
Subject: Re: Critize the Candidates

Posted by [Ryan3k](#) on Wed, 20 Aug 2008 05:50:56 GMT

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Kingdud wrote on Tue, 19 August 2008 12:16 You know, in hindsight, it was actually hard to compile a list showing Obama and McCain's lack of understanding of the constitution. Why? Because so many of the bills they simply did not vote on. I don't mean they voted for/against. I mean they didn't vote at all.

McCain missed 63.8% of senate votes in the current congressional session {source: <http://projects.washingtonpost.com/congress/members/m000303/>}

-Obama missed 45.5% of senate votes in the current congressional session. {source: <http://projects.washingtonpost.com/congress/members/o000167/>}

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00168 (FISA "improvements", outlawed by: Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.)

FISA allows for the possibility of warrant-less searches, among many, many other things. That 1, single provision, is enough to declare the document unconstitutional.

Obama: Yea

McCain: Not voting

Keyword: unreasonable search and seizure. An opposing argument (i.e. national security reasons) can be made, so it cannot be definitively called "unconstitutional."

Quote:

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00125 (Flood insurance reform, outlawed by: Article I, Section 8 {source: <http://www.law.cornell.edu/constitution/constitution.articlei.html#section8>})

*Note: For those unaware, the list of powers given to the House and Senate in Article I, section 8 is exhaustive. The elastic clause that appears as the last entry in section 8 was placed there in the event that a power struggle broke out, and it was, somehow, made illegal for any of the powers listed in section 8 to be carried out, through that elastic clause it would be possible to justify the enactment of a law to fix that error. That is ALL the elastic clause is for; to help enforce the powers congress had already been given. Not to expand them!

Completely unreferenced claims detected.

Now, maybe I'm blind, but nowhere in Article 1, section 8 do I see a power allowing the government to enact any form of insurance, give money to an established form of insurance, or anything to do with "federal aid". The flood insurance program is illegal, and by extension, so is it's reform. You do not vote to continue (even if it is a reformation) of something that is illegal. You DON'T DO IT!

Obama: Yea

McCain: Not Voting

That list of powers is not exhaustive, because the Constitution does not say so.

More to the point: You're saying federal disaster relief is unconstitutional? Read Section 8 again:

Section 8 The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States...

Federal disaster relief falls under "general welfare." Can you possibly argue otherwise?

Quote:

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00068 (To establish a deficit-neutral reserve fund for a 3-year extension of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers. Outlawed by: Article I, section

Where is the authorization to launch pilot programs? Much less for background checks? Hm? There isn't. Illegal.

Obama: Yea

McCain: Not voting (big surprise --)

Not necessarily unconstitutional, for the same reason I stated before. Let me remind you that the Constitution was adopted in 1787, before they had to deal with issues like "pilot programs" or "background checks" that would make sure that the new nurse at your grandmother's nursing home isn't a convicted felon who's going to kick the shit out of her, for example?

Did you even understand what the description of that bill was saying?

Like I said, general welfare.

Quote:

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00020 (FISA again, but a different date than the first one posted, outlawed by: Amendment IV)

Again, a bill for warrant-less search and seizure. Completely illegal.

Obama: Not voting

McCain: Yea

Only if the search and seizure were unreasonable. Instead, they are conducted under a necessary and proper blanket of "national security reasons." I don't necessarily agree with it, but it's not necessarily unconstitutional, either.

Quote:

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00166 (Telecom immunity for passing information along to the government, outlawed by: Article I, section 9 "No ex-post facto laws")

Ex-post facto, for those who don't know, means "after the fact" effectively. It means you can NOT make a law that says "Yea...this was illegal back then, but this law makes it legal now, and makes appear as if it was legal back then too. So if you have a civil suit pending, which relies on a given item being illegal at a point in history, an ex-post facto law makes your case invalid, by making the action legal at that point in history.

Obama: Yea

McCain: Not Voting

As you hopefully know, the Supreme Court interprets the law. In 1798, when the Founding Fathers were still alive, the SC found that not all ex-post facto laws are unconstitutional. Please read up on your case studies (particularly *Calder v. Bull*). They are important to understanding the application of the Constitution.

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In short, just because the Constitution does not explicitly enumerate a power, doesn't necessarily make said power unconstitutional.

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