

# THE U.S. CONSTITUTION AS ICON: RE-IMAGINING THE SACRED SECULAR IN THE AGE OF USER-CONTROLLED MEDIA

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## I. INTRODUCTION

Bugs Bunny pretends to be a professor in a vaudeville routine that sings the praises of the United States Constitution.<sup>1</sup> *Star Trek*'s Captain Kirk recites the American Constitution's Preamble to an assembly of primitive "Yankees" on a far-away planet.<sup>2</sup> A groovy *Schoolhouse Rock* song joyfully tells a story about how the Constitution helped a "brand-new" nation.<sup>3</sup> In the

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1. *Looney Tunes: The U.S. Constitution P.S.A.* (Warner Bros. Inc. 1986), <https://www.youtube.com/watch?v=d5zumFJx950>.

2. *Star Trek: The Omega Glory* (NBC television broadcast Mar. 1, 1968), <http://bewiseandknow.com/star-trek-the-omega-glory>.

3. *Schoolhouse Rock!: The Preamble* (ABC television broadcast Nov. 1, 1975), <https://www.youtube.com/watch?v=yHp7sMqPL0g>.

age of industry-controlled content distribution, the U.S. Constitution held an exalted place in American popular culture. Today, one can easily access images of the Constitution as toilet paper,<sup>4</sup> being burned or urinated upon by President Bush or Obama,<sup>5</sup> or placed in the hands of Jesus Christ.<sup>6</sup> The difference, of course, is in the advent of user-controlled distribution of media content on the Internet. Without the filter of corporate media ownership and the public interest obligations that come with broadcasting, the U.S. Constitution has been re-imagined as it has never been before. What was once a rather static icon of the sacred secular in American culture has become a lightning rod of profane dissent and religious fervor on Internet websites that any child can access.

This study classifies and analyzes representations of the U.S. Constitution as a cultural icon on American television and Internet websites.<sup>7</sup> For a representation to be iconic it must exploit the image or text of the Constitution so that the physical document, or its facsimile text, is essential to the meaning of the representation.<sup>8</sup> To put it in another way, an iconic image does not merely talk about the Constitution; it presents the Constitution itself as a tangible element in the representation. Most commonly, these iconic representations fall into two types: those that exploit a facsimile image of the first page of the document,<sup>9</sup> and those that exploit

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4. Kevin Barrett, *It Isn't the Government Any More*, TRUTHJIHAD.COM BLOG (Oct. 29, 2011), <http://truthjihad.blogspot.com/2011/10/it-isnt-government-any-more.html>.

5. Jon McNaughton, *One Nation Under Socialism*, MCNAUGHTON FINE ART CO., <http://www.jonmcnaughton.com/one-nation-under-socialism-1/> (last visited June 22, 2015); Zencomix, *The Unitary Executive*, ZEN COMIX (Jan. 17, 2006), <http://zencomix.blogspot.com/2006/01/unitary-executive.html>.

6. Jon McNaughton, *One Nation Under God*, MCNAUGHTON FINE ART CO., <http://www.jonmcnaughton.com/one-nation-under-god-2/> (last visited June 22, 2015).

7. Web searches were made at three successive intervals: in 2008, in 2010, and in 2012. The objective was to see if patterns of representation remained consistent in a period of political change bookended by the Bush and Obama administrations. As one might expect, research into television representations yielded results that were much less fluid than their web counterparts. The relatively few televised representations of the Constitution were located in 2008 through Internet searches of YouTube and other websites housing video content, like CBS.com. Similar searches in 2010 and 2012 did not reveal additional content, reflecting the scarcity and static nature of the Constitution's representations on television over the last fifty years. A second reason for limiting this inquiry to television and the web is practical. Representations of the iconic Constitution may exist in a film or on archival radio, and expanding this research to include a longitudinal study of newspapers' political cartoons may be an important next step. At this point, however, limiting the inquiry to two media makes for a more manageable project, and offers results that may still say something meaningful about the changing nature of content distribution in the U.S.

8. See PATRICIA LEAVY, *ICONIC EVENTS: MEDIA, POLITICS, AND POWER IN RETELLING HISTORY* 3-4 (2007).

9. See, e.g., Cani Lupine, *Tea Party's Constitution*, CHEEZBURGER, <http://cheezburger.com/3900791296> (last visited June 22, 2015).

the text of the document's preamble.<sup>10</sup> At the heart of both of these types is exploitation of the Constitution's first words, "We the People," itself an iconic phrase that is often used independently of any other representation, but nonetheless semiotically linked to the document itself.

In assessing iconic representations of the Constitution, there are different strategies of representation evident in the manner in which the icon is used. These strategies have been placed in three general categories: intact, defaced, or enhanced. Intact representations depict the document facsimile or text in its original, unaltered form. Enhanced representations take the original document or the text and add elements to embellish it, often for entertainment or educational purposes. Defaced representations burn or distress the document itself or disrespect its text. These categories, by design, steer clear of defining representations by authorial intent or ideological meaning. In some cases, an enhanced representation of the Constitution may be as politically provocative as an image of a defaced Constitution. That said, most of the representations of the Constitution in audio-visual media, including television and on YouTube, are enhanced or intact and most of those on the Internet fall into the defaced category (except on commercial sites). The reasons for this, this study argues, has to do with the transformation of American content distribution from an industry-controlled model to one that is user-controlled.

## II. CULTURAL ICONS AND THE SACRED SECULAR

In art history, icons are works of art that have deeper meanings alluding to cultural, social, and historical facts.<sup>11</sup> From the Greek *eikon*, meaning "image,"<sup>12</sup> an icon is essentially a visual artifact to which significant meaning has been ascribed. In applying the term "icon" to the U.S. Constitution in popular culture, this study limits its object to visual or verbatim textual representations of the document itself.<sup>13</sup> While there are myriad references

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10. Don Asmussen, *BAD Reporter*, GOCOMICS (Nov. 23, 2007), <http://www.gocomics.com/badreporter/2007/11/23/>.

11. See ROELOF VAN STRATEN, AN INTRODUCTION TO ICONOGRAPHY: SYMBOLS, ALLUSIONS AND MEANING IN THE VISUAL ARTS 3 (Taylor & Francis 1994) (1985).

12. See ROSEMARY SASSOON & ALBERTINE GAUR, SIGNS, SYMBOLS AND ICONS: PRE-HISTORY TO THE COMPUTER AGE 12 (1997).

13. See Mark Larson, *Modern Word Usage Amazingly Leaves Us Yearning for Gay*, *Old Times*, CHRISTIAN EXAMINER (Aug. 1, 2009), <http://www.christianexaminer.com/article/modern.word.usage.amazingly.leaves.us.yearning.for.gay.old.times/43551.htm>; Peter Elson, *Let's Hear It for the Queen's English*, HIGH BEAM RES. (Jan. 12, 2009), <http://www.highbeam.com/doc/1G1-191891103.html>. It is no secret that, for many, the word "icon" is overused. Kevin Horrigan, *Since When Did Everything Become Iconic?: Buzz Words – So Many Icons, So Little Time*, ST. LOUIS POST-DISPATCH (Dec. 18, 2011),

to the Constitution in film, television and print, the nature of most of those representations are not iconic, in the visual and graphic sense that it is used here. Debates and discussions of principles contained in the Constitution, though important, are thus outside the scope of this inquiry. Documentary and entertainment content, from *The American Constitution: The Road from Runnymede*<sup>14</sup> to *The West Wing*,<sup>15</sup> may raise Constitutional issues or exploit a perspective on the Constitution for dramatic purposes, but they generally do not exploit the document itself. These abundant representations also fall beyond the more limited definition of “icon” used in this study.

In its narrowest definition, an icon is “a representation or picture of some sacred Christian personage, itself regarded as sacred.”<sup>16</sup> Icon worship was widespread among early Christians who adapted pagan religious practices to their new faith, and spawned a debate among Church leaders that contributed to a schism between East and West in 1054.<sup>17</sup> Venerated formally today in Eastern orthodox churches (and informally by many in the Roman church), most religious icons depict Christ, the cross, or a scene from the Christian Bible.<sup>18</sup> And while no faith embraces the U.S. Constitution as a religious icon, a number of scholars have ascribed religious significance to Americans’ cultural pride in their basic law. David Ray Papke has argued that the Constitution serves as the basis for a “Legal Faith” in American culture.<sup>19</sup> Papke discusses how the American people put the law on a pedestal.<sup>20</sup> Papke traces this nascent religious fervor to America’s breaking away from the King of England and the creation of its own nation.<sup>21</sup> After the American Revolution, as the people’s confidence in the law and legal institutions grew, the Constitution began to be viewed as a quasi-religious icon that inspired devotion and reinforced their beliefs.<sup>22</sup> Not only was the

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[http://www.stltoday.com/news/opinion/columns/kevin-horrigan/since-when-did-everything-become-iconic/article\\_b15a6c53-385f-55dd-b41d-9937e0a26388.html](http://www.stltoday.com/news/opinion/columns/kevin-horrigan/since-when-did-everything-become-iconic/article_b15a6c53-385f-55dd-b41d-9937e0a26388.html) (quoting Guy Keleny). Many uses of the term are either “redundant or untrue.” *Id.*

14. Videotape: *The American Constitution: The Road from Runnymede* (The Constitution Project 1992).

15. *The West Wing* (Warner Bros. Television 1999).

16. THE AMERICAN HERITAGE DICTIONARY 653 (William Morris ed., new college ed. 1982).

17. See ROGER E. OLSON, THE STORY OF CHRISTIAN THEOLOGY: TWENTY CENTURIES OF TRADITION & REFORM 301-03 (1999).

18. See generally Leonid Ouspensky, *The Meaning and Content of the Icon*, in EASTERN ORTHODOX THEOLOGY: A CONTEMPORARY READER 33-63 (Daniel B. Clendenin ed., 2d. ed. 2003).

19. See, e.g., David Ray Papke, *The American Legal Faith: Traditions, Contradictions and Possibilities*, 30 IND. L. REV. 645, 646 (1997).

20. *Id.*

21. See *id.* at 649.

22. See *id.*

Constitution taught in schools, but schoolbooks in use during the first half of the nineteenth century referred to the Constitution as “divinely inspired and glorious.”<sup>23</sup> The American people printed the Constitution in pocket-sized pamphlets, “on banners, wall hangings, and even handkerchiefs.”<sup>24</sup> And Papke reminds readers that President William Henry Harrison’s dying words were a fervent invocation of the Constitution.<sup>25</sup>

Robert Ferguson describes the Constitution as a holy writ.<sup>26</sup> Even though it was created to be deliberately secular, it has become a collection of beliefs, symbols, and rituals that are sacred to the American people.<sup>27</sup> It is less about a belief in the divine, and more about reverence for the American way of life. In *A Democracy for the Pursuit of Happiness*, Papke also underscores the non-religious significance of the Constitution when he describes it as a “mindmark of Americanism.”<sup>28</sup> Proponents and critics of ideologies across the political spectrum frequently refer to the Constitution when discussing American law and ideals.<sup>29</sup> It represents the ideals of American law—and of America itself. Even today, the Constitution, in facsimile of its original form, is widely regarded as a culturally sacred document,<sup>30</sup> the defacement of which is considered profane or provocative.

In this sense, the U.S. Constitution represents the sacred secular in American culture, much like the American flag,<sup>31</sup> Mt. Rushmore, or the

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23. *Id.* at 650.

24. *Id.* at 650 n.15 (commenting that “[a] fine collection of facsimiles and reproductions is housed in the New York Public Library”).

25. *Id.* at 650-51 (citing 4 JAMES D. RICHARDSON, A COMPILATION OF THE MESSAGES AND PAPERS OF THE PRESIDENTS 1841-1849, at 22 (Bureau of National Literature, Inc. 1897)).

26. Robert Ferguson, “*We Do Ordain and Establish*”: *The Constitution as Literary Text*, 29 WM. & MARY L. REV. 3, 21 (1987).

27. *Id.* at 21-22.

28. David Ray Papke, *A Democracy for the Pursuit of Happiness*, 35 IND. L. REV. 1005, 1006 (2002) (book review).

29. *Id.*

30. See Gary Lawrence, *Protecting the US Constitution as a Sacred Document*, PROTECT RELIGIOUS LIBERTY (Mar. 9, 2012), <http://protectreligiousliberty.com/217/protecting-the-us-constitution-as-a-sacred-document>.

31. *Virginia v. Black*, 538 U.S. 343, 388 (2003) (Thomas, J., dissenting) (referring to the American flag as both “sacred” and “unique”); *Texas v. Johnson*, 491 U.S. 397, 405 (1989) (reasoning that the American flag is a symbol of nationhood).

Statue of Liberty.<sup>32</sup> In short, it has become a cultural icon.<sup>33</sup> A cultural icon “becomes emblematic, representative, or synonymous with” a topic or, arguably, a value.<sup>34</sup> To achieve iconic stature outside of the religious context, the representation should be universally recognizable in a culture, or at least familiar enough that most people would have seen the image before.<sup>35</sup> As Papke’s use of the term “mindmark” suggests, the concept of an icon today is closely associated with trademark.<sup>36</sup> For companies in the advertising industry, the Holy Grail is to build an “iconic” brand that is universally recognized as significant. For celebrities, it is about cultivating an “iconic” persona that is universally recognized as significant. McDonald’s golden arches and the persona of Elvis are universal signifiers that transcend the fashions or practices of a specific time or place. One does not need to say anything more for people to recognize the underlying immutable power of these iconic trademarks, even if the marks undergo creative transformation—think, for example, of a revamped yellow “M” or the Flying Elvises skydiving troupe. A scaled-down model of the Eiffel Tower at a Las Vegas casino, out of the time and context of the original, connects to people in a way that a tower of iron girders on a desert highway does not. According to one advertising consultancy, “what makes a cultural icon so special is its ability to create emotional connections with people”;<sup>37</sup> “[P]eople have emotional links to their icons: they speak excitedly and freely about them.”<sup>38</sup>

As Douglas Holt writes, cultural icons spin a compelling narrative that allows for self-expression and becomes part of a person’s identity.<sup>39</sup> Patricia Leavy makes a similar connection to identity—on a national scale—in her

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32. The iconic status of The Statue of Liberty is underscored in the concluding scene of *Planet of the Apes* when astronaut Taylor sees the crown and realizes that Earth destroyed itself. *PLANET OF THE APES* (Twentieth Century Fox Film Corp. Apr. 3, 1968). The climax of Alfred Hitchcock’s *North by Northwest*, in which criminals audaciously fight atop Mt. Rushmore, plays to similar effect. *NORTH BY NORTHWEST* (MGM 1959).

33. See, e.g., Gregor Goethals, *Sacred—Secular Icons*, in *ICONS OF AMERICA* 24-34 (Ray B. Brown & Marshall Fishwick eds., 1978).

34. Julia Deluliis, *What Makes an Image Iconic?*, QUORA (Oct. 17, 2010), <http://www.quora.com/What-makes-an-image-iconic>.

35. See *id.*

36. See Steven M. Cordero, Note, *Cocaine-Cola, the Velvet Elvis, and Anti-Barbie; Defending the Trademark and Publicity Rights to Cultural Icons*, 8 *FORDHAM INTELL. PROP. MEDIA & ENT. L.J.* 599, 628-29 (1998).

37. HARVEST COMM. LLC, *LESSONS FROM CULTURAL ICONS: HOW TO CREATE AN ICONIC BRAND* (2002), [https://www.mitodesign.com/pedroguignon/phd\\_knowledge\\_center/pdf/LessonsIcons.pdf](https://www.mitodesign.com/pedroguignon/phd_knowledge_center/pdf/LessonsIcons.pdf).

38. *Id.*

39. See DOUGLAS B. HOLT, *HOW BRANDS BECOME ICONS: THE PRINCIPLES OF CULTURAL BRANDING* 5 (2004).

analysis of iconic events.<sup>40</sup> Something iconic is “repeatedly rewritten, remembered and used as organizing tools to talk about *other* events and *other* social issues.”<sup>41</sup> For Leavy, iconic events establish a “collective memory of the past” and allow for the formation and contestation of national identity.<sup>42</sup> There are multivalent ways in which the Constitution’s image is represented today; blood-stained Constitutions or a Constitution imbued with the light of Christ are examples of a document re-imagined to evoke appropriated meanings of political orthodoxy or protest. Whether it is a scripted television comedy or a vulgar Internet posting, iconic representations of the Constitution ultimately say more about the identities of content distributors—and the changing landscape of national identity—than they do about the document itself.

### III. THE CAREFULLY ENHANCED CONSTITUTION ON BROADCAST TELEVISION

In the television’s so-called Golden Age, when the medium was dominated by three broadcast networks, iconic representations of the Constitution were carefully enhanced for entertainment and educational purposes. Defaced representations, and even intact representations, were not present on the airwaves. The history of media distribution plays a significant role in the taxonomy of these representations. Generally, the older the representation, the more likely it will be intact or enhanced. One reason for this is that older representations come from an era when the distribution of media content was controlled by relatively few identifiable companies. These content distributors operated with a mandate to serve the public interest or with an eye to marketing their content in a manner that would appeal to a broad audience, or at least not offend that audience.<sup>43</sup> Since broadcasters fit into both categories, it should come as no surprise that representations on television are always positive. Broadcasters, as identifiable speakers held accountable for their speech, wanted to please their various constituencies, and, at a minimum, wanted to avoid any public recrimination or sanction that a defacement of the icon would likely engender among advertisers, government and the public.<sup>44</sup> This, however, does not fully explain why iconic television representations largely predate the fractured, demographics-driven age of television, characterized by scholars

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40. LEAVY, *supra* note 8.

41. *Id.*

42. *Id.* at 28.

43. *See, e.g.*, Communications Act of 1934, 47 U.S.C. § 309 (2012).

44. *Id.*

as “TV II.”<sup>45</sup> It may be that the transformation of television from an industry dominated by three national networks to a crowded line-up of broadcast and cable channels intensely competing for a fragmented audience may have led to a decline in the type of didactic, patriotic representations that would have appealed to the lowest common denominator of a mass audience. By the mid 1970s, television networks had replaced homespun rural comedies of mass appeal, like *Green Acres*<sup>46</sup> and *The Beverly Hillbillies*,<sup>47</sup> with more socially relevant shows that appealed narrowly to a younger demographic, like *All in the Family*<sup>48</sup> and *The Mary Tyler Moore Show*.<sup>49</sup> Perhaps in this more competitive landscape, there was little interest in promoting the Constitution as a popular icon. During this period of economic transformation, two representations of the icon were aired on children’s programs shown in a relatively small market segment—Saturday morning cartoons. Even so, the most recent representations of the icon on television—in or out of primetime—aired more than twenty-five years ago, and all are enhanced.

In looking at these historical television images, it is important to distinguish cultural meaning from authorial intent.<sup>50</sup> From an intent standpoint, the most popular images of the iconic Constitution on television are all quite different. The earliest representation is a comic scene from a 1963 episode of *The Andy Griffith Show*.<sup>51</sup> The next representation, and perhaps the most bizarre, is from an episode of *Star Trek* that first aired in 1968.<sup>52</sup> The third is a short public service announcement for children featuring Bugs Bunny, Daffy Duck and Yosemite Sam that appears to be from 1986.<sup>53</sup> And the final televised image is a musical adaptation of the Constitution from *Schoolhouse Rock*, a series of short educational cartoons that aired on ABC in the early 1970s.<sup>54</sup>

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45. Steve Behrens, *Technological Convergence: Toward a United State of Media*, CHANNELS OF COMMUNICATION, 1986, at 8-10; see, e.g., Mark C. Rogers, Michael Epstein & Jimmie Reeves, *The Sopranos as HBO Brand Equity: The Art of Commerce in the Age of Digital Reproduction*, in THIS THING OF OURS: INVESTIGATING THE SOPRANOS 42, 42-46 (David Lavery ed., 2002) (characterizing television industry in the current digital age as “TV III”).

46. *Green Acres* (Filmways Television Sept. 15, 1965).

47. *The Beverly Hillbillies* (Filmways Television Sept. 26, 1962).

48. *All in the Family* (Bud Yorkin Productions Jan. 21, 1971).

49. *The Mary Tyler Moore Show* (MTM Enterprises Sept. 19, 1970).

50. See, e.g., Stuart Hall, *Encoding and Decoding in the Television Discourse*, COUNCIL & CTR. MASS COMM. RES., Sept. 1973, at 1-19 (building upon the culture-centered theories of Antonio Gramsci and Roland Barthes).

51. *The Andy Griffith Show: Opie’s Ill-Gotten Gain* (CBS television broadcast Nov. 18, 1963).

52. *Star Trek: The Omega Glory*, *supra* note 2.

53. *Looney Tunes: The U.S. Constitution P.S.A.*, *supra* note 1.

54. *Schoolhouse Rock!: The Preamble*, *supra* note 3.



As different as these clips are, they all enhance the Constitution in dialog with common cultural assumptions that were prevalent at the time. First, they assume that knowledge of the text of the Constitution—and specifically the Preamble—is an indicator of a person’s intellectual capacity. In each case, the Constitution is positioned as emblematic of education and cultural literacy. In the *Andy Griffith* clip, Deputy Barney Fife boasts that he can recite the Preamble as Sheriff Andy reads along. But, as Barney bumbles his way through the recitation, it seems clear that the joke is premised on an audience expectation that the Preamble should be something that is easy to recite from memory. Barney, a buffoon with idiosyncratic intellectual ability, is unable even to utter “We the People”; those who might not have remembered the Preamble that they were forced to recite in grade school would likely have remembered “We the People.” Those who did not would have no reason to have found the sequence funny. Andy, on the other hand, who is Mayberry’s everyman, is the man with the book in the scene. He follows along and patiently coaches. Andy is the authority here, as he usually is in the series. But here his authority derives not from the badge he wears as sheriff, but from the book that apparently sits on his desk.

Like the *Andy Griffith* clip, the other primetime series clip, from an early *Star Trek* episode entitled “The Omega Glory,” positions the text and document of the Constitution to authority and education. The 1968 episode, written originally as a pilot by series creator Gene Roddenberry,<sup>55</sup> places Captain Kirk and his crewmates on a newly encountered planet where two primitive tribes, the Yangs and the Cohms, are engaged in a civil war. Incredibly, the episode ends with a dramatic flourish, as Kirk discovers that the Yangs are alien versions of the Yanks, who worship an exact facsimile of the U.S. Constitution and an American flag. While diehard Trekkies will attempt to explain away the hokey use of American symbols by citing to Hodgkins Law of Parallel Development,<sup>56</sup> the scene in which the Constitution is revealed is replete with real cultural meaning. For one thing, the image of the Constitution as a book for smart people is again present, just as it was in the *Andy Griffith* clip. Here, the book is a large dusty tome that sits on an altar, accessible only by a sage, and worshipped by all. Unlike real American Andy, however, the sage and other tribesmen no longer understand the true meaning of the words. That is, until Kirk removes the facsimile of the Constitution and recites, to music that includes an allusion to the Star-

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55. See GARY WESTFAHL, SCIENCE FICTION, CHILDREN’S LITERATURE, AND POPULAR CULTURE: COMING OF AGE IN FANTASYLAND 69 (2000).

56. See *Hodgkin’s Law of Parallel Planetary Development*, MEMORY ALPHA, [http://memory-alpha.wikia.com/wiki/Hodgkin's\\_Law\\_of\\_Parallel\\_Planetary\\_Development](http://memory-alpha.wikia.com/wiki/Hodgkin's_Law_of_Parallel_Planetary_Development) (last visited Jan. 10, 2016).

Spangled Banner, the entire Preamble. Like Sherriff Andy, the Captain of the Enterprise knows every word of the Preamble. As Kirk struts around the room with pride, one cannot help but equate his knowledge of the Constitution with his own general knowledge and his authority. It is no coincidence that Kirk's ability to identify and recite the Constitution saves Mr. Spock from death. In "The Omega Glory," Kirk's knowledge of the Constitution is literally represented as power that saves his crew and changes the hearts and minds of the tribe.

Moreover, "The Omega Glory" makes explicit some of the assumptions that are not expressed in the *Andy Griffith* clip. Captain Kirk admonishes the tribe that the Constitution must be known and understood by everyone, not only in the Yang tribe, but also among the Cohms, which, we learn, are a post-nuclear war vestige of Communists. Express is the notion that the Constitution is a fundamental, universal document. To not know the text is to be benighted or ignorant—the societal equivalent of Barney Fife. Kirk also makes it clear that it is the obligation of all good citizens to learn and understand the Constitution—recitation of the Preamble is not enough—you must make the words a living document.

The Looney Tunes public service announcement, which aired during the *Bugs and Tweety Show* in 1986,<sup>57</sup> shares much of the same semiotic language of the previous clips. The 60-second spot features Warner Brothers Animation's premier character, Bugs Bunny, as a professor in a cap and gown. He is elevated on a stage behind a lectern, with a pointer in hand. Although there is no book in the clip, Professor Bugs is in the same position of superior knowledge as Kirk and Andy. He also enjoys the air of confidence and authority with which his trickster character has always been associated. In this spot, Bugs' knowledge and power is evident in the manner in which he interacts with his foil Daffy Duck, who is also on stage. Like in many classic Looney Tune film shorts, Daffy is unsuccessfully trying to steal the limelight from Bugs.

Daffy plays the role of the ignorant fool, as Bugs sings a ditty about amending the Constitution. Daffy tells us directly that the audience is not going to accept Bugs' "high brow" performance, and sets out to enhance it with his own vaudeville dance moves. To underscore that Daffy is an unwanted distraction, a cane pulls him off of stage. When he again tries to draw away attention, he is eclipsed by a blackboard wheeled out to Bugs, upon which the amendments to the Constitution have been written. Bugs continues his song uninterrupted, illustrating the importance of amendments

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57. See *Bugs and Daffy Sing About the U.S. Constitution*, MISCE-LOONEY-US (Jan. 4, 2008), <http://toolootney.blogspot.com/2008/01/bugs-and-daffy-sing-about-us.html>.

by referring to the thirteenth amendment, which, he explains, outlawed slavery, and the nineteenth, which gave women the right to vote. During this exercise, Daffy emerges from behind the blackboard and listens silently. After Bugs concludes, Daffy concedes that he was wrong about Bugs' act, and wonders aloud if perhaps he should amend his own act. The announcement then cuts to a final coda, in which Bugs and Daffy, in front of the document itself, tell the viewer that "the Constitution is for everybody"; Yosemite Sam pops in at the last second to say, "even kids," before the piece fades to black.<sup>58</sup>

Like the Yangs in "The Omega Glory," Daffy is brought from ignorance to enlightenment through the words of the Constitution. The melodrama may be missing, but the underlying message is the same: the Constitution is for everybody—Yangs and Cohms, adults and kids. And while the focus in the PSA is not on the Preamble—"We the people" appears only in the background at the beginning and end—the lyrics of the song and the remarks of Bugs Bunny suggest that the Constitution is a living document that must adapt to the needs of a growing nation. Kirk makes a similar point to the Yangs when he reminds them that these are words to live by—a living creed that retains meaning to an intergalactic explorer whose worldview would presumably transcend the nationalism of the United States.

Unlike the *Andy Griffith* clip, the Bugs Bunny PSA and "The Omega Glory" exploit the Constitution in a manner that is both didactic and preachy. Yet, despite this content difference, all three clips share a semiotic structure in which the Constitution signifies enlightenment and power. It is also interesting to see that the symbols of enlightenment and power in all three clips appear to be available exclusively to white men. While there are a few women present in the *Star Trek* scene, they are supernumeraries positioned away from the Constitution. Barney's bungled recitation is a bonding moment between two policemen on the job—a profession and a workspace that, in Mayberry and other small towns in the 1960s, would have been understood as a domain for men.<sup>59</sup> Even the animal Looney Tunes characters appear to be white men—in the animated shorts that accompanied films in the 1940s and 1950s, Bugs and Daffy are never the object of racism or segregation; in fact, like white men of the early 20<sup>th</sup> century, these characters

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58. *Looney Tunes: The U.S. Constitution P.S.A.*, *supra* note 1.

59. See NANCY C. JURIK & SUSAN EHRLICH MARTIN, *DOING JUSTICE, DOING GENDER: WOMEN IN LEGAL AND CRIMINAL JUSTICE OCCUPATIONS* 51 (2d ed. 2007).

mocked southern black culture by perpetuating the racist stereotypes of the minstrel shows, when such content was acceptable to mass audiences.<sup>60</sup>

Of the iconic television representations reviewed in this study, only *Schoolhouse Rock* enhances the Constitution as a unifying force that includes women and minorities. Developed as a series of short educational videos for ABC by Michael Eisner,<sup>61</sup> *Schoolhouse Rock* aired between full-length children's programs on Saturday mornings during the mid-1970s. Of the many episodes that aired, there are several that address constitutional issues such as separation of powers and how the government makes law. But there is only one that meets the criteria of an iconic representation. This episode, from 1976, is essentially a cartoon that sets the text of the Preamble to pop music. The animation, by George Cannata,<sup>62</sup> is whimsical, with images of guns turning into flowers, a growing map of the United States, and founding fathers signing the document. Men and women of different races are depicted as celebrating the various sentiments enshrined in the Preamble—for example, an army of men and women provides for the common defense, and a diverse group casts votes to secure the blessings of liberty. None of the characters speak, and everyone is depicted as happy and friendly, though despite these trappings of diversity, most of the authority figures in the animation are white men.

Written and performed without credit by Lynn Ahrens, the *Preamble Song*, as it is now called, is by far the most well-known popular representation of the Constitution in America.<sup>63</sup> While that sounds like hyperbole, a quick search on YouTube and other video websites tells a different story. The reason for this popularity is that the *Schoolhouse Rock* episode is essentially a mnemonic device for learning the Preamble. On YouTube alone, one can instantly find at least three videos of the original cartoon—users comment that it was a great way for them to learn the Constitution when they were in school.<sup>64</sup> Indeed, it is quite clear that the

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60. See Matt Crowley, *Exploring the Hidden Racist Past of the Looney Toons*, SPLITSIDER (Sept. 16, 2014), <http://splitsider.com/2014/09/exploring-the-hidden-racist-past-of-the-looney-toons>.

61. See Jason Cochran, "*Schoolhouse Rock*" Back on ABC Saturday Morning, ENT. WKLY. (Aug. 18, 1995), <http://www.ew.com/article/1995/08/18/schoolhouse-rock-back-abc-saturday-morning>.

62. IMDB, <http://www.imdb.com/name/nm1154818> (last visited Sept. 7, 2015).

63. See Jason Lynch, *Schoolhouse Rock: A Trojan Horse of Knowledge and Power*, DAILY BEAST (Sept. 6, 2014, 6:45 AM), <http://www.thedailybeast.com/articles/2014/09/06/schoolhouse-rock-a-trojan-horse-of-knowledge-and-power.html>.

64. Cubeowner2010, Comment to *Constitution Preamble - Schoolhouse Rock*, YOUTUBE (Nov. 30, 2007), <https://www.youtube.com/watch?v=30OyU4O80i4> ("I used this to recite the preamble to my Civics teacher in 1981 and I got an 'A' :)").

*Preamble Song* has become an institution in K-12 education, both in and out of the curriculum. Students, from the smallest to high-schoolers, have posted their own clips based on the *Preamble Song*. Some clips set the original Ahrens soundtrack to their own live-action or animated video;<sup>65</sup> the majority, however, depict students acting out the song on stage or among peers.<sup>66</sup> A few are even in a classroom setting—some serious and some mocking—but all of them stay faithful to the lyrics. The Preamble itself is repeated twice as the song’s chorus, and the verses adopt a folksy, colloquial tone in the composition’s descriptive verses that makes the song’s didactic message palatable for young audiences. In virtually every clip viewed, kids seem to be enjoying themselves as they act out the music. The Ahrens soundtrack begins with a melismatic call to learning, as the singer-narrator asks “Hey, do you know about the U.S.A.?” and “Can you tell me about the Constitution?”<sup>67</sup> As the excerpt below suggests, the Constitution is a story of our nation’s greatness, a parable to be told from one generation to the next:

. . . In 1787 I'm told  
 Our founding fathers did agree  
 To write a list of principles  
 For keepin' people free.

The U.S.A. was just startin' out.  
 A whole brand-new country.  
 And so our people spelled it out  
 The things that we should be.  
 And they put those principles down on paper and called it the Constitution.  
 . . .<sup>68</sup>

Popularity aside, the *Schoolhouse Rock Preamble Song* is not as historically accurate as perhaps it should be. For one thing, despite the song’s evident value to the K-12 curriculum, its descriptive verses make it sound as though the Constitution was ratified when the country

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65. Shesaidssomesorryso, *Preamble Song*, YOUTUBE (Nov. 2, 2007), <https://www.youtube.com/watch?v=7r8uNYmitoY>.

66. Christopher Holland, *Schoolhouse Rock Live! -- CHS: I'm Just a Bill & Preamble*, YOUTUBE (May 2, 2007), <https://www.youtube.com/watch?v=MeIK8wme7d0>.

67. *Lyrics to The Preamble of the Constitution Song*, SCHOLASTIC, [https://www.scholastic.com/teachers/sites/default/files/posts/u24/images/con\\_preamble\\_lyrics.pdf](https://www.scholastic.com/teachers/sites/default/files/posts/u24/images/con_preamble_lyrics.pdf) (last visited June 24, 2015).

68. *Id.*

was “brand-new,” that it “set forth principles for keepin’ people free,” and that it “spelled out the things we should be.” Of course, the country was already on its second “constitution” by 1787; the document’s acquiescence to slavery and its exclusion of women’s suffrage only kept some people free; and the operative text is more a blueprint for a federal government than a forward-looking aspiration.<sup>69</sup> The glossing over of slavery in the original animation is striking—at one point a black woman’s arm can be seen stamping “Right On!” onto the document itself, even though she would have been entirely excluded from its blessings of liberty had she been a slave in 1787. Even harder to dismiss is the fact that the chorus of the song is not a precise restatement of the actual Preamble, as it leaves out “of the United States” after “We the People.” Students in the clips do not seem to notice the omission, however, which seems to be more a function of poetic license than political statement. The song later will repeat the final “United States of America” so there is no lack of national pride.

#### IV. THE ICON ON THE INTERNET: UNFILTERED AND RE-IMAGINED

The *Schoolhouse Rock Preamble Song* makes a good segue into the multivalent ways in which the icon of the Constitution is represented on the Internet. Internet video, unlike broadcast television, removes many of the economic and technological barriers to content distribution. Those who post videos to websites, such as YouTube, and image files to searchable databases largely do so without the mediative filter of editors or station-owners. The promise of anonymity on the Internet, though largely illusory, also allows people to post content with little or no fear of public recrimination being directed at them. The videos of the *Preamble Song* on YouTube vary not only in production quality, but also in message. Some students are clearly trying to honor the Constitution with careful choreography placed in synch to the original soundtrack or live student performance. The students of Cullman High School in Alabama wear colorful tie-dye shirts and jeans as they gamely sing and dance to the *Preamble Song* on a stage.<sup>70</sup> A live performance of middle-school students from Boyd-Buchanan Middle

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69. Chase Crowley, *The U.S. Constitution: A Blueprint for Government*, DOCSLIDE (Mar. 6, 2015), <http://docslide.us/documents/a-blueprint-for-government-the-us-constitution-the-full-text-of-the-constitution-is-available-online-at-america.gov-along-with-its-arabic-translation.html>.

70. Holland, *supra* note 66.

School<sup>71</sup> is less colorful but essentially the same—although more racially diverse. Another video, from user sidepony4evr, features three young women lip-synching to the original recording as they jump and dance through a number of outdoor venues—with abrupt edits reminiscent of a music video.<sup>72</sup> The girls dance on an outdoor map of the United States, eat USA cookies, and ultimately don red, white and blue wigs. As with the Cullman clip, the emphasis is on color, both in costume and setting, but also with respect to the colors of a waving American flag.

Another typical type of video representation is the obligatory academic exercise. This type of representation offers a slightly more nuanced approach to the Constitution. Although public recitations of the Constitution's text suggest some enhancement, these performances strive for the clarity and precision of an intact representation. It is not as much an embellishment of the Constitution as it is respectful, in the sense that it is presented as something that needs to be learned. In one such video, kindergarten children appear on stage looking bored as they mumble through the Preamble.<sup>73</sup> This video, as well as a number of others in which students appear to be struggling as they try to remember the Preamble, is reminiscent of the *Andy Griffith Show* clip broadcast in 1963. These K-12 students perform the Preamble essentially because they are required to—much in the way Barney Fife undertakes to recite the Preamble as an exercise in civic duty that signified, at least for audiences in 1963, a good education. This type of respectful use of the icon usually places students in a classroom setting. In one video, four students sing the Preamble in what appears to be a class presentation.<sup>74</sup> Another video shows a single male student half-singing the song in what appears to be preparation for an in-class presentation;<sup>75</sup> the student adds the missing “of the United States” to the lyrics in a conscientious effort to get it right. Another video places an adolescent male student in front of friends in what appears to be a rehearsal.<sup>76</sup> The student begins to sing the Preamble Song in an exaggerated falsetto.

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71. Madeleine Bales, “The Preamble” from “Schoolhouse Rock Live” by Maddie Grace, YOUTUBE (Oct. 31, 2009), <https://www.youtube.com/watch?v=SbET0czR20U>.

72. Sidepony4evr, *Preamble*, YOUTUBE (Oct. 2, 2006), <https://www.youtube.com/watch?v=mDTlfctS-b0>.

73. Emily Rea, *Preamble to the Constitution*, YOUTUBE (May 27, 2010), <https://www.youtube.com/watch?v=DdN3GN2uDyM>.

74. Sfordpolkschools, *Students Recite the Preamble to the Constitution from Memory*, YOUTUBE (Feb. 22, 2013), [https://www.youtube.com/watch?v=DasGDQ\\_rlpw](https://www.youtube.com/watch?v=DasGDQ_rlpw).

75. Elephantsswim, *Kenzie Preamble :]]*, YOUTUBE (Feb. 15, 2008), <https://www.youtube.com/watch?v=o-3rZ5ArxcQ>.

76. Elephantsswim, *Grant Singing the Preamble :]]*, YOUTUBE (Feb. 15, 2008), <https://www.youtube.com/watch?v=J8etbjYVdLo>.

While the student is clearly performing this as a joke, his mockery does not reach to the Preamble itself; he seems rather to be mocking the process of presentation. In a similar vein is a video that appears to be of students who are drunk at a party.<sup>77</sup> The students are mocking the academic exercise of learning the Preamble by rote, but they are not disrespectful to the words themselves. Even more playful is a crudely animated video of Alvin and the Chipmunks performing in synch with what appears to be the accelerated voice of an amateur singer.<sup>78</sup> The putative Alvin recites the text without any of the malapropisms, distractions, or defiance characteristics of the genuine Alvin's recordings. The producer of this video is not in any way mocking the Constitution—just the manner in which it is taught.

In a class by themselves are videos that respectfully enhance the Constitution to impart a political message. This category of video does not make use of the document's text, or even the iconic Preamble. To underscore a political position, the video anthropomorphizes the document. One video enhances a facsimile page of the Constitution with animated mouth and eyes superimposed.<sup>79</sup> In synch with a recording of the viral meme "Don't Touch Me!" from Cartoon Network's *Space Ghost* show,<sup>80</sup> the enhanced Constitution "speaks" the title lyric in the center of the screen as an image of George W. Bush moves in and out of the frame. The result is comical, but the message is clear: Bush is an ongoing threat to the Constitution. Less comical but equally clear is the message in a video produced by the Ron Paul presidential campaign.<sup>81</sup> In this video, a parchment facsimile of the Constitution remains static as a voice, identifiable as Ron Paul's, speaks off camera. The anthropomorphic nature of the icon is present in the off-screen voice, which introduces itself to viewers as the "United States Constitution." The script of the video is essentially the libertarian manifesto of Ron Paul, spoken in the first person from the perspective of the Constitution itself. In what is perhaps unintended irony, the loquacious Constitution intones that "[t]here are those among your so-called leaders that think I should be a living document, meaning that they needn't obey me or can interpret me as they

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77. NoDoNotTouchMy, *Preamble Dance Party!!!*, YOUTUBE (Nov. 5, 2010), <https://www.youtube.com/watch?v=sUIqAhit7jI>.

78. Mxs mxs, *The Preamble Chipmunk Rap*, YOUTUBE (Feb. 24, 2010), <https://www.youtube.com/watch?v=oSkozyVKIyg>.

79. Nothingunlimited, *Don't Touch Me*, YOUTUBE (May 17, 2006), [https://www.youtube.com/watch?v=tWG-C\\_XYfWM](https://www.youtube.com/watch?v=tWG-C_XYfWM).

80. Giandee, *Don't Touch Me*, YOUTUBE (Nov. 17, 2008), <https://www.youtube.com/watch?v=qyUnSuYYs18>; see *Cartoon Planet: Monkey Trouble* (Cartoon Network television broadcast Sept. 17, 1997).

81. Hipposelect, *The Constitution Talks About Ron Paul*, YOUTUBE (Oct. 12, 2007), <https://www.youtube.com/watch?v=esfO48oxp1Q>.



please.”<sup>82</sup> Paul evidently turns the Constitution into a living document to make the opposite point.

Although a number of videos use images of the Constitution to critique policy, especially with respect to the Iraq War or the 2012 healthcare debate, absent are video representations that physically deface or otherwise disrespect the Constitution as an icon. The same cannot be said with respect to still images available on searchable databases. In fact, there appears to be very few image files on the databases that could be described as enhanced or intact. Most images with intact representations of the icon are book covers that might be more properly categorized as commercial. One enhanced image without a commercial context is an anthropomorphic Constitution that is smiling as it holds its ground against a horde of anthropomorphic states.<sup>83</sup> The message appears to promote federalism over state’s rights. The Constitution is enhanced with a human expression of confidence; the mob of states seems confused and disorganized. Less enhanced, but without any evident commercial purpose, is an outline of Waldo, the bespectacled character from the *Where’s Waldo?* books,<sup>84</sup> incorporated into an intact, single-page facsimile of the Constitution.<sup>85</sup> What this signifies is not apparent—perhaps the creator is suggesting that there is much that can be found in the document—but the Constitution is used respectfully. Another such image—respectful but not laudatory—places an intact facsimile of the Constitution’s first page within an image of the American flag.<sup>86</sup> Next to the icon is a handgun and the words “to keep and bear Arms” taken from a facsimile of the second amendment. The icon of the Constitution serves to justify the right to bear a handgun; the flag suggests that the right is patriotic.

Of the enhanced non-commercial representations of the Constitution, the most widely available on the web place the document in a religious context. Chief among these is a painting entitled *One Nation Under God*, a provocative invocation of the Constitution as inspired by Christ. Created by John McNaughton, a politically conservative artist who has since become a celebrity of the right, *One Nation Under God* features an intact facsimile of

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82. *Id.*

83. *A Constitution’s Constitution?*, TEX. POL. PROJECT, [http://texaspolitics.utexas.edu/archive/html/cons/features/index\\_02/us\\_requirements.html](http://texaspolitics.utexas.edu/archive/html/cons/features/index_02/us_requirements.html) (last visited June 24, 2015).

84. *See Characters*, WHERE’S WALDO, <http://whereswaldo.com/index.html#guidetoall/characters/details> (last visited Jan. 10, 2016).

85. *If We’re One Nation Under God, then Why Isn’t God in the Constitution?*, BAY FUNDIE (Apr. 15, 2007), <http://www.bay-of-fundie.com/archives/152/if-were-one-nation-under-god-then-why-isnt-god-in-the-constitution>.

86. *The 2nd Amendment*, BEST HANDGUN TRAINING, <http://www.besthandguntraining.com/The-2nd-Amendment.html> (last visited June 24, 2015).

the Constitution in the hand of Jesus Christ.<sup>87</sup> Directly below Christ is a young boy with his finger on the document, ostensibly the heir to the legacy that has been created by God. Assembled around Christ, and the document, is a not very diverse cross-section of the American people posed as if in some grand allegorical painting. Behind Christ are the Founding Fathers and a few later presidents that the artist apparently admires, including Theodore Roosevelt, Ronald Reagan, and John Kennedy. Other celebrated figures, actual ones, like Davy Crockett, and symbolic ones, like a Civil War soldier or a teacher, are interspersed among Christ's (and the Constitution's) followers. To one side is a group of figures that are turned away from the Christ-Constitution conflation, including an unnamed U.S. Supreme Court justice, a lawyer, a university professor, a broadcast journalist, and a Hollywood producer. Behind the group is a shadowy figure that the artist has described as Satan. McNaughton's message is not subtle; the U.S. Constitution is an exceptional document that is divinely inspired. It is a document that espouses Christian values and appears to be critical of liberals who are not willing to acknowledge its divine authority. It is interesting that while McNaughton, by his own admission, goes through great pains to include some women and a few token African-Americans, absent from the painting are other ethnicities and non-Christian religious minorities. McNaughton's painting firmly enshrined the Constitution as a bulwark in the culture wars, and received significant media coverage on cable news outlets and entertainment programs like *The Colbert Report*.<sup>88</sup> Less known, but easily accessible, are intact depictions of the document that more subtly invoke the Constitution as a holy writ. One image shows a facsimile of the document with the signature line enlarged to underscore that the framers signed the document "in the year of our Lord."<sup>89</sup> Another image places an intact facsimile of the Constitution inside an open casket, complete with flowers and what appears to be a prayer book.<sup>90</sup> Whatever the specific message that these posters may have had, each suggests a religious connection to the Constitution.

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87. McNaughton, *supra* note 6.

88. See, e.g., *The Colbert Report* (Comedy Central television broadcast May 9, 2012), <http://www.cc.com/video-clips/t3omhb/the-colbert-report-jon-mcnaughton-s--nation-under-socialism--artwork>.

89. John Fea, *The Constitution and "the Year of Our Lord,"* WAY IMPROVEMENT LEADS HOME (May 31, 2011), <http://www.philipvickersfithian.com/2011/05/us-constitution-and-year-of-our-lord.html>.

90. *More Death Throes of the Constitution. Nothing Remains in the Ruins But Politics*, FABIUS MAXIMUS (June 20, 2012), <http://fabiusmaximus.com/2012/06/20/39887/>.

The absence of content gatekeepers on the Internet makes images in which the Constitution is defaced the most represented type of still image. To be in this category, the defacement of the icon must be central to the image. In virtually every case, the defacement occurs to underscore someone else's disrespect of the Constitution. The creators of these images use defacement not to endorse this disrespect, but as a strategy to intensify or dramatize their critiques of government policy or perceived abuses of power by elected officials. There are three different strategies used in defacement images. The first strategy is to overwrite or mark the icon with an image or words. The second type of defacement depicts physical destruction of the icon through means such as burning or distressing—tearing, shredding or crumpling—the document. The third type of defacement places or morphs the icon into a demeaning context.

Constitution representations with overwriting defacement typically are marked with bloodstains, written disclaimers, or redactions. One example, from a stock photo site, depicts an older woman solemnly holding a facsimile of the first page that has been stained with a bloody handprint.<sup>91</sup> What she is protesting is unclear, but the photo's presence on a stock site suggests that it is designed to be an all-purpose commentary. A more pointed critique is evident in an image that depicts blood spatter over a facsimile of the Bill of Rights. In the middle of the photo is a text box with the words "Pardon Our Torture."<sup>92</sup> Indeed, many of the overwriting defacements are critical of the Bush administration's policies concerning the torture of enemy combatants in the war on terror. One image places a magnifying glass over a facsimile of the Constitution's first page, revealing a disclaimer in the text that says, "does not apply to the White House."<sup>93</sup> Another image shows a redacted Constitution with the stamp "Approved: Constitution 'Lite,' Department of Homeland Security."<sup>94</sup> To critique President Bush's use of executive authority, one poster depicts the Constitution stamped with the words "Void.

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91. See Image of Woman Holding a Bloody Copy of the U.S. Constitution (on file with author).

92. *Former U.K. Ambassador Reveals CIA Rendition and Torture in prior Soviet State Uzbekistan*, PRAGMATIC WITNESS (Nov. 29, 2009), <https://whitewraithe.wordpress.com/2009/11/24/former-u-k-ambassador-reveals-cia-rendition-and-torture-in-prior-soviet-state-uzbekistan/> (citing Daniel Tencer, *Former UK Ambassador: CIA Sent People to be 'Raped With Broken Bottles,'* RAWSTORY (Nov. 4, 2009), <http://www.rawstory.com/2009/11/ambassador-cia-people-tortured/>).

93. Larry Burkum, *The Bush View of the Constitution*, WATCHING THOSE WE CHOSE (July 26, 2007), <http://proctoringcongress.blogspot.com/2007/07/bush-view-of-constitution.html>.

94. Microdot, *You Are Not Qualified . . .*, BRAIN POLICE (Jan. 22, 2007), <http://thebrainpolice.blogspot.com/2007/01/you-are-not-qualified.html>.

By order of King George.”<sup>95</sup> And not all of the overwriting relates to national security issues. One facsimile image of the Constitution is defaced with the handwritten note “(Except for Homos.) G.W.B.”<sup>96</sup> Although the specific policy issue is not clear, the message suggests a critique of Bush’s position against gay marriage, which some characterize as an equal protection issue under the Constitution.<sup>97</sup> A 2012 image superimposes two pairs of same-gender astrological symbols on the Constitution, in what appears to be a more positive statement about same-sex marriage.<sup>98</sup>

Defacements that physically damage the iconic images of the Constitution typically fall into two categories: distressing the paper or burning it. One of each type has played a significant role in criticizing Barack Obama’s presidency, and his position in the 2012 health care debate. Two recent paintings by John McNaughton, the celebrated conservative artist, depict President Obama inflicting physical damage upon the Constitution. The first painting, *The Forgotten Man*, shows an indifferent President Obama, arms folded, standing atop a damaged copy of the Constitution.<sup>99</sup> Behind him are all of the previous presidents of the United States. A group of presidents to Obama’s left, including Bill Clinton and both Roosevelts, are clapping or smiling. Most of the other presidents are either watching solemnly or expressing frustration. Most prominent in their distress are Madison, Washington and Lincoln, gesturing with their hands directly behind Obama. Obama is looking away from the other presidents, and away from a downcast man sitting on a park bench. The artist clearly sets Obama apart from all of the presidents and from the “common man,” as someone who has done more to trample on the Constitution than those before him. The fact that Obama is the only African-American man in a sea of white faces only enhances his status as an aberration from the status quo of respect for the Constitution.

In 2012, President Obama was depicted with a burning Constitution in a second painting by McNaughton.<sup>100</sup> Entitled *One Nation Under*

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95. See Image of Constitution Stamped Void By “King” George W. Bush (on file with author).

96. Frenchy, *Olsen and Boies to Prop 8: You’re Probably Going to Have to Pay*, FRENCHY’S HOUSE PARTY (Aug. 22, 2010), <http://frenchyshouseparty.blogspot.com/2010/08/olsen-and-boies-to-prop-8-youre.html>.

97. Doug Kendall & Ilya Shapiro, *The Constitutional Case for Marriage Equality*, HUFFPOST GAY VOICES (Feb. 28, 2013), [http://www.huffingtonpost.com/doug-kendall/the-constitutional-case-f\\_b\\_2781874.html](http://www.huffingtonpost.com/doug-kendall/the-constitutional-case-f_b_2781874.html).

98. Paul A. Greenberg, *Same-Sex Marriage: Check the Constitution*, GREENBERG RANTS (Aug. 9, 2010), <http://greenbergrants.blogspot.com/search?q=same+sex+marriage>.

99. Jon McNaughton, *The Forgotten Man*, MCNAUGHTON FINE ART CO., <http://www.jonmcnaughton.com/the-forgotten-man-1/> (last visited June 22, 2015).

100. McNaughton, *supra* note 5.

*Socialism*, ostensibly in protest of the Affordable Health Care Act, the painting is a typical example of defacement by burning. Obama has a determined expression as he points to the flames that are creeping up the parchment toward a facsimile display of “We the People,” which is partially obscured by his clenched hand. After the painting was introduced to the public, it quickly went viral on the Internet and was widely reported in the news media, reflecting the power these images have in the marketplace of ideas.<sup>101</sup>

Anti-Obama sentiment appears behind a number of other physical defacements of the Constitution on the Internet, less visible in popular culture than the McNaughton paintings, but still readily accessible in the Google image database. A search of “Obama and U.S. Constitution” yielded digitally altered images of the president ripping the Constitution in two, dressed in a turban as Mujahideens appear to jump through the burning document,<sup>102</sup> embracing Justice Ruth Bader Ginsburg amid ripped pieces of the document,<sup>103</sup> ripping the Constitution at a White House press conference,<sup>104</sup> and flipping a middle finger that is wrapped in the “We the People” fragment torn from the document.<sup>105</sup> In addition, there are a number of images that superimpose photos of Obama; some show Obama looking indifferent before a document in flames.<sup>106</sup> Others use photos of Obama pointing a finger or looking angry in front of an intact facsimile.<sup>107</sup> An old photo of a young Obama replaces a cigarette that he is lighting with the “We

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101. *Sales Soar For Controversial Obama Painting After Story Goes Viral* (Feb. 8 2012), CBS LAS VEGAS, <http://lasvegas.cbslocal.com/2012/02/08/sales-soar-for-controversial-obama-painting-after-story-goes-viral/>.

102. *Obama Islam Constitution Burning*, BUCKWHEAT PICS VOL. 4, [http://democratshallofshame.net/Gallery/Buckwheat\\_Pics\\_Gallery\\_4/index2.html](http://democratshallofshame.net/Gallery/Buckwheat_Pics_Gallery_4/index2.html) (last visited June 24, 2015).

103. Peter Papaheakles, *Obama, Ginsburg: Constitution a Nuisance*, AM. FREE PRESS (Feb. 18, 2012), <http://americanfreepress.net/?p=2851>.

104. ByDesign001, *Obama's Libyan War, Offensive and Unjust But How Dare the Real World Distract His Majesty*, PUMABYDESIGN001'S BLOG (Mar. 29, 2011), <http://pumabydesign001.com/2011/03/29/obama-s-libyan-war-offensive-and-unjust-but-how-dare-the-real-world-distract-his-majesty/>.

105. TLCoston, *Charlotte Observer Cheers Obama's Imperial Decree of Amnesty*, COSTON'S COMPLAINT BLOG (June 16, 2012), <http://costonscomplaint.blogspot.com/search?q=cheers+obama>.

106. Roger Landry, *The Truth of Tyranny: What We Have Already Lost*, LEAKSOURCE (Nov. 29, 2014), <http://leaksource.info/2014/11/>.

107. See Image of President Obama Pointing Finger in Front of Facsimile, [https://waterman99.files.wordpress.com/2013/10/clip\\_image0023.jpg](https://waterman99.files.wordpress.com/2013/10/clip_image0023.jpg).

the People” fragment; the caption reads, “I heard he gave up cigarettes . . . what’s he smoking now?”<sup>108</sup>

Although physical defacement of the Constitution has figured in critiques of Obama, there are many older variations on the web relating to the Bush administration. As an example, there is both a distressing and a burning of the Constitution in depictions related to a 2005 White House meeting with Congressional Republicans in which President Bush allegedly referred to the Constitution as “a goddammed piece of paper.”<sup>109</sup> The President, in one image, appears to be ripping the first page of the Constitution in two. He looks diffident, and the caption says, “It’s just a goddammed piece of paper.”<sup>110</sup> An image with the same caption that shows up on a couple of blog sites depicts the President eagerly trying to set the Constitution on fire with a lighter, as Vice President Cheney looks on.<sup>111</sup> On a number of Bush protest websites one can find different versions of the Constitution being placed into a shredder machine.<sup>112</sup> Typically, the document is halfway into the shredder so that “We the People” is still visible. One image links the metaphor of shredding the Constitution more directly to President Bush. The altered photo depicts President Bush crouched in the Oval Office personally feeding a facsimile of the Constitution into a shredder.<sup>113</sup>

By far, the more common strategy of physical defacement during the Bush years was to depict the Constitution burning. Interestingly, except for

108. Weregettinghosed, *Constitution Smoking Obama Posters*, ZAZZLE, [http://www.zazzle.com/constitution\\_smoking\\_obama\\_posters-228291710842435541](http://www.zazzle.com/constitution_smoking_obama_posters-228291710842435541) (last visited June 24, 2015).

109. *It’s About A Lot More Than A “Goddamned Piece of Paper”*: Bush Remark Reiterates Arrogant Globalist/Neon “Crazies” Insane Lust For New World Order Prevalence And Power, INFO. LIBERATION, <http://www.informationliberation.com/test.php?id=3993> (last visited June 24, 2015) (citing Steve Watson, *It’s About A Lot More Than A “Goddamned Piece of Paper”*: Bush Remark Reiterates Arrogant Globalist/Neon “Crazies” Insane Lust For New World Order Prevalence And Power, INFO WARS (Dec. 12, 2005), <http://infowars.net/articles/december2005/121205neocons.htm>).

110. Watson, *supra* note 109.

111. Mollybdamned American Atheist, *Bush Considered Throwing Out 1st Amendment & 4th Amendment*, SODAHEAD (Mar. 03, 2009), [http://www.sodahead.com/united-states/bush-considered-throwing-out-1st-amendment-4th-amendment/question-272562/?link=ibaf&q=constitution+tearing&imgurl=http://images.sodahead.com/polls/000272562/polls\\_bush\\_burning\\_constitution\\_1842\\_543350\\_poll\\_xlarge.jpeg](http://www.sodahead.com/united-states/bush-considered-throwing-out-1st-amendment-4th-amendment/question-272562/?link=ibaf&q=constitution+tearing&imgurl=http://images.sodahead.com/polls/000272562/polls_bush_burning_constitution_1842_543350_poll_xlarge.jpeg).

112. Don Loos, *For Fear of Stating the Obvious: Obama Shreds Constitution*, NAT’L RIGHT WORK COMMITTEE (Jan. 7, 2012), <http://nrtwc.org/for-fear-of-stating-the-obvious-obama-shreds-constitution/>; *see, e.g.*, THOMAS E. WOODS, JR. & KEVIN R.C. GUTZMAN, *WHO KILLED THE CONSTITUTION?: THE FATE OF AMERICAN LIBERTY FROM WORLD WAR I TO GEORGE W. BUSH* (2008) (Constitution placed in Shredder Machine).

113. *See* Image of President George W. Bush Shredding the Constitution (on file with author).

the image of Bush igniting the Constitution with a lighter, the burning images do not feature the 43<sup>rd</sup> President, although the Presidential Seal figures prominently in one<sup>114</sup> and a flaming brand of “G.W.B.” in another.<sup>115</sup> Vice President Cheney and Newt Gingrich are each the focus of burning Constitution images. In the Cheney image, the Vice President’s head is burning a hole into the iconic document.<sup>116</sup> In the Gingrich image, the former House Speaker is standing in front of a Constitution in flames, declaring the country safe from Democrats, a slip of the tongue that quickly gets corrected to “Terrorists.”<sup>117</sup> Both images link the burning of the document to policies related to national security, although the Gingrich image’s reference to partisanship seems more parodic. Yet another Constitution is set aflame by stacks of U.S. dollars, which appears less about national security and more a critique of capitalism, or Wall Street.<sup>118</sup>

Contextual defacement occurs when the Constitution icon is placed into a demeaning environment or morphed into a demeaning image. In the first sub-category are parodies that use bathroom humor to critique disrespect for the Constitution by President Bush or by President Obama. One photographic image is of a roll of toilet paper, which appears to be imprinted with a one-page facsimile of the Constitution.<sup>119</sup> Directly above the roll is the Seal of the President of the United States. The same photo, with a superimposed image of Obama, was widely available in 2012 as a critique. A cartoon caricature from 2012 goes one step further; it depicts Obama with his pants down, urinating on the Constitution.<sup>120</sup> He is grinning widely at the viewer as a thick yellow stream saturates the document, upon which “We the People” is visible. A more politically sophisticated illustration of the same motif is a cartoon featuring President Bush urinating on a document that is

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114. LisaInTX, *Has the US Constitution Been Suspended?*, LISAINTX BLOG (Apr. 5, 2011), <https://lisaintx.wordpress.com/2011/04/05/has-the-us-constitution-been-suspended/>.

115. See, e.g., JAMES P. PFIFFNER, *POWER PLAY: THE BUSH PRESIDENCY AND THE CONSTITUTION* (2009) (depicting an inflamed GWB brand on its cover).

116. Ted Lang, *Immediate Impeachment—The Only Way Out and Back!*, PEOPLESVOICE (July 25, 2007), <http://www.thepeoplesvoice.org/cgi-bin/blogs/voices.php/2007/07/25/p18432#more18432>.

117. See *Image of Newt Gingrich Superimposed on a Burning Constitution* (on file with author).

118. Jason Mick, *Impeachable Offense? Obama Takes "Bribe", Institutes SOPA's Evil Twin ACTA*, DAILY TECH (Jan. 30, 2012), <http://www.dailytech.com/Impeachable+Offense+Obama+Takes+Bribe+Institutes+SOPAs+Evil+Twin+ACTA/article23882c.htm>.

119. Barrett, *supra* note 4.

120. Alpineski, *Obama Takes a P!\$\$ on the First Amendment*, CONSERVATIVE PAPERS (Feb. 20, 2014), <http://conservativepapers.com/news/2014/02/20/obama-takes-a-on-the-first-amendment/#.VZRpUmBN3FJ>.

clearly marked with “We the People.”<sup>121</sup> Captioned as “The Urinary Executive,” the cartoon purports to quote Bush using two puns. The first, “wee-wee on the people,”<sup>122</sup> transforms the iconic “we the people” into a parodic manifesto that suggests that Bush is showing disrespect not only to the Constitution, but also to the American people. The line finishes with “is my trickle downer theory,”<sup>123</sup> an apparent swipe at the trickle down economic policies that have been a staple of the Republican Party since Reagan.

In a very different context is a cartoon that morphs the Constitution into what appears to be the towers of the World Trade Center exploding.<sup>124</sup> One tower is captioned “US Constitution,” the other as “US Bill of Rights.” Subtitled as “The Real Targets” of 9-11, the cartoon appears to suggest that the Bush Administration has exploited the tragedy of the 2001 terrorist attacks to promote a curtailment of constitutional rights. A series of cartoons by Dan Asmussen, a political cartoonist on the *San Francisco Chronicle* website, presents an illustrated facsimile of the first page of the Constitution under arrest.<sup>125</sup> Flanked by a police officer and a government agent, the document appears under the headline “U.S. Constitution Arrested for Aiding and Abetting Terrorist.” The anthropomorphic references to the document appear in other panels of the cartoon, including one that suggests that certain constitutional rights have traveled to Pakistan and grown beards. A final panel depicts Vice President Cheney explaining why the “Constitution Hates Us” to the American public. The parodic Cheney is quoted as saying, “Because it hates our Freedom,”<sup>126</sup> and vows to continue the fight against it. Like the Twin Towers illustration, this cartoon is using context to criticize what they see as the Bush administration’s disingenuous use of September 11<sup>th</sup> to curtail civil liberties in the name of national security. The towers image does this by depicting the Constitution itself as a building being destroyed. The Asmussen cartoons use the language of tabloid crime reporting to frame the Constitution as a perpetrator that, in the absurd logic of the Bush Administration, has become an enemy of the people.

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121. Zencomix, *supra* note 5.

122. *Id.*

123. *Id.*

124. Andy14darock, *True Twin Tower Targets*, FLICKR (June 30, 2008), <https://www.flickr.com/photos/16698119@N04/2625517686/in/photostream>.

125. Asmussen, *supra* note 10.

126. *Id.*



## V. CONCLUSION

It is impossible, of course, to locate and categorize all cultural representations of the U.S. Constitution as an icon in a single article. For one thing, there are commercial websites that sell products featuring the Constitution or “We the People,” on coins and clothing, and in books and games.<sup>127</sup> There are also other media to consider that go beyond the scope of this project. Books, and especially book covers, appear to be an area where iconic images of the document are enhanced, defaced, or represented intact, depending on a book’s purpose, its publisher, or an author’s point of view.<sup>128</sup> Newspapers, and especially editorial cartoons, have exploited the documentary image of the Constitution from the 1930s, when it was invoked for and against the New Deal, through present-day battles between the Tea Party and progressives.<sup>129</sup> In this respect, the use of the Constitution may not seem that much different than the various uses of the icon that were present on television a generation ago and on the Internet since 2008. Unlike television in its golden age, books and newspapers did not shy away from critical points of view in an effort to appeal to a national audience best characterized as the lowest common denominator. But, at the same time, books and newspapers are published by owners who control the distribution of their content, and remain responsible for the content itself—making it quite unlike the type of user-controlled distribution that prevails today on the Internet. It may be that the pattern of representations may fall somewhere between the enhanced iconic Constitution on classic television and the largely defaced images of the modern-day Internet. What the mix of content control and fragmented ideology means for documentary representations of the U.S. Constitution in books and newspapers may still be an open question that merits further inquiry.

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127. On commercial sites, the Constitution is either intact or slightly enhanced—that is, the document is rendered as a facsimile of the weathered original or recreated to appear without signs of age or wear.

128. Within this category, there are essentially two different types of books. The more common type of book is that which uses an illustration of the Constitution to convey a critical message about the document’s meaning. This would include a number of trade books that engage the Constitution critically in a political context. A second type, not as prevalent, uses the Constitution descriptively; that is, the book does not critically engage the text as much as it describes it, or the history of its enactment.

129. See, e.g., Casey Orr, *The Trojan Horse at Our Gate*, CHI. TRIB., Sept. 17, 1935, at 10, <http://archives.chicagotribune.com/1935/09/17/page/19/article/shorter-skirts-for-daytime-require-slim-leg-silhouette>; kstreet607, *The Tea Party Candidates Are Religious Extremists Obsessed with Sex, Abortion, Religion—Why Doesn’t the Media Get That?*, FIFTH COLUMN (Oct. 7, 2010), <http://kstreet607.com/2010/10/07/the-tea-party-candidates-are-religious-extremists-obsessed-with-sex-abortion-religion-why-doesnt-the-media-get-that/>.

Ultimately, the lack of distribution filter on the Internet has allowed the Constitution to flourish on the Internet as it could never have had in the era of controlled media. The Constitution may still be sacred to some, in a secular or religious context, but it is no longer a talisman of unifying authority to be revered culturally. The icon of American government thrives on the web as an expression of a diverse popular culture, an expression not only of the changing nature of national attitudes, but also a reflection of individual identities. Across the political spectrum, home-grown bloggers and movement websites are inscribing their identities upon the U.S. Constitution, and new representations are popping up unabated. In that sense, the transformation to user-controlled media has allowed the Constitution to become a “living” document—reclaimed and re-imagined by the people, and for the people.