want our senator to remember our Constitution, to read our Constitution, and to consider every bill that he votes for in light of that Constitution.” The Tea Party’s triumph, she said, amounts to this: “We’ve inspired a nation to take a look at that document and begin to read it.” Last week, when new lawmakers were sworn in, the Constitution was read out loud in the House of Representatives. It is the first time this has ever happened.

If you haven’t read the Constitution lately, do. Chances are you’ll find that it doesn’t exactly explain itself. Consider Article III, Section 3: “The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.” This is simply put—hats off to the committee of style—but what does it mean? A legal education helps. Lawyers won’t stumble over “attainder,” even if the rest of us will. Part of the problem might appear to be the distance between our locution and theirs. “Corruption of Blood”? The document’s learnedness and the changing meaning of words isn’t the whole problem, though, because the charge that the Constitution is too difficult for ordinary people to understand—not because of its vocabulary but because of the complexity of its ideas—was brought nearly the minute it was made public. Anti-Federalists charged that the Constitution was so difficult to read that it amounted to a conspiracy against
the understanding of a plain man, that it was willfully incomprehensible. “The constitution of a wise and free people, ought to be as evident to simple reason, as the letters of our alphabet,” an Anti-Federalist wrote. “A constitution ought to be, like a beacon, held up to the public eye, so as to be understood by every man,” Patrick Henry argued. He believed that what was drafted in Philadelphia was “of such an intricate and complicated nature, that no man on this earth can know its real operation.” Anti-Federalists had more complaints, too, which is why ratification—a process wonderfully recounted by Pauline Maier in “Ratification: The People Debate the Constitution, 1787-1788”—was touch and go. Rhode Island, the only state to hold a popular referendum on the Constitution, rejected it. Elsewhere, in state ratifying conventions, the Constitution passed by the narrowest of margins: eighty-nine to seventy-nine in Virginia, thirty to twenty-seven in New York, a hundred and eighty-seven to a hundred and sixty-eight in Massachusetts.

Nor were complaints that the Constitution is obscure silenced by ratification. In a 1798 essay called “The Key of Liberty,” William Manning, the plainest of men—a New England farmer, a Revolutionary veteran, and the father of thirteen children—expressed a view widely held by Jeffersonian Republicans: “The Federal Constitution by a fair construction is a good one prinsapaly, but I have no dout but that the Convention who made it intended to destroy our free governments by it, or they neaver would have spent 4 Months in making such an inexpliset thing.” Franklin called the Constitution an “instrument”; he meant that it was a legal instrument, like a will. Manning thought that it was another kind of instrument: “It was made like a Fiddle, with but few Strings, but so that the ruling Majority could play any tune upon it they please.”

For all the charges that the Constitution was difficult to understand, between 1789 and 1860 only one state, California, required that it be taught in school. The first textbooks examining the Constitution weren’t printed until the eighteen-twenties, and they were for law students. Three volumes of “Commentaries on the Constitution,” written by Supreme Court Justice Joseph Story, appeared in 1833. The next year, Story published an abridgment for schools, explaining that the Constitution “is the language of the People, to be judged of according to the common sense, and not by mere theoretical reasoning.” That may be, but Story’s schoolbook is a hundred and sixty-six pages of close legal argument.

You can’t explain a thing without interpreting it. Story, a Northerner and a nationalist, emphasized the Supreme Court’s role in arbitrating disputes between the federal government and the states. In those years, the disputes mainly had to do with slavery; Southerners who glossed the Constitution stressed state sovereignty. In 1846, William Hickey published a constitutional concordance. He got the idea from Polk’s Vice-President, George Dallas, who believed the Constitution prohibited Congress from interfering with the extension of slavery into Western territories. The U.S. Senate, over which Dallas presided, ordered twelve thousand copies of Hickey’s pro-slavery vade mecum. It does not appear to have elevated congressional conversation. In 1847, the governor of New York, Silas Wright, observed, “No one familiar with the affairs of our government, can have failed to notice how large a proportion of our statesmen appear never to have read the Constitution of the United States with a careful reference to its precise language and exact provisions, but rather, as occasion presents, seem to exercise their ingenuity . . . to stretch both to the line of what they, at the moment, consider expedient.”

By the middle of the nineteenth century, nearly all white men could vote. Not all of them could read, and not all of them owned a copy of the Constitution, but Daniel Webster insisted, “Almost every man in the country is capable of reading it.” Whether they did or not is hard to say. Some did more than read it. William Lloyd Garrison burned the Constitution at an abolitionist rally in Massachusetts, calling it a “covenant with death, an agreement with hell.” John Brown wrote his own constitution, replacing “We the people” with “We, citizens of the United States, and the oppressed people . . . who have no rights.” It was found on Brown’s body when he was captured at Harpers Ferry. William Grimes, a fugitive slave, had a different idea about what to do with the Constitution: “If it were not for the stripes on my back which were made while I was a slave, I would in my will leave my skin as a legacy to the government, desiring that it might be taken off and made into parchment and then bind the Constitution of glorious, happy and free America.” And then the American people went to war, over their different ways of reading letters inked on parchment and wounds cut into the skin of a black man’s back.

“Find It in the Constitution*,” the Tea Party rally signs read. Forty-four hundred words and “God” is not one of them, as Benjamin Rush complained to John Adams, hoping for an emendation: “Perhaps an acknowledgement might be made of his goodness or of his providence in the proposed amendments.” It was not. “White” isn’t in the Constitution, but Senator Stephen Douglas, of Illinois, was still sure that the federal government was “made by white men, for the benefit of white men and their posterity forever.” What about black men? “They are not included, and were not intended to be included,” the Supreme Court ruled, in 1857. Railroads, slavery, banks, women, free markets, privacy, health care, wiretapping: not there. “There is nothing in the United States Constitution that gives the Congress, the
A great deal of what many Americans hold dear is nowhere written on those four pages of parchment, or in any of the amendments. What has made the Constitution durable is the same as what makes it demanding: the fact that so much was left out. Felix Frankfurter once wrote that the Constitution “is most significantly not a document but a stream of history.” The difference between forty-four hundred words and a stream of history goes a long way toward accounting for the panics, every few decades or so, that the Constitution is in crisis, and that America must return to constitutional principles through constitutional education. The two sides in this debate are always charging each other with not knowing the Constitution, but they are talking about different kinds of knowledge.

“We’ll keep clinging to our Constitution, our guns, and our religion,” Palin said last spring, “and you can keep the change.” Behind the word “change” is the word “evolution.” In 1913, Woodrow Wilson insisted, “All that progressives ask or desire is permission—in an era when ‘development,’ ‘evolution,’ is the scientific word—to interpret the Constitution according to the Darwinian principle; all they ask is a recognition of the fact that a nation is a living thing.” Conservatives called for a rejection of this nonsense about the “living Constitution.” In 1916, the Sons of the American Revolution campaigned for Constitution Day. In 1919, the National Association for Constitutional Government published some fifty thousand copies of a pocket edition of the Constitution. (The association’s other publications included an investigation into the influence of socialists in American colleges.) In 1921, Warren Harding called the Constitution divinely inspired; it was Harding who ordered the Librarian of Congress to take the parchment out of storage and put it into a shrine. Soon, the National Security League was distributing free copies of reactionary books written by “Mr. Constitution,” James Montgomery Beck, who was Harding’s solicitor general. “The Constitution is in graver danger today than at any other time in the history of America,” Beck warned.

By 1923, twenty-three states required constitutional instruction and, by 1931, forty-three. Studying Middletown’s high school in 1929, the sociologists Robert and Helen Lynd found these classes worrying: “70 percent of the boys and 75 percent of the girls answered ‘false’ to the statement ‘A citizen of the United States should be allowed to say anything he pleases, even to advocate violent revolution, if he does no violent act himself.’ ” Still, such instruction was by no means uniformly conservative. The author of an elementary-school textbook published in 1930 wrote, “This Constitution is yours, boys and girls of America, to cherish and to obey, to preserve and, if need be, to better.”

The New Deal intensified debate over the nature of the Constitution, a debate whose cramped terms we’ve inherited. “Hopeful people today wave the flag,” Thurman Arnold, later F.D.R.’s assistant attorney general, wrote in 1935. “Timid people wave the Constitution . . . the only bulwark against change.” Obama supporters wore “HOPE” and “CHANGE” T-shirts; Tea Partiers carry the Constitution. Liberals argue for progress; conservatives argue for a return to the nation’s founding principles. Change is a founding principle, too, but people divided by schism are blind to what they share: one half, infallible; the other, never wrong.

Pop quiz, from a test administered by the Hearst Corporation in 1987.

True or False: The following phrases are found in the U.S. Constitution:

- “From each according to his ability, to each according to his need.”
- “The consent of the governed.”
- “Life, liberty, and the pursuit of happiness.”
- “All men are created equal.”
- “Of the people, by the people, for the people.”

This is what’s known as a trick question. None of these phrases are in the Constitution. Eight in ten Americans believed, like Boehner, that “all men are created equal” was in the Constitution. Even more thought that “of the people, by the people” was in the Constitution. (Abraham Lincoln, Gettysburg, 1863.) Nearly five in ten thought “From each according to his ability, to each according to his need” was written in Philadelphia in 1787. (Karl Marx, 1875.)

About a quarter of American voters are what political scientists call, impolitically, “know nothings,” meaning that they
possess almost no general knowledge of the workings of their government, at least according to studies conducted by the American National Election Survey since 1948, during which time the know-nothing rate has barely budged. Critics, including James L. Gibson and Gregory A. Caldeira, have charged that these studies systemically overestimate political ignorance. A 2000 survey asked interviewees to identify William Rehnquist’s job. The only correct answer was “the Chief Justice of the United States Supreme Court.” Answers like “Chief Justice,” “Justice,” “Chief Justice of the Court,” and anything breezier (“a Supreme Court judge who is the head honcho”) were marked incorrect. Why the ability to name Rehnquist’s job is necessary to good citizenship is never made clear. Those surveys seem to have had a point to prove—they have been used to argue, for instance, that the public ought not to play a role in electing or selecting judges—as did surveys conducted during the Cold War which appear to have been designed to elicit the headline-generating news that Americans are so ignorant of the Constitution that they can be gulled into confusing it with Marxism. “Americans have known the Constitution best when they have revered it least,” Michael Kammen wrote, in an extraordinarily rich and rewarding history of the Constitution, published in 1986. The Hearst report reached quite a different conclusion: “Those Americans who are most knowledgeable about the Constitution are the least likely to support changes.” In 1985 and 1986, Reagan’s Attorney General, Edwin Meese, made a series of speeches advocating originalism. Reagan nominated Antonin Scalia to the Supreme Court in June of 1986. The Hearst survey was conducted that fall and released in February of 1987. That May, Thurgood Marshall said, in a bicentennial address, “I do not believe that the meaning of the Constitution was forever ‘fixed’ at the Philadelphia Convention.” That July, Reagan nominated Robert Bork to the Court, and, despite the failure of Bork’s nomination, originalism never looked back.

Last February, Meese and a coalition of prominent conservatives, including leaders of the Heritage Foundation, The National Review, and the Federalist Society, met in Virginia to sign “The Mount Vernon Statement.” It calls for a coalition of social, economic, and national-security conservatives to return the nation to the principles stated in its founding documents, now “under sustained attack” in “our culture, our universities and our politics”: “The self-evident truths of 1776 have been supplanted by the notion that no such truths exist. The federal government today ignores the limits of the Constitution, which is increasingly dismissed as obsolete and irrelevant.” The Mount Vernon Statement was modelled on the Sharon Statement, signed in 1960. The threat to the Constitution, in the Sharon Statement, was a “menace,” and it came from “the forces of international Communism.” In the Mount Vernon version, the threat is “change”: change is “an empty promise” and “a dangerous deception,” and it comes from the American people—that is, from those of us who are to be found in the nation’s universities and the federal government. The Sharon Statement was signed in William F. Buckley, Jr.’s home, in Sharon, Connecticut. The organizers of the Mount Vernon Statement wanted to meet at Mount Vernon, but the Mount Vernon Ladies’ Association turned them down. Still, the statement was printed on fake parchment, and a guy dressed up as George Washington handed out Sharpies.

Originalists argue that originalism is the only faithfully democratic mode of constitutional interpretation. Laws are passed by the elected representatives of the people; the courts protect the will of the people by making sure those laws adhere to the Constitution, as originally drafted and popularly ratified. Any other mode of jurisprudence is overstepping, and amounts to an abuse of judicial power because it favors the rulings of unelected judges—the caprice of contemporary courts—against the will of the people, as embodied by the Constitution.

Liberal legal scholars have tried different approaches in countering this argument. One has been to point out that the American people whose will originalism protects are dead, and that, even if they weren’t, they aren’t us. “If democratic legitimacy is the measure of a sound constitutional interpretive practice,” the Columbia law professor Jamal Greene has written, “then Justice Scalia needs to give an account of why and how rote obedience to the commitments of voters two centuries distant and wildly different in racial, ethnic, sexual, and cultural composition can be justified on democratic grounds.”

Another approach has been to argue that originalism, so far from being original, in the sense of being the same age as those four sheets of parchment in the National Archives, is quite modern. Consider the Second Amendment: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Historical evidence can be marshalled to support different interpretations of these words, and it certainly has. But the Yale law professor Reva Siegel has argued that, for much of the twentieth century, legal scholars, judges, and politicians, both conservative and liberal, commonly understood the Second Amendment as protecting the right of citizens to form militias—as narrow a right as the protection provided by the Third Amendment against the government’s forcing you to quarter troops in your house. Beginning in the early nineteen-seventies, lawyers for the National Rifle Association, concerned about gun-control laws passed in the wake of the assassinations of Martin Luther King, Jr., and Robert F. Kennedy, argued that the Second Amendment protects the right of individuals to bear
arms—and that this represented not a changing interpretation but a restoration of its original meaning. The N.R.A., which had never before backed a Presidential candidate, backed Ronald Reagan in 1980. As late as 1989, even Bork could argue that the Second Amendment works “to guarantee the right of states to form militias, not for individuals to bear arms.” In an interview in 1991, the former Chief Justice Warren Burger said that the N.R.A.’s interpretation of the Second Amendment was “one of the greatest pieces of fraud, I repeat the word ‘fraud,’ on the American public by special interest groups that I have ever seen in my lifetime.”

The individual-rights argument warrants serious debate. But, instead, on the political stage, people who disagreed with it were accused of failing to respect the Constitution, or of being too stupid to understand it. In 1995, Newt Gingrich wrote, “Liberals neither understand nor believe in the Constitutional right to bear arms.” Who are the know-nothings now? Liberal scholars and jurists. In 2005, Mark Levin, a talk-radio host who worked under Meese in the Reagan Justice Department, wrote that Thurgood Marshall, who had challenged originalism, “couldn’t have had a weaker grasp of the Constitution.” In 2008, the N.R.A.’s argument about the Second Amendment was made law in the District of Columbia v. Heller, which ruled as unconstitutional a gun-control law passed in D.C. in 1968. This decision, Siegel argues, has more to do with Charlton Heston than with James Madison.

In 2004, Larry D. Kramer, the dean of Stanford Law School, argued not against originalism but against judicial review (a power wielded, in recent years, by an originalist Court). Kramer offered another jurisprudence, based on different historical claims: popular constitutionalism. “The Supreme Court is not the highest authority in the land on constitutional law,” Kramer wrote. “We are.” Critics charge that it’s unclear how popular constitutionalism works, but the opposition of white activists to school desegregation, the N.R.A.’s interpretation of the Second Amendment, and Iowans voting out of office judges who supported same-sex marriage would all seem to fit into this category; and if recent legislation is overturned by an incoming Congress elected by people who believe that legislation to be unconstitutional, that will be popular constitutionalism, too.

Originalism is popular. Four in ten Americans favor it. Not all Tea Partiers are originalists, but the movement is fairly described as a populist movement inclined toward originalism. The populist appeal of originalism overlaps with that of heritage tourism: both collapse the distance between past and present and locate virtue in an imaginary eighteenth century where “the people” and “the élite” are perfectly aligned in unity of purpose. Originalism, which has no purchase anywhere but here, has a natural affinity with some varieties of Protestantism, and the United States differs from all other Western democracies in the far greater proportion of its citizens who believe in the literal truth of the Bible. Although originalism is a serious and influential mode of constitutional interpretation, Greene has argued that it is also a political product manufactured by the New Right and marketed to the public by talk radio, cable television, and the Internet, where it enjoys a competitive advantage over other varieties of constitutional interpretation, partly because it’s the easiest.

An unexamined question at the heart of this debate, then, is how people actually read the Constitution. Many people are now reading it, with earnestness and dedication, often in reading groups modelled on Bible study groups. The Tea Party Express endorses “The Constitution Made Easy,” a translation into colloquial English made by Michael Holler, and available on Holler’s Web site for eight dollars and ninety-five cents. Holler studied at Biola University, a Christian college offering a Biblically centered education. Much of his translation, which appears side by side with the original, is forthcoming. His Article III, Section 3, reads, “Congress will have Power to declare the punishment for treason, but the penalty may not include confiscating a person’s property after that person is executed,” and, in an end note, he supplies the helpful information that “Corruption of Blood” refers to the common-law confiscation of the property of executed traitors, which “had the effect of punishing the traitor’s heirs, or bloodline.” Holler’s Second Amendment is less straightforward; he inverts the language of the original, so that it reads, “The people have the right to own and carry firearms, and it may not be violated because a well-equipped Militia is necessary for a State to remain secure and free.” Holler is an N.R.A.-certified handgun instructor who, in addition to offering courses on the Constitution, sells classes in how to obtain a concealed-handgun permit.

“U.S. Constitution for Dummies,” published in 2009, was written by Michael Arnheim, an English barrister. The book includes a foreword by Ted Cruz, a nationally prominent defender of the death penalty and a former solicitor general of Texas who successfully defended a monument to the Ten Commandments at the Texas State Capitol. More recently, Cruz authored an amicus brief, on behalf of thirty-one states, supporting the anti-gun-control argument in the District of Columbia v. Heller. Arnheim’s “plain-English guide” translates portions of the Constitution (e.g., “Due process is really just an old-fashioned way of saying ‘proper procedure’”), with an emphasis on contemporary controversies, which he frames as battles between “judge-made law” and the proper workings of democracy; the right to privacy, for
instance, is an example of judge-made law. Arnheim is not stinting with his views. “In my opinion,” he writes, “same-sex marriage in Massachusetts is unconstitutional, and the other states therefore don’t have to recognize such unions. I am available if anyone wants to take this issue to the U.S. Supreme Court!”

Two more new guides include both scholarly annotations and historical essays. Jack Rakove, a Pulitzer Prize-winning historian from Stanford, has prepared “The Annotated U.S. Constitution and Declaration of Independence.” Rakove wrote an amicus brief in Heller, opposing the position argued by Cruz, but here he goes no farther than to call the evidence for Cruz’s position “tenuous.” Richard Beeman, who teaches history at the University of Pennsylvania, is the editor of a small-trim, twelve-dollar paperback, “The Penguin Guide to the United States Constitution.” In his commentary on Heller, the laudably equable Beeman summarizes the arguments; shrugs (“The meaning of the Second Amendment is subject to varying interpretations”); and moves on. Both of these excellent guides are valuable and judicious. Neither defines “Corruption of Blood.”

“I never knew what the Constitution really is until I read Mr. Beck’s book,” a sly critic of James Montgomery Beck once wrote. “You can read it without thinking.” Critics of originalism are in a bind. When ideas are reduced to icons, which, unfortunately, is the ordinary state of affairs, constitutionalism and originalism look exactly the same: the faux parchment stands for both. But originalism and constitutionalism are not the same, and the opposite of original is not unconstitutional. Originalism is one method of constitutional interpretation. Popular originalism is originalism scrawled with Magic Markers, on poster board. The N.R.A. opposed gun-control laws. It argued, at length, and over years, that those laws violated the Second Amendment. Eventually, the Supreme Court agreed. So far, the Tea Party’s passions ignite faster and are stated more simply. A sign at a Tea Party rally in Temecula, California: “Impeach Obama: He’s Unconstitutional.”

The Constitution is ink on parchment. It is forty-four hundred words. And it is, too, the accreted set of meanings that have been made of those words, the amendments, the failed amendments, the struggles, the debates—the course of events—over more than two centuries. It is not easy, but it is everyone’s. It is the rule of law, the opinions of the Court, the stripes on William Grimes’s back, a shrine in the National Archives, a sign carried on the Washington Mall, and the noise all of us make when we disagree. If the Constitution is a fiddle, it is also all the music that has ever been played on it. Some of that music is beautiful; much of it is humdrum; some of it sounds like hell.
The following questions are intended to accompany the article ‘The Commandments’ by Jill Lepore.

1-3. What are the THREE most important take-aways from this article?

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4. What does this article suggest about Constitutional text and its interpretations?
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5. The concluding paragraph states:
   “And it [Constitution] is, too, the accreted set of meanings that have been made of those words, the amendments, the failed amendments, the struggles, the debates—the course of events—over more than two centuries. It is not easy, but it is everyone’s.”

Referencing specific examples from the essay, explain what is meant by this.
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