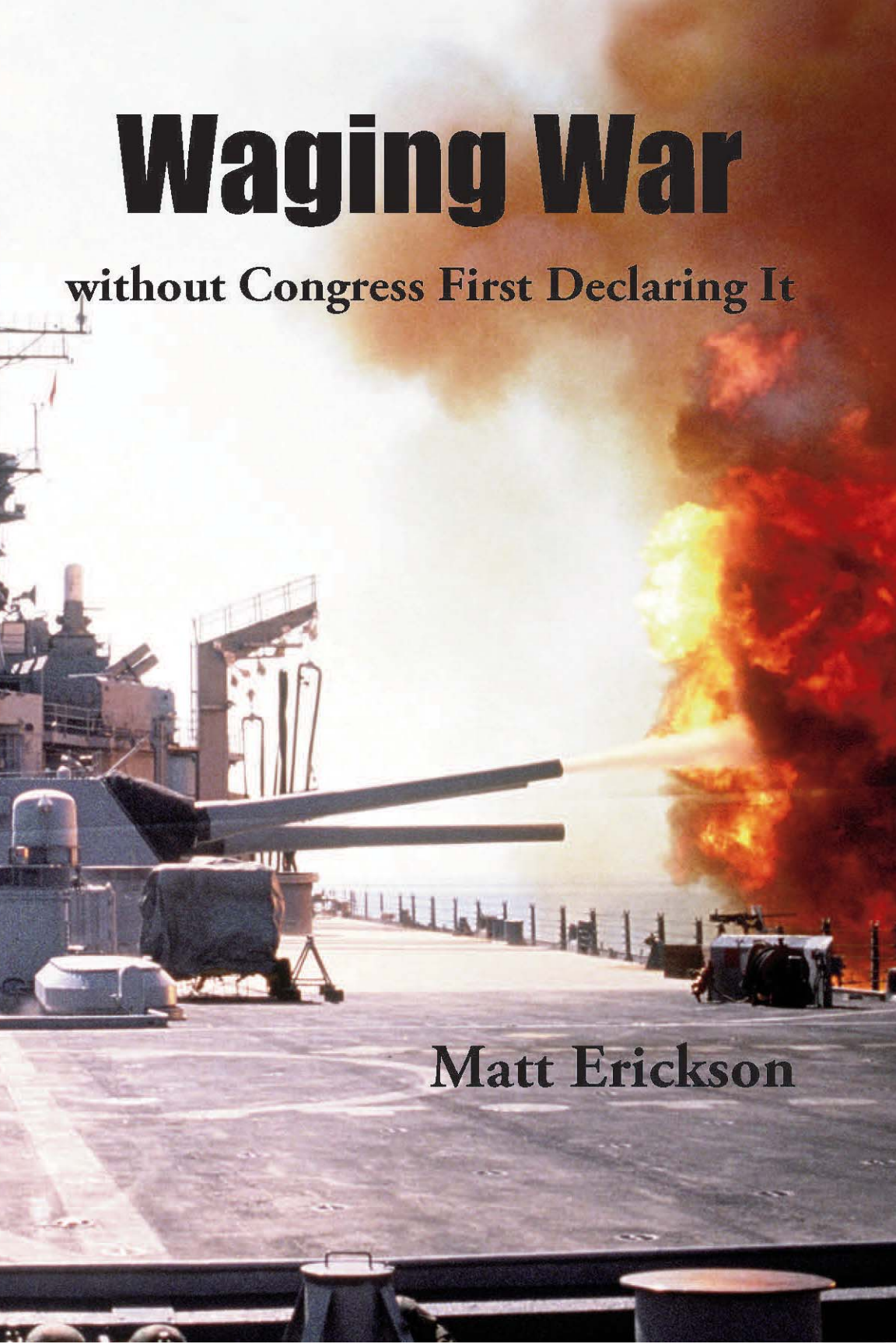
Waging War

without Congress First Declaring It



Matt Erickson

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By:

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Wikimedia details that the photograph used on the cover shows the battleship USS WISCONSIN (BB-64) firing a round February 6, 1991, from one of the Mark 7 16-inch/50-caliber guns in its No. 3 turret during Operation *Desert Storm*.

The ship's target was an Iraqi artillery battery in southern Kuwait, marking the first time since 1952 that the *Wisconsin*'s guns had been fired in anger, starting her participation in the ground war during Operation *Desert Storm*.

(ID: DNST9208524 Service Depicted: Navy)

Photographer's Mate Petty Officer 2nd Class JOHN CARNES

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To my loving wife, Pam; for all her love and support

and

to all the brave American soldiers who have served in peace or in war,
both declared and undeclared.

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Preface

The powers to declare and engage in war are arguably the weightiest and most feared tools in the constitutional toolbox.

As such, one would expect the prescribed constitutional process to be strictly followed, without fail, every applicable time. Formal declarations of war for all major confrontations best ensures all hands are working toward the same lawfully-approved goals.

Any other course of action (besides following the Constitution, strictly) increases risk of discord, as two or more sides on the same team form and begin to oppose one another (instead of remaining united to fight only the enemy). As divisiveness grows, proper constitutional process succumbs to the slow, merciless death of political expediency.

Simply bringing up the topic of undeclared wars may lead some people to question whether this book has an anti-military slant. The answer is decidedly, "No."

The author of *Waging War without Congress First Declaring It* is a fervent supporter of a strong and vibrant military for the common defense and greatly admires all those fearless souls who put on the military uniform and protect the American way of life despite the hardships and regardless of the cost.

But, since all soldiers must first give an oath to "support and defend" the Constitution of the United States (to which U.S. Presidents must also give an oath "to preserve, protect and defend"), the military should never be used at odds with that Constitution.

Our Constitution is not preserved, protected, defended or supported when American Presidents use the military outside of properly-defined constitutional processes meant for the whole Union.

It is in firm support of our U.S. Constitution (under an originalist perspective except as modified by ratified amendments), that the author writes *Waging War without Congress First Declaring It.*

While any number of people may argue that originalist views of the Constitution and the war powers are antiquated, if not obsolete, this author asserts another look is warranted, given the seriousness of the subject at hand.

Perhaps surprisingly, it is not the explicit purpose of *Waging War without Congress First Declaring It* to delve deeply into the war powers themselves (thus, one will find only a brief discussion of them).

Instead, the real discussion begins with the topic of location—*where* the powers for declaring and waging war are vested (in Congress and the President, respectively). Realizing that normal constitutional constraints are bypassed anytime Presidents unilaterally wage war, one discovers that the waging of undeclared wars is only a visible symptom of a much deeper, fundamental problem—a general ability for federal officials to bypass normal constitutional constraints at their discretion, with impunity.

Concentrating too heavily upon otherwise irrelevant symptoms (including even the topic of war) only *increases* the risk of confusion and the likelihood of getting lost in the forest for failing to see through the trees.

It is thus best to step back instead to examine fundamental, core issues, to learn what is going on at the most basic levels. Thereafter, one may proceed to individual cases (such as the case herein examined—America Presidents unilaterally waging war of their own accord). Indeed, what are needed are the critical pieces of information to help readers understand the underlying problem, so it may be finally corrected, rather than just creating legal scholars who may only offer perhaps interesting information which does not help restore liberty.

Therefore, do not be surprised that this book examines government actions in general more than it looks at the specific case of war.

Rest assured, however, that the objective of *Waging War without Congress First Declaring It* is to provide readers with the pertinent information they need to discover how federal officials or members of Congress bypass constitutional restraints (including the present case of waging undeclared wars) and then what must be done to ensure the scoundrels may no longer use American government as the ultimate weapon *against* individual freedom and limited government.

Chapter 1.

Article I, Section 8, Clause 11 of the Constitution for the United States of America specifically "vests" with Congress the power "To declare War." Vesting this power with Congress "fixes" it therein.

This clause, properly carried out, would mean that members of Congress declare war *before* the American President as Commander in Chief of the Army and Navy of the United States openly and fully engages in prolonged battle (questions of immediate defense or imminent attacks aside).

For example, after the Imperial Government of Japan ruthlessly attacked Pearl Harbor on December 7, 1941, Congress issued a Joint Resolution declaring war the following day. In full, the resolution stated:

> Whereas the Imperial Government of Japan has committed unprovoked acts of war against the Government and the people of the United States of America: Therefore be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the state of war between the United States and the Imperial Government of Japan which has thus been thrust upon the United States is hereby declared; and the President is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial Government of Japan; and, to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.[1]

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1. Volume 55, Statutes at Large, Page 795. December 8, 1941.

On December 11, 1941, Congress likewise declared war on the Government of Germany and the Government of Italy.[2] On June 5, 1942, Congress declared war on the Governments of Bulgaria, Hungary, and Rumania (Romania).[3]

These six declarations of war by Congress in 1941 and 1942 were the last declarations of war made by the United States.[4]

Meanwhile, the "wars" of Korea (1950-1953), Vietnam (1964-1973), Iraq (off and on since 1990) and Afghanistan (2001-present), as well as any number of smaller skirmishes in-between, were never officially declared by Congress.[5]

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2. 55 Stat. 796 and 55 Stat. 797, respectively.

3. 56 Stat. 307 (Chapters 323, 324, & 325, respectively).

4. The United States, under the Constitution, have declared war during five different war-time eras:

   A. In the War of 1812, Congress declared war on the United Kingdom of Great Britain and Ireland, and the dependencies thereof, on June 18, 1812 (2 Stat. 755);

   B. In the Mexican-American War, Congress declared war on the Republic of Mexico on May 13, 1846 (9 Stat. 9);

   C. In the Spanish-American War, Congress declared war on the Kingdom of Spain on April 25, 1898 (30 Stat. 364);

   D. In World War I, Congress declared war on the Imperial German Government on April 6, 1917 (40 Stat. 1); on the Imperial and Royal Austro-Hungarian Government on December 7, 1917 (40 Stat. 429);

   E. In World War II, Congress declared war on the Imperial Government of Japan on December 8, 1941 (55 Stat. 795), December 11, 1941 on the Government of Germany (55 Stat. 796) and on the Government of Italy (55 Stat. 797); on June 5, 1942, on the Government of Bulgaria (56 Stat. 307 [Chapter 323]), on the Government of Hungary (56 Stat. 307 [Chapter 324]), and the Government of Rumania (Romania) (56 Stat. 307 [Chapter 325]).

In Korea—America's first prolonged but undeclared war—President Harry S. Truman looked not to the U.S. Constitution and Congress, but to the five-year-old United Nations Charter and its Security Council.

In his public papers, President Truman detailed:

> The Security Council of the United Nations called upon the invading troops to cease hostilities and to withdraw to the 38th parallel. This they have not done, but on the contrary have pressed the attack. The Security Council called upon all members of the United Nations to render every assistance to the United Nations in the execution of this resolution. *In these circumstances I have ordered United States air and sea forces to give the Korean Government troops cover and support.*[6]

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5. *Waging War without Congress First Declaring It* unapologetically considers only (some of) the later and larger military conflicts where war was not declared, ignoring many smaller military incursions (including and since President John Adams's "Quasi-War" with France and President Thomas Jefferson's fighting the Barbary Pirates in Tripoli and Algiers)—as beyond the scope of this brief book.

In response to small military incursions, the author understands that it would be absurd for the President to be required to call on Congress to declare war against nations (or especially against groups of individuals) before defending U.S. interests in minor incidents that cannot be allowed to go unchecked.

In other words, the author seeks to establish the differences between constitutionally authorized and not, figuring some of the lesser shades will increasingly fade away on their own once the greater shades of gray are adequately considered.

6. No. 173. Statement by the President on the Situation in Korea. *Public Papers of Harry S. Truman*, June 27, 1950. Italics added.

https://www.trumanlibrary.org/publicpapers/index.php?pid=800&st=&st1=

President Truman indirectly referenced a resolution on Korea made by the Security Council of the United Nations as his authority to act. It is, therefore, proper to begin the trace of the President's authority from there and work backwards, to verify his authority to act.

On June 25, 1950, the United Nations Security Council issued its Resolution No. 82. In it, the Security Council determined that the armed attack by North Korean forces on the Republic of Korea (South Korea) constituted "a breach of the peace."[7]

Resolution No. 82 called for an immediate cessation of hostilities and for North Korean authorities to withdraw their forces to the 38th parallel. The Resolution further called upon all Member States of the United Nations "to render every assistance to the United Nations in the execution of this resolution and to refrain from giving assistance to the North Korean authorities."[8]

Citing some of the wording found in the June 25, 1950 Security Council Resolution No. 82 two days later, President Truman provided his statement as noted above (that he had committed U.S. troops to Korea).

On the same day—June 27, 1950—the U.N. Security Council issued Resolution No. 83. In it, the Security Council noted that North Korean authorities "have neither ceased hostilities nor withdrawn their armed forces to the 38th parallel."[9]

In consequence of this finding, the Security Council "recommended" that member-countries of the United Nations "furnish such assistance" to the Republic of Korea "as may be necessary to repel the armed attack and restore international peace and security in the area."[10]

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7. www.unscr.com/en/resolutions/82
8. *Ibid.*
9. www.unscr.com/en/resolutions/83
10. *Ibid.*

Eleven days later, on July 7, 1950, the Security Council issued Resolution No. 84, which welcomed "the prompt and vigorous support which Governments and peoples of the United Nations have given" to its resolutions "to assist the Republic of Korea in defending itself against armed attack and thus to restore international peace and security in the area."[11]

Resolution No. 84 further recommended that "all Members providing military forces and other assistance" make "such forces and other assistance" available to "a unified command under the United States of America" while requesting the United States "to designate the commander of such forces."[12]

Three weeks later, on July 30, 1950, the U.N. Security Council issued Resolution No. 85, requesting the Unified Command (under American General Douglas MacArthur) to "exercise responsibility" for "determining the requirements for the relief and support of the civilian population of Korea" and for "establishing in the field the procedures for providing such relief and support."[13]

President Truman nominally cited the first of four United Nations Security Council resolutions as his authority to send in "United States air and sea forces to give the Korean Government troops cover and support." The Security Council issued shortly thereafter the other three resolutions in support of their first.

While the briefest of examinations shows that the Security Council called for aid from member nations for South Korea, and stepped up requests three additional times, one must ask whether this was enough to support the American President's calling out of our troops.

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11. www.unscr.com/en/resolutions/84
12. *Ibid.*
13. www.unscr.com/en/resolutions/85

To answer that question, one must dig deeper into the United Nations Charter and the U.S. legislation which helped implement it (domestically).

The United Nations Charter had been approved five years earlier, but its roots went deeper into history.

The 1920s' League of Nations—which the United States never officially joined—was a post-World War I international organization endorsed by American President Woodrow Wilson nominally aimed at international peace (by accumulating world power beyond national borders into a few select hands).

With the outbreak of World War II signifying a complete failure of the League, work began toward the collective end that culminated in the U.N. Charter.

The United Nations Charter was the direct outgrowth of work begun by American President Franklin D. Roosevelt and British Prime Minister Winston Churchill, on August 14, 1941. The two leaders agreed to a statement of principles, which became known as the Atlantic Charter, even though there was never any formal, signed document. The President informed Congress, on August 21, 1941, as to nature of his executive agreement.[14]

Next came the "Declaration by United Nations" of January 1, 1942. This was simply a joint declaration by 27 nations (no formal "United Nations" organization yet) agreeing to a "common program of purpose and principles" as "embodied in…the Atlantic Charter."[15]

Between 1943 and 1945—driven by the governments of the United States, the United Kingdom, the Soviet Union, and the Republic of China (Taiwan)—representatives met in Moscow, Tehran, Washington, D.C. (at the private Dumbarton Oaks mansion) and Yalta to lay out the groundwork for a new international organization.

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14. http://avalon.law.yale.edu/wwii/atlantic.asp
15. http://avalon.law.yale.edu/20th_century/decade03.asp

The final meeting in San Francisco produced the proposed United Nations Charter on June 26, 1945 (shortly after Germany surrendered May 8, but before Japan surrendered September 2).

The United States Senate gave its "advice and consent" to the Charter on July 28, 1945; eighty-nine Senators voted in favor and two opposed.

Following the tally of the vote, the President Pro Tempore of the Senate declared, "Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the treaty is ratified."[16]

President Truman signed the treaty August 8th, the day before dropping the second atomic bomb ("Fat Man"), this time on Nagasaki.

Over the next few months, enough other nations ratified the Charter to bring it into force, becoming active on October 24, 1945. On October 31, 1945, President Truman proclaimed the Charter as being in full effect.

Especially significant is Article 43 of the U.N. Charter, which reads:

> 1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
>
> 2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

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16. Volume 91, Part 6, Congressional Record, 79th Congress, 1st Session, Page 8190. July 28, 1945.

> 3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.[17]

Two main points in Article 43 are of particular interest. Both deal with the powerful Security Council rather than the General Assembly.

In the first paragraph, the Security Council was specifically given the decision-making authority—*"on its call"*—to request that member nations "make available…armed forces, assistance, and facilities."[18]

This Article and paragraph clearly show that the deliberative process for determining the use of military forces *would occur within the United Nations Security Council*.

The second point steps partially back from the precipice where signatories would otherwise surrender domestic sovereignty to international control, stating (in paragraph one) that the Security Council may call forth armed forces, assistance, and facilities of member nations "in accordance with a special agreement or agreements."[19]

These special agreements, as detailed in paragraph three, were "subject to ratification by the signatory states *in accordance with their respective constitutional processes."* [20]

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17. www.un.org/en/sections/un-charter/chapter-vii/
18. *Ibid.* Italics added.
19. *Ibid.*
20. *Ibid.* Italics added.

This specific nod to each nation's "respective constitutional processes" provides the primary theoretical protection to member nations from blindly delegating their national will and sovereignty to the United Nations.

Despite these words of the U.N. Charter, American President Harry S. Truman never sought to negotiate any special agreement with the U.N. for the U.S. Congress to ratify for the three-year-long Korean War (let alone did members of the United States Congress ever issue a formal declaration of war on their own accord).

While President Truman ostensibly pointed to words found in a U.N. Security Council resolution for authority to send U.S. troops into Korea, his actions cannot be said to follow the United Nations Charter, for the Article 43 protocols meant to protect national sovereignty were never sought and attained.

In other words, the pretext for sending troops cannot actually be found under the United Nations Charter. Therefore, without direct support from the United Nations Charter (or the Constitution for the United States of America), President Truman's actions must be considered his own unilateral actions.[21]

To support this conclusion, it is proper to examine the U.N. Charter more fully to confirm requirements for U.N.-endorsed action.

President Truman, by and with the advice and consent of the U.S. Senate, ratified the United Nations Charter in 1945. By this action, the President and Senate acted as if the Charter was a treaty.

A "treaty" involves people of *differing* nations. A "charter", however, typically reflects a "constitution" (for *one* people, such as the 1215 English Magna Carta ["the Great Charter"] or Connecticut's 1662 colonial Charter). A charter held as a treaty represents an interesting hybrid.

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21. Constitutional parameters will be examined in later chapters.

Before the U.S. Senate ratified the treaty termed a "charter," a number of Senators expressed concern about Article 43 of the U.N. Charter as it related to America's proper "constitutional process" for potentially authorizing war indirectly via treaty.

Their concern was rooted in the fact that the U.S. Constitution does not vest the power to declare war only in the U.S. Senate, but in *both* Houses of Congress (i.e., also the U.S. House of Representatives). The power to make treaties is vested, however, in the President "by and with the Advice and Consent of the Senate" (leaving out the House of Representatives).[22]

Thus, a treaty that touches upon the subject of war plays with constitutional fire, potentially leading to a showdown with the U.S. Constitution.

President Truman wrote a letter (from Potsdam, Germany, while parsing out post-war Europe with British Prime Minister Winston Churchill and Soviet Premier Joseph Stalin) to the U.S. Senate to calm some Senators' fears regarding ratifying a treaty that could potentially create a constitutional crisis.

President Truman wrote (on July 28, 1945—*before* the Senate ever voted on the U.N. Charter):

> During the debate in the Senate upon the matter of the Senate's giving its advice and consent to the Charter of the United Nations, the question arose as to the method to be followed in obtaining approval of the special agreements with the Security Council referred to in article 43 of the charter. It was stated by many Senators that this might be done either by treaty or by the approval of a majority of both Houses of the Congress. It was also stated that the initiative in this

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22. See the U.S. Constitution, Article I, Section 8, Clause 11 and Article II, Section 2, Clause 2.

> matter rested with the President, and that it was most important to know before action was taken on the charter which course was to be pursued. *When any such agreement or agreements are negotiated, it will be my purpose to ask the Congress by appropriate legislation to approve them.*[23]

Ignoring for a (long) moment, the President's reference of a claim of "many Senators" (that the approval of special agreements "might be done either by treaty or by the approval of both Houses of Congress" or the claim that "the initiative in this matter rested with the President"), President Truman nevertheless offered his intended course of action on the matter.

In his letter, Truman informed the Senate that he would ask "Congress" to approve any special agreements he negotiated by "appropriate legislation" (so he could follow proper "Constitutional processes" before ever seeking to commit U.S. troops under U.N. authority).

Given the President's assurances, the Senate overwhelmingly ratified the United Nations Charter.

However, regarding Korea, as stated earlier, President Truman did not ever seek to negotiate the matter even with the Senate, let alone seek a "special agreement" with the United Nations for both Houses of Congress to consider.

It is not like he did not know the requirements involved. After all, besides his letter of July 28, 1945, on December 20, 1945, President Truman signed into U.S. law the United Nations Participation Act of 1945, which both Houses of Congress had earlier sent him for his signature to become law.

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23. Volume 91, Part 6, Congressional Record, 79th Congress, 1st Session, Page 8134-8135, July 28, 1945. Italics added.

Section 6 of the Act specifically read:

> The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general location, and the nature of facilities and assistance, including rights of passage, to be made available to the Security Council on its call for the purpose of maintaining international peace and security in accordance with article 43 of said Charter.[24]

By the express command of U.N. Participation Act of 1945—enacted by the Congress of the United States of America and signed by American President Harry S. Truman—all pertinent parties understood the American law that the *U.N. special agreements* "shall be subject to the approval of Congress *by appropriate Act or joint resolution*."

Legislative Acts and joint resolutions both require approval of both Houses of Congress—the Senate and the House of Representatives—and the signature of the President (unless approved over his veto by two-thirds of both Houses or with his inaction of ten days [while both Houses are still in session] as detailed in Article I, Section 7, Clauses 2 and 3 of the U.S. Constitution).

Despite the U.N. Charter specifically stating that "special agreements" (to commit troops and assistance) "shall be subject to ratification by the signatory states in accordance with their respective constitutional processes," despite the President's written assurance that he would "ask the *Congress* by appropriate legislation to approve" all special agreements, and despite the United States' "United Nations Participation Act of 1945" saying that the special agreements negotiated by the President are "subject to the approval of the Congress

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24. 59 Stat. 619. Section 6. December 20, 1945.

by appropriate Act or joint resolution," President Truman *never* sought to negotiate any special agreements with the U.N. Security Council before (or after) sending American troops into Korea.

Strictly speaking, since President Truman did not actually seek any special agreements for Congress to consider, however, he did not violate his July 28, 1945 personal guarantee that he would ask Congress to approve all special agreements he in fact sought.

Of course, since he didn't pursue any special agreements, he could not point to the U.N. Charter for support of his actions. He acted unilaterally—he could not have his cake and eat it, too.

The United Nations Participation Act of 1945, if nothing else, should make it quite clear that American Presidents cannot commit American troops for U.N. purposes without direct congressional support through ratification of negotiated special agreements.[25]

President Truman's decision to give cover and military support in Korea were his unilateral actions unsupported under the U. N.

Therefore, even without challenging any transfer of sovereign American powers to foreign bureaucrats (who are not duly-elected members of Congress or American Presidents meeting the citizenship, residency and oath requirements of the Constitution), President Truman did not have proper authority to commit U.S. troops to Korea under the United Nations Charter.

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25. The author does not mean to imply that Truman *should have* negotiated a special agreement with the U.N. Security Council for members of Congress to approve (so that the Korean War could have had been waged under U.N. auspices)—he only means to show that President Truman's inferred authority under the U.N. Charter did not exist.

The author's fundamental position is that it is wholly invalid (and even impossible) for members of Congress to delegate the authority for the Union that the U.S. Constitution vests with them anywhere else, especially to foreign powers.

Neither did President Truman have proper authority under the U.S. Constitution, since Congress never declared war on North Korea.[26]

Yet, Truman *did fight* the Korean War—for three long years—with the U.S. suffering 33,739 battle deaths, while therein expending $30 billion (equivalent to $341 billion in 2011 dollars).[27]

Since the war was waged, however, President Truman *had to have some type of authority* to act as he did. This book seeks to expose that authority the President used to wage war of his own accord.

Given the audacity of President Truman's actions, it is not out of line to see what others have written about this event (and the war that followed a decade later).

Writing in a journal article in 1995, constitutional scholar Dr. Louis Fisher (at the time, the Senior Specialist in Separation of Powers at the Congressional Research Service), had a number of important things to say regarding President Truman's actions in Korea. The first was:

> In fact, Truman violated the unambiguous statutory language and legislative history of the UN Participation Act. How could he pretend to act militarily in Korea under the UN umbrella without any congressional approval? The short answer is that he ignored the special agreements that were the vehicle for assuring congressional approval in advance of any military action by the President.[28]

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26. Constitutional parameters that support the assertion made here will be examined in later chapters.

27. https://fas.org/sgp/crs/natsec/RL32492.pdf. Page 2.
https://fas.org/sgp/crs/natsec/RS22926.pdf. Page 2.

28. *"The Korean War: On What Legal Basis Did Truman Act?",* Louis Fisher. The American Journal of International Law. Volume 89, No. 1, Page 32. January 1995. See also his 2004 book (updated 2014): *Presidential War Power.*

Not one to mince words, Dr. Fisher pointedly declared that:

> Truman's commitment of troops to Korea had violated the UN Charter, the UN Participation Act, and repeated assurances given to Congress...Truman had used military force before the second Security Council resolution. It was a war, not a police action. It was an American, not a UN, operation. On all those points, the record is abundantly clear.[29]

Dr. Fisher unequivocally proclaimed:

> President Truman's unilateral use of armed force in Korea violated the U.S. Constitution and the UN Participation Act of 1945.[30]

And, finally, he concluded:

> The Korean War stands as the most dangerous precedent because of its scope and the acquiescence of Congress. In recognizing the importance of the Korean War and its threat to constitutional democracy, we should not attempt to confer legitimacy on an illegitimate act. Illegal and unconstitutional actions, no matter how often repeated, do not build a lawful foundation.[31]

Dr. Fisher asserted that President Truman's actions in Korea were "illegitimate" and "illegal and unconstitutional actions" that "violated the U.S. Constitution."

Yet, President Truman waged a three-year war without apparent support of either the U.S. Constitution or the United Nations Charter, without either Congress or the courts stopping him.

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29. *Ibid.,* Page 35.
30. *Ibid.,* Page 37.
31. *Ibid.,* Page 38.

Throughout much of American history, one sees similar inconsistencies of fundamental American principles of government—of federal officials and/or members of Congress performing actions greater than the Constitution normally allows, or even doing things the Constitution otherwise forbids.

Sadly, omnipotent government actions that contradict underlying fundamental principles are replete in U.S. history, suggesting there is something rotten in the District of Columbia.

Just how is it that members of Congress or federal officials are ever able to ignore constitutional constraints, without fear of rebuke or reprisal?

Could it be that President Truman somehow *did have the authority* to do as he chose?

Before delving into such questions, it is important to examine American history closer to see if Korea was a fluke or a disconcerting prelude to further solitary actions of Presidents yet to come.

Of course, Americans today are typically well aware of the fact that Korea was not a solitary diversion from proper constitutional protocols. Only a decade later, the ever-contentious Vietnam War began. And, today, the wars in Iraq and Afghanistan have been raging for well over a decade.

In no other war has the American public been so opposed as the Vietnam War of 1964 - 1973.

In Vietnam, direct fighting costs reached $111 billion ($738 billion in 2011 dollars), while the United States suffered 47,434 battle deaths (58,220 total casualties).[32]

Out of 8,744,000 American soldiers serving during the Vietnam War era, 1,857,304 were inducted into the military by forced conscription

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32. https://fas.org/sgp/crs/natsec/RS22926.pdf. Page 2.
https://fas.org/sgp/crs/natsec/RL32492.pdf. Page 2.

(during Korea, 1,529,539 out of 5,720,000 American soldiers were conscripted into service by the draft).[33]

With millions of soldiers being forced to serve in unpopular and undeclared wars, it should not surprise anyone that some objected. That some of those objections took the form of a lawsuit should not be a surprise either.

What perhaps could surprise people would be to learn that the supreme Court never weighed in on the merits of any of dozens of lower court cases regarding the constitutionality of the Vietnam "War."[34]

Writing in a law journal, law professor Rodric B. Schoen reviewed Vietnam-era federal court cases in his 1993-1994 review article entitled *A Strange Silence: Vietnam and the Supreme Court*.[35]

Professor Schoen wrote that the supreme Court declined review "in not less than twenty-eight Vietnam cases."[36]

He noted that "four Justices" (Douglas, Harlan, Stewart, and Brennan) were "willing to hear Vietnam cases," but that they "never agreed in the same case," so the four votes required to trip review were curiously "never attained."[37]

33..https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf

https://www.sss.gov/About/History-And-Records/Induction-Statistics

34. Readers will undoubtedly notice that the author strays from traditional capitalization: "supreme Court" rather than "Supreme Court", habitual capitalization of "State", "President," etc. When writing about constitutional issues, the author takes his cue directly from the Constitution, signifying his intention to follow the Constitution strictly on all applicable matters.

35. *"A Strange Silence: Vietnam and the Supreme Court."* Rodric B. Schoen. Washburn Law Journal, Volume 33, Page 275. 1993-1994.

36. *Ibid.*, Page 304.

37. *Ibid.*

Schoen wound down his article, writing:

> The Supreme Court…would not review Vietnam claims on the merits and decide *for* the Government.[38]

The professor next noted that:

> The Court would not review Vietnam claims on the merits and decide *against* the Government.[39]

Neither would the Court "review Vietnam claims and decide they were nonjusticiable" (i.e., that the question at hand was a political question within the discretion of Congress, thereby barring the courts from review).[40]

Schoen concluded "The Court would only avoid decision by silence;" in fact, "a strange silence" which "effectively approved the Government's war policies."[41]

Lastly, Professor Schoen asserted that there was "No valid or legitimate reasons explain or justify this silence."[42]

Strange silence indeed.

Out-of-place and odd pieces of evidence that stand out from the norm are exactly the kind of information that must be examined in greater detail if one ever wants to figure out what in the world is actually going on. Thus, the purpose of this book—to discover the hidden reasons for odd actions and peculiar events.[43]

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38. *Ibid.*, Page 320. Italics added.
39. *Ibid.* Italics added.
40. *Ibid.*
41. *Ibid.*
42. *Ibid.,* 321.

43. Please note, after the Korean and Vietnam Wars, Congress clarified when Presidents could "introduce United States Armed Forces into hostilities," in the War Powers Resolution of November 7, 1973 (see Appendix B).

Despite the War Powers Resolution, the American military has been engaged in Afghanistan since 2001 without overt Congressional support.

Other conflicts of a shorter-term nature without clear approval include Syria (2014-present), Yugoslavia (1999), Haiti (1999), Somalia (1992-1993), Panama (1989), Libya (1986), Grenada (1983) and Beirut (1982-1984).

Congress has issued two separate Joint Resolutions dealing with Iraq.

The first, signed by President George H.W. Bush in 1991 (entitled "Authorization for Use of Military Force Against Iraq Resolution"), authorized the President (pursuant also to subsection [b] of the resolution):

> to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677.
>
> 105 Stat. 3, Section 1. January 14, 1991.

The second, signed by President George W. Bush in 2002 (entitled "Authorization for Use of Military Force Against Iraq Resolution of 2002"), authorized the President:

> to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to—
>
> (1) defend the national security of the United States against the continuing threat posed by Iraq; and
>
> (2) enforce all relevant United Nations Security Council resolutions regarding Iraq.
>
> 116 Stat. 1497, Section 3. October 16, 2002.

Following the terrorists' attack on the United States on September 11, 2001, Congress also approved the Authorization for Use of Military Force against the terrorists responsible (see Appendix C).

None of these military actions add anything material to what has already been covered. As such, *Waging War without Congress First Declaring It* will not comment on them further, simplifying matters.

While Dr. Fisher wrote "President Truman's unilateral use of armed force in Korea violated the U.S. Constitution and the UN Participation Act of 1945" and inferred that Truman's actions were "Illegal and unconstitutional" and a "usurpation of the war power," Professor Schoen was less assertive, but nevertheless still alleged, "that no valid or legitimate reasons explain or justify" this strange silence on behalf of the Court.[44, 45]

Researching into the Korean and Vietnam Wars, Dr. Fisher and Professor Schoen both helped bring needed attention to the odd phenomenon of American Presidents doing pretty much whatever they wanted, without explicit authority, and getting away with it.

However, making assertions is clearly not enough—wars continue to rage today without formal declarations. American soldiers continue to die on foreign battle fields, and American taxpayers are still being saddled with escalating debts into the trillions of dollars (while, sadly, the world seems no safer).

Today's Patriots must persistently search for answers because illegitimate actions have served as bad precedents, and simply alleging unconstitutional behavior will not restore our lost Republic of limited powers.

As bad as were the foreign wars of Korean and Vietnam in the 1950s, 1960s, and 1970s, however, a 1930 domestic action could be considered worse in at least one way.

Perhaps the only thing more disconcerting than American Presidents fighting undeclared wars in foreign lands is when wartime powers not even used on foreign enemies during periods of declared war were used on American citizens by their own government in time of peace!

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44. *"The Korean War: On What Legal Basis Did Truman Act?",* Louis Fisher. The American Journal of International Law. Volume 89, No. 1, Page 34. January 1995.

45. *"A Strange Silence: Vietnam and the Supreme Court."* Rodric B. Schoen. Washburn Law Journal, Volume 33, Page 275. 1993-1994.

First, a little background.

After the United States declared war on the Imperial German Government in World War I, members of Congress enacted the *Trading with the Enemy Act*, which President Woodrow Wilson signed into law on October 6, 1917.

The Act was predominantly used to restrict trading with the enemy, to keep from aiding their war efforts against us.

Section 6 of the Act, however, empowered the President to appoint an "alien property custodian," who was specifically empowered to:

> …receive all money and property in the United States due or belonging to an enemy, or ally of enemy…and to hold, administer, and account for the same under the general direction of the President and as provided by this Act.[46]

Section 12 detailed that:

> After the end of the war any claim of any enemy or of an ally of the enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled…[47]

The alien property custodian acted as a common-law trustee, holding the enemy's property found in the United States in a fiduciary capacity for the ultimate benefit of the owner after the war ended. Unless there was a valid claim on the assets (in which case courts settled the matter), the property or money was returned to the owner.[48]

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46. October 6, 1917, 40 Stat. 411 @ Page 415.
47. *Ibid.*, Page 424.

Despite the integrity shown by Congress and the U.S. Government towards the domestic wealth of our foreign enemies, nevertheless, that Trading with the Enemy Act was used (as amended) as the specific source of authority cited by American President Franklin D. Roosevelt in his April 5, 1933 Executive Order No. 6102 *to confiscate American gold from U.S. citizens and give them worthless paper in return.*[49, 50]

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48. To realize the potential seriousness of the situation, regarding wealth and war, consider the U.S. Constitution in Article III, Section 3, Clause 1:

> Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort.

So potentially serious is this matter of the enemy's assets in the U.S. during a period of declared war that it involves matters of treason.

49. Volume 48, Statutes at Large, Page 1 (Chapter 1). Section 2. March 9, 1933. This 1933 amendment the 1917 Act served as the quoted authority for F.D.R.'s executive order as shown below:

See: Executive Order No. 6102, April 5, 1933.

http://www.presidency.ucsb.edu/ws/index.php?pid=14611

50. Critical readers who wish to stay on point may wonder why the author brings up the topic of money in a book on American Presidents unilaterally waging war (after all, the author briefly mentions money several more times later in this book).

While the critique may be fair, the author intentionally mentions this other topic to help readers begin to see for themselves that the President unilaterally waging war is not itself the underlying problem, but only one of its readily-evident symptoms.

That other symptoms also follow the same principles as found on the topic of this book therefore helps point to the ultimate problem laying at the common root of all symptoms (the fundamental political problem being members of Congress and federal officials acting without regard to their constitutional constraints, without repercussion).

How that fundamental problem happens to play out in any particular case isn't therefore really the core issue to understand.

POSTMASTER: PLEASE POST IN A CONSPICUOUS PLACE.—JAMES A. FARLEY, Postmaster General

UNDER EXECUTIVE ORDER OF THE PRESIDENT

issued April 5, 1933

all persons are required to deliver

ON OR BEFORE MAY 1, 1933

all GOLD COIN, GOLD BULLION, AND GOLD CERTIFICATES now owned by them to a Federal Reserve Bank, branch or agency, or to any member bank of the Federal Reserve System.

Executive Order

FORBIDDING THE HOARDING OF GOLD COIN, GOLD BULLION AND GOLD CERTIFICATES.

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917, as amended by Section 2 of the Act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", in which statutory Act Congress declared that a serious emergency exists, I, Franklin D. Roosevelt, President of the United States of America, do declare that said national emergency still continues to exist and pursuant to said section do hereby prohibit the hoarding of gold coin, gold bullion, and gold certificates within the continental United States by individuals, partnerships, associations and corporations and hereby prescribe the following regulations for carrying out the purposes of this order:

Section 1. For the purposes of this regulation, the term "hoarding" means the withdrawal and withholding of gold coin, gold bullion or gold certificates from the recognized and customary channels of trade. The term "person" means any individual, partnership, association or corporation.

Section 2. All persons are hereby required to deliver on or before May 1, 1933, to a Federal reserve bank or a branch or agency thereof or to any member bank of the Federal Reserve System all gold coin, gold bullion and gold certificates now owned by them or coming into their ownership on or before April 28, 1933, except the following:

(a) Such amount of gold as may be required for legitimate and customary use in industry, profession or art within a reasonable time, including gold prior to refining and stocks of gold in reasonable amounts for the usual trade requirements of owners mining and refining such gold.

(b) Gold coin and gold certificates in an amount not exceeding in the aggregate $100.00 belonging to any one person; and gold coins having a recognized special value to collectors of rare and unusual coins.

(c) Gold coin and bullion earmarked or held in trust for a recognized foreign government or foreign central bank or the Bank for International Settlements.

(d) Gold coin and bullion licensed for other proper transactions (not involving hoarding) including gold coin and bullion imported for reexport or held pending action on applications for export licenses.

Section 3. Until otherwise ordered any person becoming the owner of any gold coin, gold bullion, or gold certificates after April 28, 1933, shall, within three days after receipt thereof, deliver the same in the manner prescribed in Section 2; unless such gold coin, gold bullion or gold certificates are held for any of the purposes specified in paragraphs (a), (b) or (c) of Section 2; or unless such gold coin or gold bullion is held for purposes specified in paragraph (d) of Section 2 and the person holding it is, with respect to such gold coin or bullion, a licensee or applicant for license pending action thereon.

Section 4. Upon receipt of gold coin, gold bullion or gold certificates delivered to it in accordance with Sections 2 or 3, the Federal reserve bank or member bank will pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States.

Section 5. Member banks shall deliver all gold coin, gold bullion and gold certificates owned or received by them (other than as exempted under the provisions of Section 2) to the Federal reserve banks of their respective districts and receive credit or payment therefor.

Section 6. The Secretary of the Treasury, out of the sum made available to the President by Section 501 of the Act of March 9, 1933, will in all proper cases pay the reasonable costs of transportation of gold coin, gold bullion or gold certificates delivered to a member bank or Federal reserve bank in accordance with Sections 2, 3, or 5 hereof, including the cost of insurance, protection, and such other incidental costs as may be necessary, upon production of satisfactory evidence of such costs. Voucher forms for this purpose may be procured from Federal reserve banks.

Section 7. In cases where the delivery of gold coin, gold bullion or gold certificates by the owners thereof within the time set forth above will involve extraordinary hardship or difficulty, the Secretary of the Treasury may, in his discretion, extend the time within which such delivery must be made. Applications for such extensions must be made in writing under oath, addressed to the Secretary of the Treasury and filed with a Federal reserve bank. Each application must state the date to which the extension is desired, the amount and location of the gold coin, gold bullion and gold certificates in respect of which such application is made and the facts showing extension to be necessary to avoid extraordinary hardship or difficulty.

Section 8. The Secretary of the Treasury is hereby authorized and empowered to issue such further regulations as he may deem necessary to carry out the purposes of this order and to issue licenses thereunder, through such officers or agencies as he may designate, including licenses permitting the Federal reserve banks and member banks of the Federal Reserve System, in return for an equivalent amount of other coin, currency or credit, to deliver, earmark or hold in trust gold coin and bullion to or for persons showing the need for the same for any of the purposes specified in paragraphs (a), (c) and (d) of Section 2 of these regulations.

Section 9. Whoever wilfully violates any provision of this Executive Order or of these regulations or of any rule, regulation or license issued thereunder may be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in any such violation may be punished by a like fine, imprisonment, or both.

This order and these regulations may be modified or revoked at any time.

THE WHITE HOUSE
April 5, 1933.

FRANKLIN D ROOSEVELT

For Further Information Consult Your Local Bank

GOLD CERTIFICATES may be identified by the words "GOLD CERTIFICATE" appearing thereon. The serial number and the Treasury seal on the face of a GOLD CERTIFICATE are printed in YELLOW. Be careful not to confuse GOLD CERTIFICATES with other issues which are redeemable in gold but which are not GOLD CERTIFICATES. Federal Reserve Notes and United States Notes are "redeemable in gold" but are not "GOLD CERTIFICATES" and are not required to be surrendered

Special attention is directed to the exceptions allowed under Section 2 of the Executive Order

CRIMINAL PENALTIES FOR VIOLATION OF EXECUTIVE ORDER
$10,000 fine or 10 years imprisonment, or both, as provided in Section 9 of the order

Secretary of the Treasury.

U.S. Government Printing Office: 1933: 2-16064

Never has the U.S. Government returned that confiscated domestic gold (or even restored the active circulation of gold back in the marketplace); instead, monetary devaluation continues to secretly steal wealth.

Far worse (in principle) than American Presidents temporarily waging war in foreign lands without valid authorization is using tactics not even used against the enemy during periods of declared war permanently against their country's own law-abiding citizens in time of peace![51]

At almost every turn, one finds growing mountains of evidence showing that members of Congress and federal officials seemingly-ignore even the most basic of fundamental constitutional principles, without repercussion.

In consequence of such incredulous actions, American Patriots must ask, "Are we missing something so fundamental, so basic, that it wholly eludes us?"

By every appearance, the answer must be, "Yes."

It is important to understand basic American principles well, in order to discover the bewildering answer to what the author calls *The Peculiar Conundrum,* the strange phenomenon of members of Congress and federal officials doing as they please, without effective recourse, despite the chains of the Constitution that mandate otherwise.

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51. To learn how Roosevelt's gold "con-fiscation" was really only a margin call to bank shareholders who had voluntarily obligated themselves under the 1913 Federal Reserve Act to back their banking liabilities with gold, please see the author's public domain books *Dollars and nonCents, Monetary Laws of the United States,* and the *Bald Justice* novel series (including *Base Tyranny* and *Bare Liberty)* at:

www.PatriotCorps.org, www.FoundationForLiberty.org, www.Issuu.com/patriotcorps, or www.Scribd.com/matt_erickson_6.

Waging War without Congress First Declaring It seeks to disprove the widely-believed storyline that members of Congress and federal officials have the decided ability to act for the Union without regard to their Constitutional limitations, strictly construed.

The idea that members of Congress or federal officials may otherwise change their powers (by changing the meaning of words used in the Constitution or otherwise) must be finally placed in the horrid and utterly despicable grave it so richly deserves.

Chapter 2.

There is ample evil in the world to prove that these United States of America absolutely need a strong and capable military adequate to provide for the common defense.[1]

The U.S. Constitution provides Congress and the U.S. Government ample war powers.[2]

While Article I, Section 8, Clause 11 of the Constitution empowers Congress to declare war, it also provides Congress with the express power to "grant Letters of Marque and Reprisal" and "make Rules concerning Captures on Land and Water."

Letters of Marque are the written approvals granted by Congress to owners and captains of private ships for outfitting the vessels for war and to conduct war on behalf of the country. Should the privateers be caught by the enemy, the Letters provide the sailors with the protection as prisoners of war, rather than as common pirates.

Reprisal allows the ships' captains and crews to confiscate enemy ships and cargo captured on the high seas as "prizes" or "bounty" under specific rules, regulations, and restrictions.

In the Revolutionary War, the young American Republic without financial means used privateers to help wage war against Britain and allowed reprisal even by the regular navy.[3]

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1. That imperative, however, does not extend to include *the uncommon offense*.

2. Undoubtedly, any number of readers of this book would argue that the U.S. Government has too much military power, given our post-WWII history.

In response to that viewpoint, the author suggests that this fault is less owed to the Constitution and more to so many Americans being woefully ignorant of it.

3. *See*, for example, The Resolution of January 6, 1776. Volume 4, *Journals of the Continental Congress*, Page 36 - 37.

3. *Cont'd. See also*, under the Constitution, the March 2, 1799 legislative Act "*for the Government of the Navy of the United States*." I Stat. 709.

Section 6 of the 1799 Act is shown, in part, as an example.

> Sec. 6. *And be it further enacted,* That the produce of prizes taken by the ships of the United States, and bounty for taking the ships of the enemy, be proportioned and distributed in the manner following, to wit:-
>
> > 1. To the captain actually on board at the time of taking any prize, being other than a public or national vessel, or ship of war, three twentieths of that proportion of the proceeds belonging to the captors.
> >
> > 2. If such captain or captains be under the immediate command of a commander in chief, or commander of a squadron, having a captain on board, such commander in chief, or commander of a squadron, to have one of the said twentieth parts, and the captain taking the prize, the other two twentieth parts.
> >
> > 3. To the sea lieutenants and sailing-master, two twentieths.
> >
> > 4. To marine officers, the surgeon, purser, boatswain, gunner, carpenter, master's mate and chaplain, two twentieths.
> >
> > 5. To midshipmen, surgeon's mates, captain's clerk, clergyman or schoolmaster, boatswain's mates, gunner's mates, carpenter's mates, ship's steward, sail-maker, master at arms, armorer, and cockswain, three twentieths.
> >
> > 6. Gunner's yeoman, boatswain's yeoman, quartermasters, quarter-gunners, cooper, sail-maker's mates, sergeant of marines, corporal of marines, drummer and fifer and extra petty officers, three twentieths.
> >
> > 7. To seamen, ordinary seamen, marines and boys, seven twentieths…

While Congress later moved away from such an adventurous and swashbuckling behavior by the Navy, the Constitution itself still allows Congress to grant Letters of Marque and Reprisal.

Several additional clauses of Article I, Section 8 aid Congress in properly structuring the American military.

For instance, while Clause 11 also allows Congress to make "Rules concerning Captures on Land and Water," Clause 12 enables Congress to "raise and support Armies" even as "no Appropriation of Money to that Use shall be for a longer Term than two Years."

Clause 13 empowers Congress to "provide and maintain a Navy" even as Clause 14 authorizes Congress to "make Rules for the Government and Regulation of the land and naval Forces."

Whereas, Clauses 11 - 14 cover the regular army and navy, Clauses 15 and 16 cover the militia—citizen-soldiers called into action to "execute the Laws of the Nation, suppress insurrections and repel invasions" (Clause 15).

Article I, Section 8, Clause 16 reads:

> Congress shall have Power…To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.[4]

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4. Note that Clause 16 specifically empowers Congress "to provide for…arming…the militia." Thus, the militia as an organized body of men called into action does not need the Second Amendment for its arming.

For example, under Article I, Section 8, Clause 16, Congress enacted the militia Act of May 8, 1792, stating:

> Each and every free able-bodied white male…of the age of eighteen years, and under the age of forty-five years (except as is herein after

The U.S. Constitution is not the only one of America's founding documents to speak on war matters—the Declaration of Independence also touches on the topic.

Indeed, the Declaration of Independence explicitly affirms that "levying war" is one of the named (and first mentioned) purposes for seeking independence, asserting that the States have full Power "to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do."

Of course, another matter to which the Declaration of Independence details is that Americans held "our Brittish brethren" (sic) like they held "the rest of mankind," which is "Enemies in War, in Peace Friends."

Without formal declarations of war, the Declaration of Independence proclaims that United States have no overt "Enemies," strictly speaking.

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4. *Cont'd:*

> excepted) shall severally and respectively be enrolled in the militia...That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball: or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder.
>
> I Stat. 271. Section 1.

Early federal laws imposed upon each competent citizen a legal duty and obligation to own and maintain a gun of sufficient bore and capability to engage in war, along with minimum ammunition and annual training ("discipline") requirements.

In other words, the Declaration of Independence considers the waging of war without a formal declaration as an attack against "Friends" (and therefore wholly improper).

From the perspective of learning how American Presidents may wage war without a formal declaration by Congress, the most important matter concerning the war powers listed above is that they are all found in Article I of the U.S. Constitution, the Article that discusses the *legislative* powers of *Congress*.

As Article I, Section 1 clearly indicates:

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

That "All legislative Powers herein granted" shall be "vested in a Congress of the United States" signify the fundamental principle of the Union—upholding legislative representation—fixing the legislative powers within Congress, *not* in the executive or judicial branches.

The war powers as briefly listed above are all found in *Article I*, Section 8 of the U.S. Constitution. The war powers are some of the specific "*legislative* Powers herein granted" referred to in Article I, Section 1.

That all these Article I war powers are vested *in Congress* (and not in the President—within Article II of the Constitution) are of fundamental importance in this discussion on the topic of American Presidents *Waging War without Congress First Declaring It.*

The vesting of the power to declare war in a Congress of the United States forecloses the power from being exercised by the American President or anyone else.

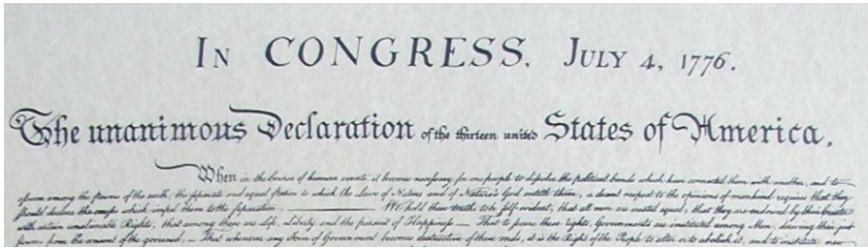
This assertion is proved by understanding the prohibition in the Constitution against executive and judicial officers from ever exercising the legislative powers of the Union that are vested with Congress.

To understand this otherwise absolute Wall of Separation of things executive and judicial from things legislative, it is necessary to cover some basic information that is tragically no longer quite so basic.

To vest enumerated legislative powers in a "Congress of the United States," one must first understand the related terms.

First of all, the "United States" (and United States of America) are *plural* terms, relating to the States united together in common Union.

The easiest example proving this assertion is found in the title of the Declaration of Independence—"The unanimous Declaration of the *thirteen united States of America*."


IN CONGRESS. JULY 4, 1776.

The unanimous Declaration of the thirteen united States of America,

Obviously, "the *thirteen* united States of America" necessarily shows a collection of individual States joined together in common Union.

The Treaty of Paris of 1783, which officially ended the Revolutionary War, began in Article I with the following words:

> His Brittanic Majesty acknowledges the said United States, *viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia*, to be free sovereign and independent states, that he treats with them as such, and for himself, his heirs, and successors, relinquishes all claims to the government, propriety, and territorial rights of the same and every part thereof.[5]

"Viz." is the abbreviated form of the Latin word "*videlicet,"* meaning *"that is to say."* The words that follow are a more accurate explanation of an earlier referenced general word or phrase.

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5. http://avalon.law.yale.edu/18th_century/paris.asp. Italics added.

The term "United States," as used in the Paris Peace Treaty by the United States and Great Britain, was thereafter immediately expounded upon to reflect its full and proper meaning (in 1783):

> …(the States of) New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia.[5]

Further, the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia were directly admitted in the peace treaty to be "free sovereign and independent States," and the king treats "with *them"* as such.

Both the United States and Great Britain acknowledged in their mutual peace treaty that all the States of the Union were the literal meaning of the general term "the United States."

Of course, ratification of the U.S. Constitution could (and did) change many things, but the plural meaning of "the United States" was not one of them. The U.S. Constitution confirms the plural nature of "the United States" in every single clause that shows word form (italics added throughout).

Article III, Section 3, Clause 1 provides an easily-understood example:

> Treason against *the United States*, shall consist only in levying War against *them*, or in adhering to *their* Enemies, giving them Aid and Comfort.

---

5. See also, the 1781 Articles of Confederation (actually entitled "Articles of Confederation and perpetual Union between the states of New Hampshire, Massachusetts-bay Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia").

Both the first instance of the plural pronoun "them" and the use of the possessive plural pronoun "their" in this clause refer back to "the United States," indicating the term "the United States" is plural in form, rather than a singular entity of its own accord.[6]

Article I, Section 9, Clause 8 similarly shows a plural form, reading:

> No Title of Nobility shall be granted by *the United States:* And no Person holding any Office of Profit or Trust under *them*, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

The plural pronoun "them" in the clause refers back to "the United States," to the States united under the Constitution.

Since the States in their separate capacities are prevented from granting Titles of Nobility in Article I, Section 10, Clause 1, the cited clause (Article I, Section 9, Clause 8) cannot be referring to the several States in their individual capacities.

Article III, Section 2, Clause 1 declares, in part:

> The judicial Power shall extend to…the Laws of *the United States*, and Treaties made, or which shall be made, under *their* authority.

With the individual States specifically prevented from entering treaties (again, by Article I, Section 10, Clause 1), this reference to "their" cannot possibly refer to the States in their separate capacities.

The 13th Amendment, ratified in 1865, shows the plural nature of the term quite clearly:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within *the United States*, or any place subject to *their* jurisdiction.

---

6. The second instance of the plural pronoun "them" in the referenced clause points to the "Enemies" immediately-before cited.

But, perhaps the wording of the Constitution best showing the plural nature of "the United States" is the 11th Amendment to the Constitution of the United States that was ratified (*after* ratification of the whole Constitution, of course) in 1795:

> The judicial Power of the United States shall not be construed to extend to any suit in Law or Equity, commenced or prosecuted against *one of the United States* by Citizens of another State, or by Citizens or Subjects of any Foreign State.

The 11th Amendment, the amendment standing squarely against the concept that the Constitution is whatever the majority of the supreme Court Justices declare it is, clearly admits the concept of an overall plurality of United States, when its refers to "*one* of the United States" when pointing to one of the States that are united together.

This 1795 amendment shows a fully-equivalent understanding of "the United States" as the 1776 Declaration of Independence, demonstrating ratification of the Constitution did not fundamentally alter the term or the relationship between States and the United States.

The plural nature of "the United States" is fundamental to understanding both the U.S. Constitution and learning how it has been bypassed (understanding how the United States went from a "they" to an "it" [from a plural to singular concept]).

To understand better the inherent contradiction of American Presidents exercising legislative powers or effectively bypassing Congressional mandates and constitutional constraints, further investigation into the difference between legislative members of Congress and federal officials is in order.

Strictly speaking, members of Congress represent the States of the Union as they assemble together. Elected representatives meet together in a Congress to enact laws within their delegated powers.

One must understand the literal wording of "Congress"—the assembling together of the representatives of the States to work within their delegated authority.

Wholly separate from members of Congress who represent the States of the Union are the federal officers in the Government of the United States—the "hired guns" including the elected President (and his appointed cabinet members, department heads, and officers therein) and appointed justices and judges of the supreme and inferior Courts (and staff).

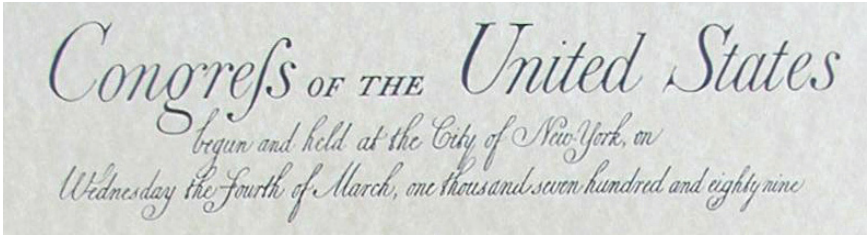
Members of Congress represent *the States of the Union*.

Federal officers (of the executive and judicial departments) constitute and make up *the Government of the United States*.

It is a fundamental error to think of Congress simply as one of three, co-equal branches of government, of three co-entities together constituting one federal entity (which has now all but devoured the wholly-separate and impotent States).

Literally speaking, "Congress" is simply a "meeting" of the representatives of the States working together and enacting laws on the topics that all of the States of the Union agreed they could and would. This is best seen by reading the Preamble to the Bill of Rights, in its opening phrase:

> Congress of the United States, begun and held at the City of New-York, on Wednesday the Fourth of March, one thousand seven hundred and eighty nine.



To better understand *Congress*, concentrate on the phrase "Congress…begun and held."

If one understands "Congress" to mean an entity, then the Bill of Rights does not make sense, for an entity cannot be "held."

One cannot say, "Congress…begun and held" and have it make sense, *if "Congress" refers to an entity*. It would be like saying, "corporation…begun and held," "business organization…begun and held," or "entity…begun and held."

While an organization may "begin," it cannot also be "held."

An "event," however, may "begin" and may also be "held." One may say "event…begun and held" and have it make perfect sense.

Variations on that thought also make complete sense—"meeting…begun and held," "meeting of the United States, begun and held," "Congress of the United States, begun and held" (when "Congress" means "meeting").

The Constitution also sees "Congress" as a *collective* term—the representatives of the several States who meet together *as a group* to enact law within their delegated powers for the good of the Union.

Members of Congress include U.S. Senators and the Representatives of the U.S. House of Representatives. All these members are elected by the several States, to represent the States in the meeting of all the States.

The States, through their elected representatives—Senators and Representatives—meet together in a Congress to find common agreement regarding how best to deal with matters of national and international concern that all the States earlier agreed would best be solved together.

The Government of the United States is the agent of the States united together, carrying out the wishes and commands of Congress and helping to implement or execute American laws.

For example, Article V of the U.S. Constitution discusses amendments to the U.S. Constitution. By the normal process therein delineated, three-fourths of the States may ratify a proposed amendment and thereby bind all of the States.

But, the single exception to the three-fourths approval of Article V of the U.S. Constitution reads: "that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate."[7]

Assuming no State would be willingly deprived of its vote in the Senate, even if 49 other States ratified a proposed amendment to deprive that 50th State of even one of its two Senators, the amendment would still fail.

Perhaps, however, even more important than protecting the States in their representation in the Senate is properly understanding *the idea itself of the States being directly represented in the Senate.*

In other words, the individual States themselves have "Suffrage"—literal representation in the Senate. This importance cannot be overlooked, nor should it ever be misunderstood.

The battle is, therefore, not between the individual States of the Union and the federal government (Congress, the President [and staff] and the Courts), because the Congress of the United States is the literal representation of the States in the Union of States!

"States' Rights" proponents always get it wrong in their perspective—it is not States vs. United States, because *the States* together *are the literal United States!*

The Government of the United States merely contains the States' hired guns to carry out their collective wishes (and if the officers do not follow members' commands, those members of Congress may fire the individual federal officers [by impeachment and conviction, if necessary, even barring them from federal positions for life]).

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7. Note—both instances of the word "its" should have been without an apostrophe.

Members of Congress, being the literal and legal (legislative) representatives of the States who meet together in Congress (assembling together in a meeting), cannot be similarly impeached as may all officers of the United States—they may be expelled, but only by members of their own House.[8]

The Bill of Rights was proposed as a collection of amendments to the U.S. Constitution in a joint resolution of Congress, which is worded where the rubber meets the road as are all joint resolutions:

> *Resolved*, by the Senate and House of Representatives of the United States of America, *in Congress assembled*…

One must not overlook the meaning and importance of the phrase "in Congress assembled" within every resolution. The representatives of the States literally assemble together in a Congress of the States to pass resolutions according to their powers.

Every legislative Act enacted by the members of Congress is similarly styled:

> *Be it Enacted*, by the Senate and House of Representatives of the United States of America, *in Congress assembled*…

Like every legislative resolution, every legislative Act confirms that the Senators and Representatives of the several States assemble together in a Congress of all the States (assemble together in a meeting of all the States, meet together in an assembling of all the States) and pass laws within the authority ceded by every State of the Union as evidenced by the written U.S. Constitution.

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8. To understand the fundamental divide between legislative members of Congress and executive and judicial officers of the United States regarding impeachment more fully, please see Issue 5 of *The Beacon Spotlight*, "Constitutional Separation of Powers and the Conflicting Practice of Members of Congress Taking an Oath of Office" at: www.PatriotCorps.org, www.FoundationForLiberty.org, or www.Scribd.com/matt_erickson_6.

"Congress," "assembly," and "meeting" are all interchangeable words that signify a congregating together in a legislative session of the meeting parties, which are the States united together.

Article I, Section 4, Clause 2 of the Constitution confirms the absolute, literal meaning of "Congress" as a "meeting" of the States when it declares (again, italics added throughout):

> The *Congress shall assemble* at least once in every Year, and *such Meeting* shall be on the first Monday in December, unless they shall by Law appoint a different Day.

"Such Meeting" refers directly back to "Congress"—both the phrase and word have the exact same meaning.

Entities do not "assemble," but separate members do assemble together.

Article I, Section 5, Clause 4 discusses a "Session of Congress" and the "sitting" of both Houses (in a Session or Meeting).

If Congress "was" an entity, the singular personal pronoun "it" would be used when referring back to Congress within the same or next sentence.

One should notice, however, that the Constitution uses a third person plural pronoun when referencing Congress. This helps show Congress not as an individual entity, but as legislative members assembled together in a meeting of the States.

Article I, Section 2, Clause 3**,** for example, includes the details that:

> The actual Enumeration shall be made within three Years after the first Meeting of the *Congress* of the United States…in such Manner as *they* shall by Law direct.

Using the pronoun "they" in the clause refers back to "Congress of the United States," illustrating Congress as a group of legislative members of the States rather than an entity of its own accord.

In Article I, Section 4, Clause 2, the Constitution similarly directs that: "The *Congress* shall assemble…on the first Monday in December, unless *they* shall by Law appoint a different Day."

Article I, Section 7, Clause 2 indicates that if the President does not return a bill within ten Days, that the same shall be a law: "unless the *Congress*, by *their* Adjournment prevent its Return."

Article II, Section 2, Clause 2 provides that:

> *Congress* may by Law vest the Appointment of such inferior Officers, as *they* think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Article II, Section 3 includes the detail that the President shall:

> give to the *Congress* Information of the State of the Union, and recommend to *their* Consideration such Measures as he shall judge necessary and expedient.

These many examples help Patriots understand that Congress "are" a meeting of the States, rather than an entity of its own power and volition.

Thinking in terms of "(members of) Congress *are*…" (or [members of] Congress *were*…") rather than "Congress *is*…" (or "Congress *was*…") helps reinforce such concept.

The Constitution does point once to a singular concept of Congress, in Article I, Section 1, when it states that all legislative Powers shall be "vested in *a* Congress of the United States of America."

It is therefore not necessarily improper to use this singular concept of a Congress, provided one understands it as "a meeting of the United States of America."

The author cannot stress enough the proper understanding of "Congress" (and the "United States"), because members of Congress are of a wholly different nature than the executive and judicial officers of the Government of the United States.

It is much easier to see the utter travesty of executive or judicial officers attempting to exercise the legislative powers, which, for the Union, the Constitution vests in Congress, when one properly realizes that those legislative powers are wholly and forever foreign to the officers.

It is for such reason that the Declaration of Independence holds "Representation in the Legislature" as a right "inestimable" to the people and declares all attempts by executive officers to exercise the legislative powers are "formidable to tyrants only."

The Declaration of Independence considers it tyranny and absolute despotism when government officials seek to exercise legislative powers.

Legislative representation is guaranteed to the States of the Union in Article IV, Section 4 of the Constitution, which reads:

> The United States shall guarantee to every State in this Union a Republican Form of Government.

A Republican Form of Government is founded upon legislative representation—of elected legislative members enacting powers within their delegated authority. The United States guarantee to every State of the Union legislative representation.

Presidents or judges exercising the legislative powers of the Union is tyranny, plain and simple.

Beside legislative representation being mandated in Article I, Section 1 (and guaranteed in Article IV, Section 4), Article I, Section 8, Clause 18 of the U.S. Constitution further and firmly places with members of the Congress the express power:

> To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Clause 18, read properly, is an absolute prohibition on executive or judicial officials from exercising the legislative authority.

Clause 18 clearly gives members of Congress the express power to make "all" laws (using necessary and proper means) to carry "into Execution" the foregoing legislative powers (including the congressional power to declare war, listed earlier in Section 8 [in Clause 11]).

Clause 18 even reaches the point of carrying into execution "*all other powers"* vested by this Constitution anywhere else—meaning also for carrying into execution the executive powers detailed in Article II and the judicial powers listed in Article III. Members of Congress are given the explicit power in Article I, Section 8, Clause 18 for enacting laws carrying into execution even the executive powers of the President and the judicial powers of the courts.

Specifically, in the case of the war powers, members of Congress are therefore empowered to make all laws for carrying into execution the President's delegated power as the Commander in Chief of the Army and Navy of the United States to engage in war!

If the Constitution requires a law to be enacted to carry out one of the enumerated powers for the Union (or a resolution to be made, or a regulation to be given), members of Congress must do it. That is legislative representation.

Only members of Congress who represent the States of the Union have enumerated legislative powers for the Union vested with them and only members of Congress may use the necessary and proper means to enact all the laws needed to implement all federal powers (legislative, executive and judicial) for the Union.

If Article I, Section 1; Article IV, Section 4; and Article I, Section 8, Clause 18 together are insufficient references to forestall federal officials from exercising legislative authority, then Article I, Section 6, Clause 2 nails shut the only remaining possible route for federal officials to exercise legislative authority for the Union by saying:

> …and no Person holding any office under the United States, shall be a Member of either House during his Continuance in Office.

The only remaining method potentially allowing federal officials to exercise legislative powers for the Union was for one of them to get elected either to the U.S. Senate or U.S. House of Representatives (while maintaining his or her [executive or judicial] office). But, this clause completely bars that activity.

And, of course, if no person holding any office under the United States shall be a member of either House during his continuance in office, then no member of Congress may hold any office under authority of the United States while they hold their legislative seat.[9]

It is a direct violation of the fundamental principles of American government for executive or judicial officers to exercise the legislative powers of the Union (except as the Constitution specifically allows). It is tyranny and absolute despotism.

The Founders of our country went to war to secure legislative representation throughout all the States of the Union. The Framers of the Constitution made sure no executive or judicial officer could ever exercise the fundamental legislative powers of and for the Union.

And, they succeeded. Everything to the contrary today is but a false appearance—a scary apparition that may be swept away by properly understanding what is really occurring.

Despite the vesting of the power to declare war solely with Congress, on August 10, 1964, in their Gulf of Tonkin Resolution, members of Congress seemingly transferred to the President the legislative power to decide when to engage in war.[10]

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9. To understand the odd phenomenon of members of Congress taking, since 1863, an oath "of office" (rather than merely pledging to "support" the Constitution), please see this author's newsletter, *The Beacon Spotlight*, Issue 5, "Constitutional Separation of Powers and the Conflicting Practice of Members of Congress Taking an Oath of Office," available online at:

    www.PatriotCorps.org, www.FoundationForLiberty.org or www.Scribd.com/matt_erickson_6.

10. See Appendix A.

In this 1964 resolution, Congress approved and supported "the determination of the President, as Commander in Chief" to take all necessary measures to repel armed attacks, prevent further aggression, and, "as the President determines," to take "all necessary steps, including the use of armed force."[11, 12]

Besides pointing to "international law," the "Charter of the United Nations," and "obligations" under a 1954 international treaty signed in the Philippines, the Gulf of Tonkin Resolution also pointed to "the Constitution of the United States" for authority.

But, since no particular article, section and/or clause of the Constitution was specifically noted, it is dangerous for readers to jump to the conclusion that the quoted reference actually points to the "regular" war powers (of Article I, Section 8, Clauses 11-14) or the treaty powers (of Article II, Section 2, Clause 2).

It is never safe to assume, in a government that routinely oversteps its normal bounds and ignores its fundamental limitations, that a general reference actually points to the specific clause one's mind naturally focuses on—the reference must be sought out and proved.

Formal declarations of war by Congress make things very clear. The deliberative process is over once war is declared—thereafter, the President as the sole Commander in Chief of the armed forces commands them to wage war sufficiently to pummel the enemy into submission, forcing their surrender under terms of peace favorable to the United States.

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11. 78 Stat. 384.

12. It should be pointed out that the President is not necessarily the Commander in Chief of the United States, nor Commander in Chief of America, but "Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States."

The distinction that he is the Commander in Chief only of the military forces (as detailed in Article II, Section 2, Clause 1), though perhaps minute, is not insignificant. The United States do not have a potential war-time dictator, ever.

In 1941 and 1942, members of Congress made firm declarations of war within their delegated authority. Next, they pledged the resources of the government to carry out that war and then authorized the President to employ the "entire naval and military forces of the United States" to "bring the conflict to a successful termination."

When Congress "approves" of the President taking military action (that may be "terminated by concurrent resolution of the Congress"), however, *the deliberative process remains open*, thereby keeping hundreds of members of Congress involved in a process, a situation the Constitution never intended.

Under the Constitution, members of Congress are given the clear discretion to decide *when* to take the United States to war (and pledge the government's resources to carry out their decision).

The Constitution thereafter gives to the President as Commander in Chief of the armed forces the clear decision for determining *how* to engage in the war that was declared by Congress.

There is a reason there is one and only one President and Commander in Chief of America's armed forces, *because sharing the executive power only leads to division and weakness*. Keeping a consistent front with foreign nations is easier when the President leads the way (within his authorized powers).

Engaging in war without its formal declaration, Congress and the President seemingly share responsibilities for battle. Black and white responsibilities fill in with shades of gray, as clearly-defined rolls give way to collective action and internal strife.

In the Gulf of Tonkin Resolution, Congress nominally approved the President's use of force, but continued to look over his shoulder, ready to stifle his authority and even end his actions (prematurely).

In 1964, although it first appears that the President was given an extraordinary amount of discretion, in actuality, the lack of a formal declaration of war *essentially tied his hands*, because he never received the full measure of proper authority the Constitution envisioned.

Failing to get all hands on the same deck with a formal declaration of war meant that the war effort sent out mixed messages. It was war, but yet it wasn't (the same as any other war *that wasn't)*.

It is perhaps not entirely by coincidence that the Korean War ended in an effective stalemate—an indecisive truce, lingering 68 long years of prolonged and occasionally heightened standoffs, before North and South finally signing in 2018 an agreement to work toward the proper end of the war.

That the Vietnam War was so divisive domestically and failed to accomplish any of its stated goals again points a great deal to political infighting, of failing to accomplish something that was never properly stated or started.

The declaring of war properly sets the stage to commit fully to battle, or to refrain from it completely. Regarding war; it is to be hot or cold, but never lukewarm.

With the Constitution prohibiting all executive and judicial officers of the United States from exercising the legislative authority for the Union, it is hardly an insignificant issue if members of Congress were to ever share their legislative power for the Union with the President.

The legislative authority to declare war under the powers for the Union is meant only for Congress, after which the President may add his signature to their joint resolution, when he agrees.

Given the plain words of the Constitution, the question remains—How can American Presidents engage in prolonged war if Congress does not declare it?

Before answering that question, *Waging War without Congress First Declaring It* must take a significant detour to cover a little more background information.

Chapter 3.

The best place to begin examining excessive government action is by looking at it before it ever got off the ground, so one may learn to distinguish proper action from improper. It is also best to examine excessive government action from its widest possible parameters, so one doesn't get mixed up in the particulars of any specific case.

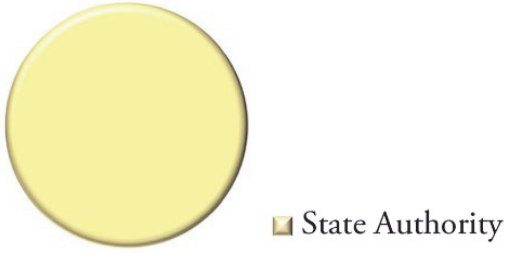
Looking at government authority beginning in 1776 is a great place to start.

The First Period of American Government

When the American colonies declared their independence from Great Britain, the governing power devolved upon the only legislative bodies therein at the time available—the States.[1]

Graphically representing governing authority in a basic pie chart keeps things simple.

Pie Chart #1—The Independence Pie Chart



This solid, light-colored Independence Pie Chart visibly demonstrates that all governing power at the time of Independence was 100% united within each State of the Union (unshared).

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1. The Second Continental Congress operated essentially as a group of goodwill ambassadors, meeting together out of common concern and mutual advantage (so this group is here ignored). There was no formal federal structure, nor any collective coercive power over a single State.

The Second Period of American Government

The Second Period of American Government shows governing power being split between federal and State authorities.

In 1787, congressional delegates meeting under the Articles of Confederation (ratified in 1781) called for a Convention to revise the Articles to meet the exigencies of the Union (the war debts proportioned to the individual States weren't being regularly paid). Ultimately, the State delegates of the Convention drafted a proposed Constitution, which was then sent to the States for ratification.[2]

The States of the Union, acting through separate State ratifying conventions, ratified the U.S. Constitution in accordance with the (ratification) procedure listed in Article VII therein. Ultimately, each and every State of the Union, on its own accord, ratified the U.S. Constitution, unanimously agreeing to its terms and conditions.

The most important principle to realize was that via ratification of the U.S. Constitution by the several States, governmental powers in the United States of America were formally thereafter *divided* into federal and State authorities.[3]

The pie chart of divided governing authority following ratification of the U.S. Constitution is represented by the "Ratification Pie Chart."

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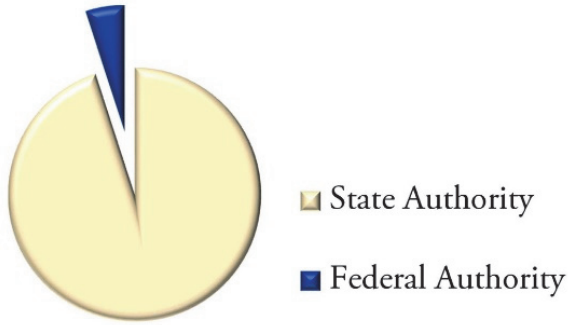
2. The 1781-1788 Articles of Confederation are here ignored because, besides being only temporarily effective, they would not add in any other significant dimension that won't be covered in greater detail and with more consistency with the ratification of the U.S. Constitution.

3. Neither are temporary territorial forms of government of later-admitted States relevant to our discussion here.

Pie Chart #2—The Ratification Pie Chart.



Following ratification of the U.S. Constitution, the governing power that was once united within each State was now divided into federal and State jurisdictions.

In the Ratification Pie Chart, the small, dark sliver represents the enumerated authority detailed in the Constitution that was given by the States of the Union to the Congress and Government of the United States upon ratification of the U.S. Constitution.

The large, light-colored remainder represents all the powers reserved to and still exercised by the several States (separately, within their respective borders).

The Third Period of American Government

The Third Period of American Government reflects added changes to the amended Constitution.

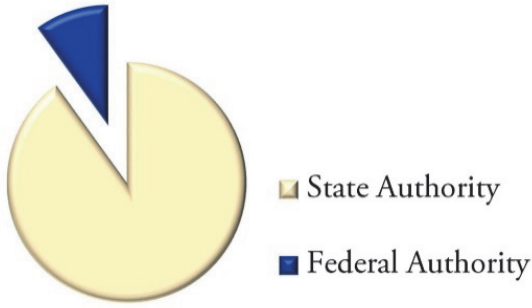
The Framers of the Constitution knew that government could not be made static, so they included an amendment process within their proposal. In this way, the States could later change the federal powers by either enlargement or restriction, as needed.

Article V of the U.S. Constitution specifies the process for proposing and ratifying amendments, requiring three-fourths ratification of all of the States of the Union before an amendment becomes operational (three-fourths approval normally binds all the States).

Federal powers may be changed only by the amendment process detailed in Article V.

The pie chart of governing authority after the Constitution was amended is represented in the following "Amended Pie Chart" graphic.

Pie Chart #3—The Amended Pie Chart.[4]



The original Pie Chart #1 (the Independence Pie Chart)—of all powers being exercised by the States—became obsolete once the Constitution was *ratified*.

Once the Constitution was *amended*, Pie Chart #2 (the Ratification Pie Chart) became outdated as well.

Each new ratified amendment would change the allocation of governing powers between federal and State authority to the extent the Constitution was altered by the amendment (thus changing the Amended Pie Chart to a similar degree).[5]

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4. Note: the graphic shown here represents an enlargement of federal powers over those previously exercised (the Ratification Pie Chart). When federal powers are restricted by an amendment, however, the dark-colored wedge would shrink, increasing the size of the light-colored remainder.

5. The precise extent of the wedge attributed to Federal Authority and that remaining with State Authority is not overly relevant here.

The Peculiar Conundrum

While the various pie charts shown above adequately represent the *principles* of American government (strictly construed) for three differing time periods and governing situations, given the vast increase of federal *actions* of more recent years, one must ask if the Amended Pie Chart adequately represents government actions today?

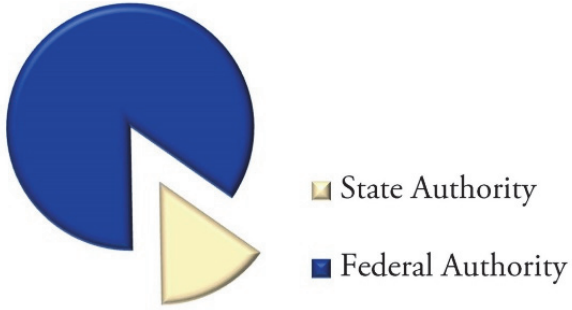
Sadly, the answer to that question must appear to a great number of people to be, "No."

Actions undertaken by federal officials and members of Congress, for many, many generations, far exceed the original understanding of the Constitution changed only by amendment. Tragically, the Amended Pie Chart shown above appears hopelessly naïve and significantly outdated.

The Peculiar Conundrum—of members of Congress and federal officials seemingly able to ignore founding constraints with impunity—now appears to rule the day.

Thus, frustrated Conservatives and happy Progressives offer up a pie chart more representative of government action today, something along the lines of what the author calls the "Feral Pac-Man Pie Chart," shown below.

Pie Chart #4—The Feral Pac-Man Pie Chart



This ravenous "Pac-Man" of a Pie Chart shows the federal (feral?) government all but devouring the inconsequential States that it rules over authoritatively without compunction.

While any number of Americans would undoubtedly claim this Feral Pac-Man Pie Chart appears to be representative of today's Feral Government actions relative to the weak States, *there is absolutely no basis of constitutional authority* by any fair reading of the Constitution as it was originally ratified or amended to explain this theorized chart.

Without strict constitutional basis, the Feral Pac-Man Pie Chart, therefore, only has a false appearance of a presence, but no actual existence. It is only that its actions have been so long seemingly witnessed that so many people believe it exists.

It is true, that while many Patriots would argue the Feral Pac-Man Pie Chart is more representative of government action today, they would also typically assert that much of the resultant activity represents "unconstitutional" behavior, as if this weak protest gets them off the hook for conceding defeat.

It does not. It cannot. Yielding prematurely to an absolute transgression of fundamental principles spells defeat in any language.

And, my oh my, how American Patriots have sadly accepted defeat of their most cherished of founding principles, principles that cannot ever be conceded without devastating results.

Incomprehensively, these self-professed Conservatives seem only too happy to play by the rules set out by their opponents, as they also seek to elect imperfect people to positions of unlimited power and then complain about the inevitable outcome.

Of course, the remaining Conservatives who do not allege "unconstitutional" government behavior seek to explain the status quo much like their progressive brethren, offering up thousands of indecipherable and often contradictory court cases nominally "explaining" how and why things now appear other than they were originally meant to be.

It is noteworthy to mention that these "things" different today than in our past are apparent only to learned and wise rulers who have spent decades gaining important knowledge that mere mortals cannot ever hope to understand.

The court cases referenced ostensibly explain how and why black is now white, white is red, and red is black; how the words of the Constitution no longer mean what they once meant, because wise rulers have channeled or overruled their true meaning. Because, of course, the courts, Congress and Presidents stand greater than the Constitution.

To which this author boldly declares "balderdash!"

Constitutionalists are simply *wrong* whenever they assert that grandiose government actions somehow passing court muster are yet "unconstitutional"—these well-intentioned Patriots merely fail to properly decipher how the actions could ever be allowed.

Progressives seeking to invert cause and effect (or master and servant) are simply clever magicians who divert the attention of the audience away from their shrewd sleight of hand routines and the clever twists of their tongue.

Sadly, Conservatives and Strict Constructionists far too often believe what their political adversaries tell them *instead of discovering for themselves what is actually happening*.

No person who is empowered with federal authority may ever change the Constitution one iota, by any means whatsoever.

No person who is empowered with federal authority may ever change their own powers for the Union one iota, by any means whatsoever.

Neither can occur, and neither has. Everything that appears to the contrary is only an illusion.

Only three-fourths of the States may change the Constitution; only three-fourths of the States may change the federal powers for the Union.

There is no time like the present to learn how Progressives have turned American government upside-down and inside-out.

The Feral Pac-Man Pie Chart that was hypothesized by confused Patriots or power-lusting Progressives is but a mere figment of their delusion every bit as dangerous as a desert mirage.

The Feral Pac-Man does not exist, just as mirages in the desert are but cruel illusions and do not yield sources of water.

The question Patriots must now ask is, "If the Feral Pac-Man Pie Chart does not exist, is there something else which perhaps exists in its place?" In other words, does the U.S. Constitution offer up any type of evidence regarding the existence of *another* type of pie chart?

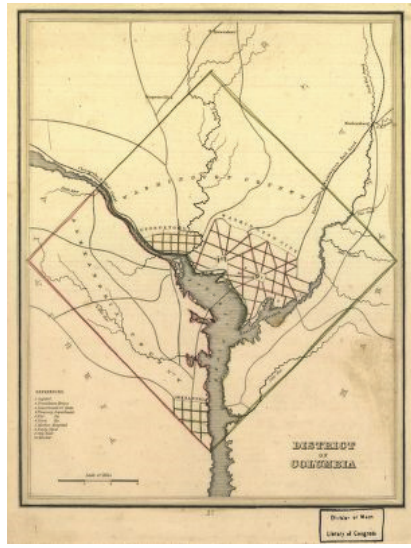
Surprisingly, the answer to both of these questions is "Yes" and now is the time to begin looking into the belly of the beast that has steered American government off its constitutional rails for 227 years, ever since officials began following the treacherous path laid out by Alexander Hamilton in 1791.

The Wholly-Unique and Exclusive Legislative Power of Congress

Article I, Section 8, Clause 17 of the Constitution for the United States of America reads:

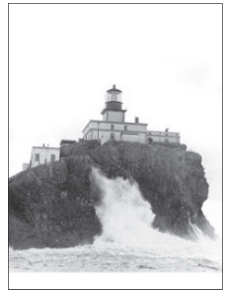
> Congress shall have Power…To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.

The first thing to note about this particular clause of the U.S. Constitution is that it discusses a parcel of land (a "District") that in time would become the "Seat of Government of the United States" (i.e., the District of Columbia).



Clause 17 also discusses "like Authority" being exercised over lands ceded (transferred) by individual States throughout the Union, for "Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings."

Thus, military forts, post offices, light houses and other federal facilities are often (but not always) housed on the "exclusive" legislative lands of Congress and the U.S. Government, where State governments no longer exercise any governing authority.



These parcels of exclusive federal land are "islands" or "enclaves" surrounded by a "sea" of State authority that stretches all around them, over the remainder of land within the geographic borders of individual States.

Examining the first portion of Clause 17, one discovers that:

> Congress shall have Power…To exercise *exclusive* Legislation in all Cases whatsoever…

Clause 17 specifically speaks of "*exclusive"* powers; not occasionally, but "in all Cases whatsoever."

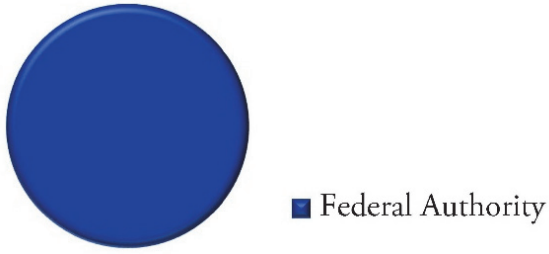
The critical point to realize is that here there is absolutely *no* division of governing authority; it is all held *federally*.

These clear words of the Constitution, *strictly construed*, show that something wholly unique in all the Union is occurring here.

In other words, none of the pie charts covered earlier reflect this unique circumstance (of all governing authority held federally).

Thus, a new pie chart must be created to explain the exclusive federal authority that is directly acknowledged by the U.S. Constitution (strictly construed).

Pie Chart #5—Exclusive Federal Authority Pie Chart



As Clause 17 clearly and unequivocally details, *all* legislative powers in the District constituted as the Seat of Government of the United States *are united within Congress*—governmental powers are *not* here shared with the States.

Popular lore created the Feral Pac-Man Pie Chart, which does not exist, to explain the federal government's attempt to devour everything in its path. Like the mysterious Loch Ness Monster, incomplete stories are told while conclusive evidence remains scant.

What does exist, however, is something much, much more powerful, as reflected by the Exclusive Federal Authority Pie Chart.

The remainder of this book will proceed to show how the Exclusive Federal Authority Pie Chart explains current government actions, even while its proponents want everyone else to instead believe that the Feral Pac-Man Pie Chart is the cause (or blame).

There exist today two (and only two) currently operable pie charts that explain all of American government authority—the Amended Pie Chart and the Exclusive Federal Authority Pie Chart.

The Independence Pie Chart is obsolete and the Ratification Pie Chart is outdated. The Feral Pac-Man Pie Chart never existed beyond that of a mistaken and now-defunct theory.

Understanding the important ramifications of the Exclusive Federal Authority Pie Chart dispels the myth of the existence of the Feral Pac-Man and is the key to understanding federal powers that remain essentially untethered to the U.S. Constitution.

It is prudent to begin an in-depth investigation into this unique power that may be cleverly used to make everyone think the remainder of the Constitution is null and void, when it has not ever been changed beyond ratified amendments.

Since members of Congress and federal officials routinely claim power for the Union that is actually there forever beyond their reach, one final bit of background information must be examined before proceeding.

It is vital to understand the historical transfers of power from the States over to the federal government, for all federal powers ultimately come from the States (or a State).

It is important to realize that no government for the whole American Union has *inherent* powers—such a concept of absolute discretion is categorically foreign to the country founded upon individual liberty and limited government.

The initial transfer of power from the States of the Union over to Congress and the U.S. Government occurred when the States individually ratified the U.S. Constitution in accordance with the ratification procedures described in Article VII thereof.[6]

Although the Constitution would first be established with the ratifications of *nine* States (within only those States ratifying the same), every State of the Union eventually ratified the Constitution. No State of the Union, therefore, ever came under the U.S. Constitution until it provided explicit consent to the Constitution's terms. Only then was the U.S. Constitution therein established.

Indeed, at the time government began under the Constitution in March of 1789, only 11 of the 13 original States had ratified the U.S. Constitution.

It was not until November 21, 1789 that North Carolina ratified the U.S. Constitution and thereafter sent its Senators and Representatives for the first time to meet in Congress under the Constitution.

Rhode Island, the last of the 13 original States, finally ratified the U.S. Constitution on May 29, 1790.

If those two lagging States had refrained from ever ratifying the Constitution, they would have become/remained separate nation States, wholly separate from the United States assembled under the Constitution (somewhat similar to Canada, which had been specifically invited to accede "to this confederation" and adjoin "in the measures of the United States" [fighting for independence from Great Britain] under the 11th of the Articles of Confederation [but declined, remaining attached to Great Britain]).

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6. Again, the 1781 Articles of Confederation are irrelevant to our current investigation.

Therefore, the original transfer of power from the States of the Union to Congress and the U.S. Government—as detailed within the U.S. Constitution as originally proposed and as ultimately ratified—occurred by explicit *State* approval.

The Article VII ratification process approved the transfer of all the powers therein delineated within Articles I – VII (and the Preamble) over to the Congress and Government of the United States.

The amendment process detailed within Article V then describes a process by which three-fourths of the States normally binds all of the States to changing the powers allowed for the federal government. Only "States" may change federal powers by ratifying amendments to the U.S. Constitution.

The Article VII ratification process describes the initial process for empowering Congress and the Government of the United States with their original powers, while Article V of that original Constitution allows for adding (or subtracting) future powers.

The powers delineated and/or transferred between the federal and State governments under Article VII and Article V, no matter *when* they occur, affect every square foot of the Union.

Given all the powers currently exercised by the federal government, which are in excess of the powers for the Union as detailed either within the original Constitution (strictly construed) or in excess of the 27 ratified amendments (strictly construed), it is proper to ask, may Congress and the U.S. Government exercise powers transferred by any other method?

This is a trick question; the answer provides the vital key for understanding unlimited federal action.

If one asks—"May Congress or the U.S. Government exercise any powers *for the whole Union* other than those powers provided them by ratification under Articles VII or V (under the whole of the original Constitution, or under any of the 27 ratified amendments, strictly construed)?"–then the answer is decidedly, "No."

But, if one asks—"May Congress or the U.S. Government *ever* exercise any powers other than those provided them under the Article VII ratification or Article V amendment processes?"–then the answer is categorically, "Yes."

And, therein lies the missing key to understanding extreme federal powers—they are not really meant *for* the whole Union (in the way that are laws enacted under the remainder of powers).

Though few Americans realize its implications, members of Congress and federal officials may actually exercise one of two different Forms of Government as delineated in the U.S. Constitution.

While many Americans are otherwise generally familiar with the Republican Form of Government discussed throughout the U.S. Constitution and expressly guaranteed to all the States of the Union in Article IV, Section 4, members of Congress and federal officials may nonetheless constitutionally exercise an unprecedented extent of powers that otherwise have absolutely nothing to do with the U.S. Constitution (other than Article I, Section 8, Clause 17).[7]

The remainder of this book examines this second Form of Government and its resultant tyranny, using the power to declare and wage war as examples of how this unique power transfer process works.

It is important to realize that the waging of war by American Presidents without Congress first declaring it is only a symptom of a much deeper underlying problem. Thus, discovering how Presidents are able to act independently the Constitution in this case showcases the method by which all federal officials and members of Congress similarly ignore constitutional constraints in all other cases also.

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7. The U.S. Constitution only has *one* Clause 17—no other Section (of any Article) has 17 (or more) clauses. Therefore, whenever the author refers to "Clause 17" in an abbreviated manner (without specifying the Article and Section), he is always referring to Article I, Section 8, Clause 17.

Looking again to Clause 17 (of Section 8 of Article I):

> Congress shall have Power…To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten miles square) as may, by Cession of particular States, and the Acceptance of Congress…

Deleting all but the most-relevant, Clause 17 reads:

> Congress shall have Power…by Cession of *particular* States, and the Acceptance of Congress…

Here is the direct constitutional acknowledgement (strictly construed) that members of Congress may exercise powers ceded them *even from a single State of the Union* (a "particular" State).

This means *one* State may transfer powers to Congress and therefore that Congress may accept and thereafter lawfully exercise those powers.

Since the transfer of powers under Articles VII and V always involve and/or affect all the States of the Union, *the transfer of power under Clause 17 is discussing something entirely different!*

Since the transfer of power under Clause 17 involves something entirely different from other constitutional matters and powers, study of the remainder of the U.S. Constitution does not in and of itself help anyone learn what is going on in this wholly unique clause!

Just like the Article V amendment process allows for a later granting of *new* federal powers, *so does Clause 17.*

While the Article V process for granting new powers *directly affects the entire Union*, Clause 17 was intended to affect only the particular parcels of ground that are being transferred to Congress and the Government of the United States at later points in time for *special, exclusive-use purposes*.

Under both Articles VII and V, all powers not transferred remain with the States of the Union. Only the enumerated powers (together with their necessary and proper means for carrying them out) are transferred to Congress and the U.S. Government under Article VII ratification and Article V amendment processes.

But, transfers of governing authority under Clause 17 are wholly *opposite*.

Cessions of power by one State—under Clause 17—cede *all remaining governing authority* of the State over to Congress and the U.S. Government over specific parcels of land ceded and used for unique federal purposes.

This cession of *all* governing power is how and why members of Congress and federal officials may thereafter exercise *exclusive* legislation in every case, because the only State able to govern therein just ceded all of its power (over that parcel) over to Congress and the Government of the United States.[8]

The two different Forms of Government outlined here are as different as the night is from the day. One is the most *restrictive* form of government on the planet, the other the most *expansive*.

The source of governing power involved in Clause 17 cessions stems wholly from a particular State ceding its governing ability over a specified parcel of land over to Congress and the U.S. Government.

The transfer of power under Clause 17 is completed by a separate cession document (not the Constitution) made between the State in question and Congress (and the Government of the United States).

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8. Within Clause 17 cessions of land used (only) for forts, magazines, arsenals, dock-yards and other needful buildings (but *not* for the District Seat), it was common (in these secondary lands) for the States ceding property to reserve the power to serve legal process (to serve summons and complaints, etc.).

The withholding of this enumerated power does not negate the principle stated above (that members of Congress may exercise *exclusive* power "*in all Cases whatsoever*")—it simply shows that all powers are transferred *except those specifically named* (the complete *opposite* of normal cessions under Articles VII and V, where only named powers are ceded and all other powers are reserved to the States).

When the British official who was empowered to sign the peace treaty signed it (ending the Revolutionary War in 1783), the King and Parliament relinquished "all claims to the government, propriety and territorial rights of the same, and every part thereof" over all of the former colonies.[9]

In signing the peace treaty, Great Britain gave up all possible future claims to govern in or over the United States. The transfer of governing authority from one authority (Britain) over to another (the States, individually) was complete.

In somewhat the same manner, when Maryland officials signed cession legislation ceding a small portion of its land (the portion north and east of the Potomac River) in 1791 to Congress and the Government of the United States for the future District Seat, Maryland likewise gave up all of its future claims to govern the land in question.

Maryland's cession legislation shows a similar extent of power transfer as that of the Treaty of Paris, saying:

> *Be it enacted by the General Assembly of Maryland*, That all that part of the said territory called Columbia which lies within the limits of this State shall be, and the same is hereby, acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon.[10]

When Virginia likewise ceded land that same year (for its land for D.C., south and west of the Potomac River), it also transferred governing power over to Congress and the U.S. Government.

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9. http://avalon.law.yale.edu/18th_century/paris.asp

10. Congressional Serial Set, Vol. 58: Senate Document No. 28661st Congress, 2nd Session, *Retrocession Act of 1846.*

Virginia's cession statute read:

> *Be it therefore enacted by the General Assembly*, That a tract of country, not exceeding ten miles square, or any lesser quantity…shall be, and the same is, forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon.[11]

Clause 17 of the U.S. Constitution specifically acknowledges that single States of the Union may give up *the remainder of their local powers* over to Congress and the U.S. Government, powers that are not sourced in the U.S. Constitution and otherwise have nothing to do with it.

Thereafter, members of Congress and federal officials are able to exercise these otherwise local powers that have nothing directly to do with the U.S. Constitution (beyond the Constitution's explicit acknowledgment of this allowed process).

True, these powers were not originally *meant* to be exercised *beyond the District's borders*, but, it nevertheless shows that members of Congress and federal officials *may actually exercise powers far, far in excess of those enumerated in the Constitution* (without contravening constitutional principles, strictly construed).

The oft repeated assertion that members of Congress and federal officials may *never* exercise powers in excess of those constitutionally-enumerated is therefore absolutely *wrong!*

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11. *Ibid.*

It should be noted that in 1846, Congress retroceded back to Virginia the lands originally ceded by Virginia in 1791, because they were unnecessary to meet the purposes for which they had been ceded.[12]

Alexandria is again part of the State of Virginia, rather than the District of Columbia.

12. 9 Stat. 35.

Thus, all efforts based upon that incorrect and invalid assertion will necessarily fail, just as they have failed for the last 227 years (since 1791, when Alexander Hamilton first detailed his devious method to bypass normal constitutional restraints).

The trick, ultimately, is not *how* members of Congress or federal officials may *ever* exercise powers beyond those enumerated in the Constitution, but only *where* they may exercise them. That is a totally different equation that needs a properly focused answer to adequately resolve.

Progressive Democrat incumbents have recently been known to brag that they needn't look to the U.S. Constitution for authority to act—that the Constitution isn't automatically relevant in their daily actions.

Patriots go nuts with that assertion, but when members of Congress are actually exercising otherwise local powers transferred to them by the State of Maryland (for the District Seat), those Progressive members are not wrong!

Members of Congress and federal officials may exercise either limited powers for the whole Union using necessary and proper means *or they may exercise essentially unlimited powers for the limited area of the District Seat*.

Which power do you think they'll use (throughout the Union) time and again if they can get away with it? And, what is to stop them if no one even begins to understand what they are doing?

Their only real trick, of course, is using essentially unlimited powers meant for the District Seat instead throughout the Union.

Thankfully, this issue is a much, much smaller problem. To learn to resolve that dilemma today, Patriots only need to understand how members of Congress and federal officials have succeeded in exercising a local power far beyond its strict, geographical confines.

The absolutely wonderful thing about throwing off 227 years of growing federal bureaucracy is that since no action by any member of Congress or federal official may ever change the Constitution (or ever

modify their own powers for the whole Union), one may restore 227 years of growing constitutional neglect in one fell swoop!

No longer do Patriots need to try and only slow down the steady progressive movement away from the Constitution, seeking to piece our liberty and limited government together again—it is all available to Patriots once we finally get focused on the only real political problem facing us.

It is all recoverable, once and for all, by simply giving up the failed principles of pure democracy—of forgetting about trying to elect saints (who turn out to be sinners, especially once they are exposed to unlimited power) and working within a proper Republican Form of Government.

The Constitutional Republic protects the individual against the remainder. Every winner of every election must already swear an oath to support the Constitution (again, the President pledges to "preserve, protect and defend" it). Every appointed federal official either swears an oath of support or is under a superior who already has.

Progressives have succeeded only because they are brilliant legal masterminds who have learned how to work within a clever legal loophole and then keep their lips sealed from spilling the beans about their seemingly magical powers.

As long as strict constructionists do not understand what is going on, the scoundrels have been able to get away with it.

But, truth is the enemy of deception and exposure to the bright light of day will provide a fatal dose of reality to the Progressives' dastardly schemes.

While Maryland's State Constitution delineated what powers Maryland could exercise in the State, once the State ceded its lands for the District Seat to Congress and the Government of the United States, Maryland's State Constitution no longer applied in that ceded area (any more than British laws remained directly and perpetually in force in the States after [1776] 1783).

The governing powers ceded by Maryland in 1791 for the District Seat are without delineation *anywhere*. No local Constitution for the District of Columbia exists *anywhere*.

In other words, members of Congress and/or federal officials *themselves* are given the tacit approval *to make up the rules for that area as they go along* (which is exactly what they've been doing, for many, many years).

Only in the District Seat, are the persons empowered to exercise governing authority, also empowered with *the inherent discretion to make up their own rules as they decide, of their own accord*.

Everywhere else—throughout the whole Union of separate States—the (constitutional) rules legislative members and (federal or State) officials must follow *are already established for them*. The States together created the rules (in the U.S. Constitution) that members of Congress and federal officials must follow and the people of each State created the rules (in the respective State Constitutions) that the various State legislatures and State officials must follow.

The difference between the two opposing legal jurisdictions (Republican Forms of Government [for the States or for the Union] and the opposing tyranny [for the District Seat]) cannot be confused without tragic and detrimental effects.

With inherent discretion for the District of Columbia, members of Congress and federal officials may exercise whatever powers they deem prudent or convenient (or any other standard they determine is pertinent). By comparison with the Union, their power here in the District Seat is virtually unlimited.

Imagine the power a State legislature could exercise if the members did not have a State Constitution they had to follow. Well, that is exactly the power members of Congress may use for the District Seat.

But, even that description does not adequately begin to detail the extent of powers Congress may exercise, because *States* are also restricted by the U.S. Constitution in any number of important ways.[13]

Whereas *States* must follow both the U.S. and (their individual) State Constitutions, lands ceded to Congress and the U.S. Government for exclusive legislative purposes *have no similar restrictions, limitations,*

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13. For example, under Article I, Section 10, Clause 1 of the U.S. Constitution, no *State* may "coin Money; emit Bills of Credit; (or) make any Thing but gold and silver Coin a Tender in Payment of Debts."

Thus, the several *States* of the Union cannot perform these actions *by express constitutional prohibition* (as listed in the U.S. Constitution).

But, the *District* of Columbia is not a *State*, even as it was made out of a State.

Therefore, in the District of Columbia, there is no direct constitutional prohibition limiting Congress from emitting Bills of Credit or there making them a legal tender!

Thus, even though members of Congress may not emit Bills of Credit or make them a legal tender for the whole Union—because these are not enumerated ends, nor are they "necessary and proper" means to allowed ends (as correctly ruled three times by the supreme Court)—members of Congress may nevertheless emit Bills of Credit for the District Seat and there make them a legal tender because there they may exercise all powers not expressly prohibited.[14]

Indeed, the fourth supreme Court case to hear the matter of legal tender paper currencies (and the first to rule in their favor) only ruled, if one learns to read between the lines, that Congress may hold Bills of Credit to be a legal tender under their power for the District of Columbia. For additional information, see the author's public domain books *Patriot Quest, Dollars and nonCents, Monetary Laws, Fighting Back, The Peculiar Conundrum, Bald Justice, Base Tyranny* and *Bare Liberty* at:

www.PatriotCorps.org, www.FoundationForLiberty.org, www.Issuu.com/patriotcorps or www.Scribd.com/matt_erickson_6.

14. The "standard" of exercising *all powers except those prohibited* will be covered in greater detail, shortly.

or prohibitions. Members of Congress and federal officials may ignore not only the U.S. Constitution when dealing with District Seat issues, but also no State Constitution is there ever pertinent.

The only clause in any Constitution directly applicable in the District Seat is Clause 17 of the U.S. Constitution and this clause expressly provides that members of Congress may here exercise exclusive legislation "in all Cases whatsoever."

While members of Congress may enact constitutionally authorized laws for the Union and make them also binding upon the District of Columbia, the inverse is decidedly not the case—laws enacted by Congress and signed by the President for the District of Columbia cannot be extended directly throughout the Union unless they conform to the whole Constitution.

But, indirectly, that is (currently) another matter altogether.

The power Congress may exercise exclusively "in all Cases whatsoever" for the District Seat (and exclusive authority for forts, magazines, arsenals, dockyards and other needful buildings scattered across the States) a tremendous power, almost without limitation.

The historical record provides better evidence of the extensive power this four-word phrase references.

One will find the exact same phrase from Clause 17 ("in all Cases whatsoever") mentioned in the Declaration of Independence.

This is perhaps surprising, because the Declaration of Independence was the document listing the complaints against the British King and Parliament, which evinced a design to reduce the colonists under tyranny and absolute despotism.

The Constitution, conversely, was the document ultimately ratified as the answer to those issues.

Due to their respective differences, then, it should be somewhat surprising that the phrase signifying the single political problem faced by the colonists shows up in the document (the Constitution) meant to forever extricate it from the Union.

After covering a number of important issues, the Declaration of Independence begins to list specific facts to prove the King's continuing effort to establish an absolute tyranny over the States. This listing begins with the repeated phrase "He has…"

The 13th of these "He has…" paragraphs is further broken down into nine subparagraphs (to prove the King assented to "Acts of pretended Legislation" that subverted the rights of the colonists), subparagraphs that begin with the explanation, "For…"

The Declaration of Independence, speaking of the King of Great Britain says, in part (italics added):

> He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation…
>
> For suspending our own Legislatures and declaring themselves invested with power to legislate for us *in all cases whatsoever*.

The Declaration's reference to the British King and Parliament declaring themselves invested with unlimited powers to legislate for the American colonists "in all cases whatsoever" points to a particular British declaration.

South Carolina's 1776 State Constitution, in its opening sentence, also points to the same British assertion (italics added):

> Whereas the British Parliament, claiming of late years a right to bind the North American colonies by law *in all cases whatsoever*…without the consent and against the will of the colonists...

South Carolina's phrasing points to greater proof of British tyranny and despotism, with its added words "without the consent and against the will of the colonists."

The American colonists had absolutely no voice in the only government that mattered to the British.

One may trace both historical American references to Britain's bold claim of 1766, when King George III and Parliament issued their infamous Declaratory Act (a.k.a., The American Colonies Act), to show that—despite their repeal of the dreaded 1765 Stamp Act on the same day—Britain nevertheless intended to continue imposing absolute rule over the colonies.

Britain's 1766 Declaratory Act reads, in part:

> That the said colonies and plantations in America have been, are, and of right ought to be, subordinate unto, and dependent upon the imperial crown and parliament of Great Britain; and that the King's majesty, by and with the advice and consent of…parliament…had, hath, and of right ought to have, full power and authority to make laws…of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, *in all cases whatsoever*.[15]

Understood for all its implications, Britain's Declaratory Act was the single cause of all tyranny found in America 1765-1776 (nominally to 1783, when peace was finally established).

Boiled down to its basic premise, after all, what would any of Thomas Jefferson's listing of individual abuses in the Declaration of Independence be but any of the number of differing ways of binding the American colonists "in all cases whatsoever," against their will and without their consent?

The words of Article I, Section 8, Clause 17—that members of Congress may exercise exclusive legislation "in all Cases whatsoever" for the District Seat—were the Framers' acknowledgement that members may exercise essentially unlimited discretion for the District

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15. *The American Colonies Act*. 6 George III, c. 12, The Statutes at Large, ed. Danby Pickering (London, 1767), XXVII, 19 - 20. March 18, 1766. Italics added.

Seat, far beyond the bounds of normal government for the remainder of the whole Union.

One can perhaps understand their inclusion of these brief words and this unlimited power in the U.S. Constitution, for the alternative would be to list out enumerated powers for the District Seat in detail, similar to a State Constitution.

While the U.S. Constitution is quite brief (because its powers for the Union are limited and enumerated), the separate Constitutions of each State are typically much longer (because they have a great deal more issues with which to contend).

Does it really make sense, in the sparsely-worded Constitution meant for all the people throughout the whole Union, to list (in great detail) an extensive range of powers meant only for the District Seat (an area of land prohibited by direct constitutional prohibition from ever being over ten miles square and that could only ever affect a relatively few people)?[16]

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16. Even if or when members of Congress delegate local legislative authority to local legislative bodies (councilmembers, commissioners, etc.), this delegation may be safely ignored for our purposes, since the Constitution vests all legislative powers for the District Seat specifically with Congress.

Thus, members of Congress may recall any powers they allow local government to exercise, at any time (which they have done, to thereafter institute a new form of local government). Any powers Congress may temporarily give to local government officials are therefore irrelevant for our purposes in seeking to understand how members of Congress may exercise inherent discretion.

Chapter 4.

It is important to realize that members of Congress may exercise "exclusive" legislative authority in the District Seat, first, because the U.S. Constitution specifically allows it, but, more importantly, because a *particular* State (which ended up being Maryland) later voluntarily *ceded them all of its governing authority over a specified parcel of land transferred explicitly for the purpose.*

This cession of exclusive power provides members of Congress and federal officials with an extensive amount of power—its actual depth and breadth still needing greater examination to fully appreciate.

Article I, Section 10 of the U.S. Constitution lists a number of specific activities, which the States of the Union were thereafter prohibited from doing. These activities had to be prohibited in the future because the States had exercised them in their past (so there had to be a specific mechanism put in place to remove that former State power).

Article I, Section 10, Clause 3 reads:

> No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.[1]

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1. It was because Free and Independent States held the power to engage in war that they were able to levy war against Great Britain and ultimately gain their independence, after all.

Please note, even if one were to argue—because of the Second Continental Congress—that the governing powers of each State were never held *exclusively* by each State (but only shared by all the States of the Union), the fundamental position of this book would still not be altered.

That Article I, Section 10 exists supports all matters herein argued.

Except for Article I, Section 10, Clause 3, States could have continued (without Congressional consent) to:

1. Lay any Duty of Tonnage;
2. Keep troops or Ships of War;
3. Enter into any Agreement or Compact with…a foreign Power; or
4. Engage in War.

Thus, since the District Seat is not specifically prohibited (like the States) from entering into any agreement or compact with a foreign power, the President and the Senate may use *the power ceded by Maryland for the District Seat to ratify the U.N. Charter* (an agreement or compact), rather than using the Article II, Section 2, Clause 2 treaty power for the whole Union.

Since the District Seat is not specifically prohibited (like the States [apart from invasion or imminent danger]) from engaging in war, President Truman could use *the power transferred by Maryland for the District Seat to engage in war in Korea*, without resorting to the legislative power of Congress to declare war found in Article I, Section 8, Clause 11.

Since the District of Columbia is not a *State*, these express prohibitions of Article I, Section 10 do not apply to the Government Seat!

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1. *Cont'd:*

At worst, then, (i.e., if the Independence Pie Chart never existed) the specific listing in Article I, Section 10 of specific prohibitions against *States*—while remaining wholly mute as to the *District Seat*—provides enough fundamental difference between States and the District Seat for scoundrels to exploit.

While the States are expressly prohibited from exercising certain powers, the District Seat is not similarly expressly prohibited.

This fundamental difference between them therefore provides members of Congress and federal officials sufficient shades of gray to exploit for their exclusive benefit.

The cession by the State of Maryland for the parcel of land ultimately used for the District of Columbia means that—apart from their enumerated powers for the Union (i.e., apart from any power listed in the Constitution [such as Article I, Section 8 Clause 3 {to regulate commerce with foreign Nations}; or Clauses 11-14 {the war powers}; or Article II, Section 2, Clause 2 {the treaty powers}; etc.])—members of Congress may act under their authority ceded them by Maryland.

Remember, because the enumerated legislative powers for the Union listed in the Constitution are vested wholly in Congress with an absolute guarantee of legislative representation, members cannot transfer the enumerated legislative powers for the Union to the President or a foreign deliberative body (such as the United Nations).

But, under the power to enter into agreements or compacts with foreign nations that were once within each State's bag of tricks (but now prohibited *States* by Article I, Section 10, Clause 3), members of Congress may use that District Seat power to enter into such agreements or compacts with foreign powers without violating the powers given to Congress by all the States within the U.S. Constitution (and without actually misconstruing any of the Constitution's principles).[2]

Thus, even though the legislative powers for the Union may be vested only with duly-elected Representatives (who are at least 25 years old, seven years a Citizen of the United States, and an inhabitant of the State in which chosen) and Senators (who are at least 30 years old, nine

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2. When a particular State cedes Congress and the U.S. Government power and property, it does not merely cede the powers the State was then-capable of exercising, but the ability to govern, taken back to a raw, sovereign state or condition (or so holds 227 years of case law [that perhaps has never been properly challenged]).

For example, see *Juilliard v. Greenman*, 110 US 421@ 447, (1884), and its discussion about the monetary powers of sovereign governments (and then see the author's book, *Dollars and nonCents*, and his discussion of sovereignty therein).

years a Citizen of the United States and an inhabitant of the State in which chosen) who have sworn an oath to support the Constitution, *legislative powers for the District Seat have no similar restrictions*.

And, even though the executive powers for the Union are vested only in duly-elected, natural-born Presidents (at least 35 years of age and fourteen years a resident within the United States) who swear an oath to preserve, protect, and defend the Constitution, none of these limitations exist for the District Seat.

Therefore, while there is an absolute bar for the enumerated powers of the Constitution for the Union against ever being delegated over to foreign bodies such as the United Nations, the President and Senate may commit to the United Nations the local powers ceded them by Maryland without violating any of the express constitutional provisions.

The power members of Congress and federal officials may exercise under the District Seat are otherwise acknowledged by the U.S. Constitution, but actually exist outside it.[3]

The District Seat, not being a *State* and therefore not prohibited by Article I, Section 10 from contracting foreign alliances, may do so because members of Congress may exercise power in most any fashion except what is specifically prohibited, as asserted by both Alexander Hamilton and John Marshall, and proven ten thousand times over since 1791.

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3. Powers the State of Maryland ceded to members of Congress and federal officials are not anywhere enumerated. While the U.S. Constitution imposes some prohibitions, which are everywhere prohibited, these are few and far between.

For instance, the First Amendment prohibits Congress from making a law respecting an establishment of religion. This express prohibition is specifically made upon Congress (wherever they could act), thus making the geographic location where they act irrelevant. Therefore, even in the District Seat, members of Congress are prohibited from making a law respecting an establishment of religion by express constitutional command.

When the President and Senate ratified the United Nations Charter, they did not transfer the powers of the Union to foreign diplomats who have not and cannot provide the required oath to support the U.S. Constitution. The President and Senate merely signed the Charter under their power received only from Maryland (powers that Article I, Section 10 could not reach).

Members of Congress allowed President Truman to levy war unilaterally upon North Korea by looking—not to the war powers of the Union listed in Article I, Section 8, Clause 11—but by looking instead to the Article I, Section 8, Clause 17-allowed cession of power from Maryland.

Thus, none of the remainder of war (or treaty) powers listed under the U.S. Constitution ever came into play in Korea.

Although States are directly prohibited from engaging in war by Article I, Section 10, Clause 3 (except they may unilaterally respond to invasion or imminent danger), the District Seat is not, which is why and how President Truman could offer that "many Senators" said that "the initiative" of deciding "the method to be followed in obtaining approval of the special agreements" might be done "either by treaty or by the approval of a majority of both Houses of the Congress," *but that "the initiative in this matter rested with the President."* [4]

Everything pertaining to the District Seat is up for grabs by those capable of acting therein—members of Congress, the President and his officials, and the courts.

For the Union, the President can have no such discretion—he only has such extent under the exclusive power for the District Seat "in all Cases whatsoever."

And, when President Lyndon B. Johnson sent troops to Vietnam, Congress could work with him, melding the powers they all received

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4. Volume 91, Part 6, Congressional Record, 79th Congress, 1st Session, Page 8134-8135, July 28, 1945.

from Maryland, mixing legislative and executive powers together without ever interfering with normal constitutional restraints for the Union that otherwise require separation of powers. The District of Columbia is nowhere expressly prohibited from engaging in war, nor is the President there prohibited from exercising legislative powers (or Congress, from exercising executive powers).

The supreme Court chose not to address any of the dozens of lower court cases involving the Vietnam War, preferring to stay out of matter, perhaps to avoid giving hints that may expose the secret.

Strict constructionists who asserted that it was "unconstitutional" for the U.S. Senate to ratify the U.N. Charter *are wrong*, because *one* clause of the Constitution, strictly construed, may allow them that power.

While members of Congress may not divest themselves of the legislative powers for the whole Union, there is no direct or even indirect constitutional prohibition to keep them from transferring over to foreign nationals any of their vast legislative authority for the District Seat, which they received from Maryland.

Indeed, there is no legislative representation whatsoever in the District of Columbia, or any guarantee thereof.

Although legislative representation is the fundamental building block of the Union, the District of Columbia has none.

Only *States* elect Representatives to Congress, under Article I, Section 2, Clause 1.

Only *States* elect Senators to Congress, under Article I, Section 3, Clause 1.

Without legislative representation in the District Seat, one must realize the vast difference in allowable action between the District and the Union.

5

Prior to the 23rd Amendment of 1961, only *States* chose "electors" for the President and Vice-President. Only because of the 23rd Amendment, District residents may now choose "a number of electors…(as) *if it were a State*…"

In its pertinent words, the 23rd Amendment reads (italics added):

> The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct:
>
> A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled *if it were a State*, but in no event more than the least populous State…

But, importantly, the District is not a *State*, nor is it held as "if it were a State" *for any other reason.*

The powers for the Union are the most limited of any government on the planet, while the powers for the District are the most expansive, bar none (there is only one constitutional clause discussing the power that may therein be exercised, and that clause declares that Congress may exercise "exclusive" legislation "in all Cases whatsoever").

While powers implemented for the whole Union must follow all constitutional constraints, powers exercised under Clause 17 need only keep from violating a small list of constitutional prohibitions (even as

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5. District of Columbia license plates acknowledge residents' lack of representation in Congress.

there now exist hundreds of thousands of regulations, tens of thousands of court cases, and thousands of laws enacted by Congress, etc. to nominally guide that power).

Most everything is up for grabs in the District of Columbia; therefore, almost nothing is safe from discussion. In the District of Columbia, next to nothing needs to be left off the table for majority vote, with the majority or minority rigging the matter however they see fit, however they are able.

Without legislative representation in the District Seat, no standards are violated if federal bureaucrats in the alphabet agencies enact regulations held as law. Without legislative representation in the District Seat, there are not even any standards to violate if foreign bureaucrats enact international regulations according to treaties signed by the American President and ratified by the U.S. Senate in conformance with their unlimited powers for the District Seat.

It is a fool's errand to try and seek legislative majorities in a Congress that is capable of exercising the unlimited powers of pure democracy, where anything may be done without limitation, or to seek to try and elect the next dictator most likely to rule benevolently under his absolute power.

Such democratic-minded "solutions" will always fail to protect the individual or the Republic.

The solution must work within the proper parameters of our Constitutional Republic, not bow to mob rule democracy of unlimited discretion.

It is also foolish to seek to add new constitutional amendments that may be ignored as is every other clause of the Constitution. Seeking to work within unlimited power democracy, trying to add specific prohibitions against otherwise unlimited power, will never lead to freedom (officials are very creative at bypassing such constraints; they are easily able to turn an amendment meant to limit their power instead into its opposite [as the fount of even greater powers]).

The Convention of States process, although it can provide an alternate path forward, is only a means to an end, not an end in and of itself.

If the end sought is otherwise invalid, then the means used to reach it cannot overcome the fundamental error of core principles (and is therefore potentially dangerous, as it messes around with the Constitution without understanding it).

The current planks of a Convention of States project include holding a convention ultimately to propose amendments for balancing the budget (a Balanced Budget Amendment [BBA]) and imposing term limits (congressional and otherwise [courts, etc.]).

Sadly, such proposals never challenge—nay, they outright concede—government operating with *inherent discretion*. At best, they merely seek to limit the discretion to tolerable levels.

Such approaches are always doomed to fail, because they merely seek to add positive restrictions to limit inherent discretion. Instead of working within enumerated powers using only necessary and proper means, they allow everything except those things expressly prohibited.[6]

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6. For example, a Balanced Budget Amendment only attacks immaterial symptoms while failing to address the fundamental cause (which is simply how members of Congress and federal officials are able to ignore their constitutional restraints with impunity).

A BBA that does nothing to restrict government only to its rightful roles will still allow government to overspend. The BBA intends to cap government expense to income, but, governments are not restricted to that option—instead they may (and undoubtedly will) seek to raise taxes to meet expenses, which never slowed!

A Balanced Budget Amendment in the current political climate will inevitably be transformed instead into *the constitutional imperative to raise taxes* (because spending itself was never directly restricted).

Congressional "term limits" will be no better—as they lessen legislative power, that power will simply shift *away* from voter control, over to the executive bureaucracy (thereby directly *increasing* tyranny).

Tyranny cannot be collaterally attacked.

All indirect methods of attack will be turned back on opponents using political jiu jitsu, just like the 17th Amendment. Good intentions, no matter how sincere, will never overcome misunderstood tyranny![7]

It is time to learn how to defend the Constitutional Republic of limited powers. The most important factor in this battle is to learn the opposition's secret of success.

The fantastic thing about finally fighting The Right Fight is that 227 years of losing battles may be completely overcome.

No action by any member of Congress, the President, or Court judges—individually or combined—may ever change the Constitution one iota. Therefore, nothing those members of Congress or federal officials have ever done has *changed* the Constitution!

Our Constitution is all still there, ready to be completely reclaimed.

To provide readers with a glimpse of the kind of restorative power capable of being reestablished when efforts are properly directed, it is appropriate to look back in American history at several of the worst historical precedents that brought forth the exercise of unlimited federal power.

Home-grown American tyranny began with its evil mastermind, Alexander Hamilton, as he laid out his ingenious pathway for exercising unlimited power.

Two hundred and twenty-seven years ago, in 1791, his favored legislation—a proposed banking bill—lay on President George Washington's desk, ready for the President's signature to become law.

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7. However, a properly-directed Convention of States effort can be a very effective tool in our constitutional arsenal for throwing off 227 years of improper federal behavior, but it must be properly directed!

Keep reading to see how a Convention of States may help throw off 227 years of tyranny!

But, Washington had also been the President of the Constitutional Convention of 1787, and he undoubtedly recalled the conversation near the end (on September 14th) regarding adding to the proposed Constitution a specific clause to allow Congress to be able to grant charters of incorporation.

The vote failed, in no small part, because delegates worried it could provide the means to establish federally-chartered banks and paper currency.

Yet, despite the explicit power to charter federal corporations being weighed and measured and intentionally kept out of the proposed Constitution, only a few years later, after the Constitution's ratification, an approved legislative bill to charter a federal bank lay on the President's desk, awaiting his signature to become law.

In conformance with his express power under Article II, Section 2, Clause 1, President Washington required the written opinions of three of his principal officers on the subject of the banking bill as it related to the duties of their respective offices.

Answering first, Attorney General Edmund Randolph and Secretary of State Thomas Jefferson both vehemently denied Congress had the power to charter a corporation.

Randolph concluded his opinion writing:

> In every aspect therefore under which the attorney general can view the act, so far as it incorporates the bank, he is bound to declare his opinion to be against its constitutionality.[8]

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8. Attorney General Edmund Randolph's February 12, 1791 letter to President George Washington. *George Washington Papers at the Library of Congress,* Series 2, Letterbook 32, Page 103. February 12, 1791.

http://memory.loc.gov/ammem/gwhtml/gwseries2.html.

Jefferson came to the same conclusion, writing:

> The incorporation of a bank, & other powers assumed by this bill, have not in my opinion, been delegated to the U.S. by the Constitution.[9]

Jefferson elaborated further on the subject, asking and answering a rhetorical question:

> Can it be thought that the Constitution intended that for a shade or two of convenience, more or less, Congress should be authorized to break down the most ancient of fundamental laws of the several States…nothing but a necessity invincible by any other means, can justify such a prostration of laws, which constitute the pillars of our whole system of jurisprudence.[10]

The "prostration of laws," which "constitute the pillars of our whole system of jurisprudence" for powers "not…delegated to the U.S. by the Constitution" signify the importance of this first significant constitutional controversy.

Randolph and Jefferson, laying out the failed path Strict Constructionists would follow for the next 227 years, asserted that the proposed bill that lay beyond normal constitutional constraints was "unconstitutional"—i.e., that the proposed bill could not find support from a single clause in the Constitution.

They were wrong, however, as all who followed in their footsteps over the next two centuries would also be proven wrong, (since those "unconstitutional" actions were nevertheless approved by Congress, the President, or the Courts [using methods revealed now]).

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9. Secretary of State Thomas Jefferson's February 15, 1791 letter to President George Washington. *George Washington Papers at the Library of Congress,* Series 2, Letterbook 32, Page 110.

http://memory.loc.gov/ammem/gwhtml/gwseries2.html

10. *Ibid.*, Page 115.

In their written answers, both learned men (otherwise well-versed with the Constitution) had gone through all the ordinary clauses in the Constitution, which could nominally be used to support the banking bill, and they showed how none of them could authorize the charter of a corporation.

While the points Randolph and Jefferson made were true and correct, they were incomplete, ultimately allowing their final conclusion to be "wrong," for it wholly failed to consider Hamilton's bold tactic that rested entirely upon the unusual exception to all the normal rules of the Constitution.

To prove his worthy opponents wrong in their conclusion (even though he could not refute their supporting points [instead, he only worked to confuse the issue]), Hamilton needed only to point to a single clause of the Constitution that could lend its support for what he wanted to do.

It is noteworthy to mention that before Hamilton responded as noted below, he first *affirmed* "that the power of erecting a corporation is not included in any of the enumerated powers" and he specifically *conceded* "that the power of incorporation is not expressly given to Congress." [11]

Such affirmations and concessions, under normal circumstances regarding a government of defined powers, would have ended the argument right then and there, and Hamilton would have failed before he started.

But, with deft precision, Hamilton moved beyond a government of enumerated and limited powers and drove a knife through Jefferson's and Randolph's conclusion, stating:

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11. Hamilton's Opinion on the Constitutionality of the Bank of the United States. *George Washington Papers at the Library of Congress*, Series 2, Letterbook 32, Pages 121 & 136:

http://memory.loc.gov/ammem/gwhtml/gwseries2.html.

> Surely it can never be believed that Congress with exclusive powers of legislation in all cases whatsoever, cannot erect a corporation within the district which shall become the seat of government...And yet there is an unqualified denial of the power to erect corporations *in every case* on the part both of the Secretary of State and of the Attorney General.[12]

By simply pointing to the unusual exception to the rule that *could* authorize such actions, Hamilton won the argument and thus cleared the path for the President to approve the bill (which the President did, on February 25).

Hamilton continued:

> Here then is express power to exercise exclusive legislation in all cases whatsoever over certain places, that is, to do in respect to those places all that any government whatsoever may do; For language does not afford a more complete designation of sovereign power than in those comprehensive terms.[13]

Elaborating on the extensive power members of Congress and federal officials may use for the Government Seat "in all cases whatsoever," Hamilton detailed that government may do under that power "all that any government whatsoever may do," since "language does not afford a more complete designation of sovereign power than in those comprehensive terms."

That such an important admission of the actual source of power used to circumvent the Constitution was ever written into a government document by the principal officer of one of the most important executive departments relating to the duties of his office (in response to a direct presidential command), *but thereafter ignored* as to its importance for bypassing normal constitutional constraints astounds this author.

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12. *Ibid.,* Page 137. Italics added.

13. *Ibid.*

While it is true that Hamilton buried his admission deep within his lengthy response otherwise meant to confuse his opponents, it is still there in black and white for diligent Patriots to discover.

The passages from Hamilton's bank opinion should have been the blaring siren, the flashing lights, the important wakeup call that drowsy Patriots needed to awaken from their slumber. It shows how constitutional constraints may be effectively bypassed.

There is little evidence, however, that anyone took sufficient notice of Hamilton's admission or made any attempts to round the wild stallions back up and slam shut the gate in this first case asserting unconstitutional government behavior.

Concluding his thoughts on this matter, Secretary of Treasury Alexander Hamilton wrote:

> As far, then, as there is an express power to do any particular act of legislation, there is an express one to erect a corporation in the case above described.[14]

Randolph and Jefferson asserted that the proposed bank Act was "unconstitutional"—that the bill could not rest squarely on *any* clause of the Constitution, strictly construed, for support.

But, they were wrong, just as Strict Constructionists have been wrong in every case where they also had ignored the special ability of Congress for the Government Seat to act "in all Cases whatsoever."

After all, Congress could easily charter a corporation under their power for the Government Seat. Indeed, "language does not afford a more complete designation of sovereign power than in those comprehensive terms—in all cases whatsoever."

Of course, Hamilton could not necessarily do *what* he wanted, *where* he wanted (but, that is a wholly-different equation, needing a wholly-different response [and, since no one challenged him properly, he did what he wanted where he wanted anyway]).

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14. *Ibid.*, Page 138.

To help expand that unlimited power beyond its otherwise strictly limited geographic location, Hamilton ominously also laid out in his 1791 opinion his arrogant new standard for allowing arbitrary government action in all other cases also, asserting:

> If the end be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that end, and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority.[15]

For sake of brevity adequate for our purposes, Hamilton's assertion may be paraphrased: "All obvious measures within comprehended ends which are not forbidden, are constitutional."

Here, Alexander Hamilton proposes government may do most anything except what is expressly forbidden, completely opposite from the American standard of enumerated powers, together with only necessary and proper means.

Of course, Hamilton was only proposing his new means test as the standard for use under the District of Columbia power, *even as he implied that it was the allowable standard for the whole Union*.

And, Hamilton's devotees followed his path—speaking of one thing but implying it is for another, to keep everyone guessing as to what in the world was going on.

Those well-versed in early American history will recall that Alexander Hamilton was one of three authors writing *The Federalist* (using the pseudonym *Publius*) urging ratification of the proposed U.S. Constitution as it lay before the several States for ratification (along with James Madison and John Jay).

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15. *Ibid.*, Page 130-131.

It was Hamilton writing in *The Federalist*, #84 just three years earlier, in 1788, where he commented on a lack of Bill of Rights in the original Constitution, where he wrote:

> I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given…[16]

In *The Federalist*, #84, Hamilton properly argues for a limited government of *delegated* powers. He correctly points out that a Bill of Rights would "contain various exceptions to powers not granted," which would therein provide "to men disposed to usurp" a "colorable pretext to claim more (powers) than were granted."

Hamilton is correct, the 1791 Bill of Rights which has helped protect Americans from excessive government action for 227 years, is nevertheless yet a blatant anomaly for a government of *enumerated* powers!

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16. http://avalon.law.yale.edu/18th_century/fed84.asp

Properly speaking, for the whole Union, the powers given to Congress and the Government of the United States extend only to enumerated ends exercised together using necessary and proper means.

There is an inherent danger in listing powers forbidden to government (because, by doing this, it appears that government must have the *inherent discretion* to reach at least just short of them). After all, why list an express prohibition to powers never enumerated, if they were truly never granted?

A government of unlimited discretion, able to act except as it is specifically prohibited, is a dangerous government indeed.[17]

Prior to ratification of the Constitution, Alexander Hamilton asserted that only delegated powers were given to Congress, but, afterwards, he essentially proclaimed—"everything not prohibited is allowed." That he could so boldly spit in the face of limited government shows his true colors.

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17. Article I, Section 9 of the U.S. Constitution contains a listing of prohibitive actions which Congress cannot perform—but, these limitations are actually specific exemptions to general powers that are elsewhere enumerated.

For example, Article I, Section 9, Clause 1 reads that:

> The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed upon such Importation, not exceeding ten dollars for each Person.

The powers this clause prohibits include Congressional approval of a bill prohibiting the importation of slaves before 1808, even though, under Article I, Section 8, Clause 3, Congress was delegated the (more-encompassing) power "To regulate Commerce."

Therefore, Article I, Section 9 doesn't prohibit powers that members of Congress were never given; it contains specific exceptions to more generalized powers that were elsewhere listed (which is perfectly reasonable in a government of enumerated powers).

While Hamilton was the evil architect of omnipotent government action witnessed today, Chief Justice John Marshall was its most vocal advocate.

While Hamilton wrote his Treasury Secretary's opinion on the constitutionality of the first bank of the United States (1791-1811) Marshall wrote the supreme Court's opinion on the second bank (1816-1836), which presented the same issues.

Writing in the 1819 supreme Court Case of *McCulloch v. Maryland*, Marshall famously writes:

> Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.[18]

Paraphrasing Marshall's assertion as, "All appropriate means to legitimate ends which are not prohibited, are constitutional" shows that it is almost a verbatim copy of Hamilton's (paraphrased as "All obvious measures within comprehended ends which are not forbidden, are constitutional").

Condensed to their most basic message, both opinions essentially say:

> Everything not prohibited is allowed.

While their opinions accurately reflect allowable government power in the District Seat, that is certainly not how the opinions are inferred (that these "standards" are for the whole Union).

Of course, Hamilton and Marshall's "standards" serve as stepping stones to greater powers exercised throughout the Union for decades and centuries to come.

McCulloch v. Maryland, for instance, was expressly cited to support the holding of paper currencies as legal tender for the first time under

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18. *McCulloch v. Maryland,* 17 U.S. 316 @ 421 (1819).

the Constitution. In the 1871 case, the justices all but bragged that the 1819 Court wholly disregarded the Constitution's "necessary and proper" allowable means test, without reprimand, substituting instead the standard of merely being "convenient," saying:

> …a corporation known as the United States Bank was created…Its incorporation was a constitutional exercise of congressional power for no other reason than that it was deemed to be a convenient instrument or means of accomplishing one or more of the ends for which the government was established…Yet this court, in *McCulloch v. Maryland*, unanimously ruled that in authorizing the bank, Congress had not transcended its powers.[19]

Of course, members of Congress did not "transcend" their powers in establishing the second bank, because they used their powers for the District of Columbia to establish it, just like the first bank.

It is no surprise Marshall and his court cohorts came to the same exact conclusion on the same subject as did Hamilton. Both opinions discussed the same topic, the charter of a bank by Congress under Article I, Section 8, Clause 17.

Only under the power for the District Seat may members of Congress or court justices define "necessary and proper" to mean "convenient."

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19. *The Legal Tender Cases*, 79 U.S. 457 @ 537 (1871).

To learn how *The Legal Tender Cases* Court likewise upheld the power of Congress to issue legal tender paper currencies only under the exclusive legislative power of Congress to act in all cases whatsoever for the District Seat, please see the author's public domain books *Patriot Quest, Dollars and nonCents, Monetary Laws, Fighting Back, The Peculiar Conundrum, Bald Justice, Base Tyranny* and *Bare Liberty* at:

www.PatriotCorps.org; www.FoundationForLiberty.org; www.Issuu.com/patriotcorps; www.Scribd.com/matt_erickson_6; or www.Issuu.com/patriotcorps.

After all, for the District Seat, there is no standard anywhere delineated by which members of Congress must abide. Hamilton and Marshall have every right to put their two-cents' worth, just as much as the next guy or gal.

If members of Congress or supreme Court justices wish to use the phrase "necessary and proper" as the standard for the District of Columbia, but define that term to mean (in that location) "convenient," who is to correct them otherwise?

Certainly not the States of the Union that were never meant to have any say in the District that was to be constituted as the Seat of Government of the United States.

That the Constitution uses specific words (for the Union) does not prohibit members of Congress, the President or his executive officers, and/or the supreme Court from using those same terms *differently* for the District Seat!

No standard anywhere makes it mandatory that the same terms in different jurisdictions mean the same thing, especially for two separate powers resting at opposing ends of the political spectrum.

Just as a careful reading of Hamilton's 1791 opinion on the first bank shows he rested its authority on Clause 17, a careful reading of Marshall's 1819 ruling on the second bank confirms the same.

Comparing the Hamilton-Marshall standard of allowable means with the actual benchmark detailed in the U.S. Constitution for the whole Union is enlightening.

Article I, Section 8, Clause 18 of the U.S. Constitution reads (italics added):

> The Congress shall have Power…To make all Laws which shall be *necessary and proper* for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Both opinions by Hamilton and Marshall attempted to use the words found in Clause 18 in a clever and novel way to *enlarge* federal powers (a tactic followed ever since).

Read properly, however, Clause 18 is a *restriction* of the legislative powers only to members of Congress, forever separating the legislative powers from ever being exercised by executive and judicial officers.[20]

Congress shall make all laws for carrying into execution all the powers vested by the Constitution in Congress, the Courts, or the President, down to the individual officer. No executive or judicial officer may exercise any legislative authority for the Union (other than as specifically allowed by the Constitution).

Even though the Constitution vests with the President the executive powers, members of Congress nevertheless enact all laws for carrying into effect those executive powers.

The President may not make any laws for carrying his own powers into effect for the Union, including the powers for him to wage war.

Obviously, the standard of allowable government action for the Union being "necessary and proper" is a strong standard.

A law cannot be only "necessary;" it must also be "proper."

A law cannot only be "proper;" it must also be "necessary."

The standard of allowable means for enacting laws of the Union is very high indeed—"necessary *and* proper."

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20. The Constitution allows extremely limited crossover—always enumerated—for executive officials to exercise legislative powers.

For example, the Vice President—to give him something to do in a government of limited powers while he is waiting to fill in for the President—is made *(ex officio)* the President of the Senate and specifically allowed to cast tie-breaking votes.

Where the Constitution allows crossover, it is allowed, of course. Federal officials cannot otherwise legitimately exercise any legislative authority.

Only via Article I, Section 8, Clause 17 may members of Congress or federal officials exercise the comprehensive level of discretion needed as discussed by Hamilton and Marshall, to reach powers and means that are simply "convenient."

While *necessary and proper means to allowed ends* (Clause 18) is the true standard of allowable means to enumerated ends within the Union, *everything not prohibited is allowed* is the "standard" for allowable action within the District Seat (under Clause 17) as asserted by both Hamilton and Marshall.

Marshall's efforts to empower a strong, central government was hardly limited to *McCulloch v. Maryland*, of course.

One of Marshall's most quoted opinions is the 1803 case of *Marbury v. Madison* where he nominally established "Judicial Review," writing:

> It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.[21]

Of course, it must be noted, and it is hardly a mere coincidence, that Marshall wrote such words in the case before him—in the case where President John Adams had appointed the Plaintiff (William Marbury) as a Justice of the Peace, for the County of Washington, *for the District of Columbia!*

What the President, Secretary of State, Justices of the Peace and supreme Court justices may do or say for the District of Columbia is not the same as they may do or say for the Union of States, however.

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21. *Marbury v. Madison*, 5 U.S. 177. 1803.

Under the Republic, for the whole Union, justices even of the supreme Court have no special, enumerated power to "expound and interpret" the Constitution. They are to judge cases and controversies according to established laws. In other words, they ensure the rules established by law—under laws enacted *by Congress*—are applied to the facts of the case before them.

All persons empowered under the Constitution must either give an oath or affirmation to "support this Constitution" or they are under a superior who has.

The Constitution imposes upon every government servant the obligation to support the Constitution against any contrived law which contravenes it. Judges who uphold the supreme Law are not necessarily any different from any member of Congress or other federal official who does the same thing for the same reason (because they must fulfill their sworn oath).

Marshall wrote his words of *Marbury v. Madison* eight years after the States of the Union ratified in 1795 the 11th Amendment. In his infamous 1803 court case, Marshall wrote that it is "emphatically the province and duty of the Judicial Department to say what the law is," as if the supreme Court has the final say on the Constitution.

In a 1793 court case, the supreme Court had ruled that States could be sued in federal court against their will by citizens of another State.[22]

The Court's cited authority to rule as they did were the strictly construed words of Article III, Section 2, Clause 1 of the U.S. Constitution, which reads, in its pertinent portion:

> The judicial Power shall extend…to controversies… between a State and Citizens of another State (…and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects).

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22. *Chisholm v. Georgia*, 2 U.S. 419, 1795.

The supreme Court, construing *strictly* the pertinent constitutional clause giving them authority to hear cases and controversies, seemingly ruled in accord with the Constitution. The Constitution point-blank appeared to give them that express authority.

Nonetheless, the States that drafted and ratified the Constitution never meant for citizens of other States to be able to sue them in federal court *against a State's sovereign will*.

Thus, in 1795, the States ratified the 11th Amendment, which reads:

> The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

The 11th Amendment therein detailed how the Constitution must thereafter be "construed" regarding the topic, *opposite* than the supreme Court had just ruled.

In other words, the States of the Union, as the principals to the agreement that is the U.S. Constitution, set straight their agents—including justices of the supreme Court—as to how those words of the Constitution must be construed.

It is not the majority of the supreme Court with the final say on the Constitution, it is the States of the Union that drafted and ratified it.

But, in the District of Columbia, perhaps Marshall is correct.

Who is to say, after all, that the supreme Court *should not have* the final word in the District? There is no applicable Constitution for local action in the District Seat, to define and lay out the rules anyone must follow, specifying who does and who cannot do what.

Thus, it is pretty much a free-for-all in the District Seat, as members of Congress and federal officials vie for absolute power.

Clause 17 (that provides that *Congress* shall have power to exercise *exclusive* legislation in all cases whatsoever), it would seem to favor Congress, but with 435 Representatives and 100 Senators coming from differing points all along the political spectrum, their division and disunity only serve to handcuff them from exercising much of the power and control they could otherwise exert.

Much easier is it for a majority of nine federal judges to come into common agreement on specific issues that come before them.

Of course, easiest yet is it for a single President to rule authoritatively on his own accord (such as deciding when to send troops into battle), especially when members of Congress or federal judges don't seek to curtail his independent actions.

The only clause of any Constitution covering the District only details that Congress shall have power to exercise legislative powers exclusively and "in all Cases whatsoever." Nothing else, anywhere, is mentioned.

Thus, it takes thousands of laws, tens of thousands of court cases, and maybe hundreds of thousands of bureaucratic regulations held as law to settle at any point in time the incessant struggle for absolute power between Congress, the President, and the Courts. The supreme Court simply put its claim in early, and continuously thereafter.

The only thing relating to the District Seat is that the States themselves *have absolutely no direct say in anything*. That was the whole purpose for an exclusive federal area in the first place, *to remove all possible State interference from an exclusively-held federal area*.

Thus, while the States of the Union have the final say for everything occurring in the Union—as the 11th Amendment clearly shows—members of Congress and federal officials are left to struggle for absolute power in the District of Columbia.

And, doesn't that struggle for absolute power describe federal activity over the last century—that the States are irrelevant, and Congress only slightly less so, as the President and the Courts vie for absolute power?

Most assuredly.

In a free-for-all, where 435 Representatives and 100 Senators squabble amongst themselves and fail to get much done, nine supreme Court Justices and one American President rise further toward absolute power.

Thus, one can see the inherent danger in seeking congressional term limits (which are actually nothing but re-election limits [their terms are already limited, to two or six years]). Congressional re-election limits will simply cause even greater legislative impotency, further shifting absolute governing power toward executive or judicial officers. This will simply exacerbate an already horrible condition.[23]

This is how and why billions of dollars are now spent to elect an American President for a four-year term that pays on $400,000 per year—because in a democracy of unlimited and absolute power, a great number of people "invest" in government to turn that absolute power towards their favor.

Even though U.S. Senators and U.S. Representatives speak for their respective States when they meet in Congress and work on matters for the Union, the individual Senators and Representatives pretty much speak for (and enrich) themselves in all matters for the District Seat (where they needn't look to favor their State which is to have no direct say there).

And, those members of Congress surely have spoken for and taken care of themselves! Go in paupers and come out monetary powerhouses, having influenced government on most every topic imaginable. That members of Congress and federal officials routinely use their power for the District Seat throughout the Union is disconcerting, to say the least, yet perhaps understandable for as long as they are able to get away with it.

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23. The author is not fundamentally opposed to actions meant to restore more of a "citizen-legislator"-role of members of Congress (especially for the House of Representatives), but not before properly curtailing the executive and judicial branches (as limiting Congress first will only lead to greater tyranny).

Their success at using extra-constitutional powers means that all indirect challenges to their authority will always and necessarily fail.

Members of Congress and federal officials always act with authority—the importance is knowing *which* authority. The real question is not really so much *how*, but *where*.

It is now time to see how the scoundrels have gotten away with throwing the vast bulk of the Constitution into the dust bin of history and how to restore it back to its proper historic glory.

Chapter 5.

Readers have undoubtedly been chomping at the bit, thinking to themselves that while they may concede that the power for the District of Columbia is vast and unwritten, not found or outlined in any type of Constitution or Compact, surely those powers are limited to the geographic confines no greater than 10-miles-square (100 square miles) for the District Seat (and reaching also to exclusive legislative jurisdiction properties ceded for forts, magazines, arsenals, dock-yards, and other needful buildings found in every State), right?

Wrong.

Surely, the spirit of the Constitution says or would mean as much, at least to responsible, open, honest and trustworthy Americans (in order to give a full and proper effect to every other clause in the Constitution).

But, we're not necessarily speaking of responsible, open, honest, and trustworthy Americans—we're also talking of dirty, rotten, notorious scoundrels who, without a hint of compunction or remorse, will do whatever they can get away with and then push a little bit more to feather their own nests.

And, they have gotten away with it for 227 years. Spectacularly.

Some people will always push the envelope to obtain by deceit and conceit what they cannot get by honorable action. It is human nature. We cannot elect or appoint persons to positions of nearly unlimited power and expect them to be, or to remain, saints.

So, how have these clever, progressive turncoats been able to subvert the Constitution and steer government to enrich themselves and assure their continued power?

The answer is: By using the letter of the Constitution against its spirit.

By clever and intricate legal maneuvering, Progressives play one part of the Constitution (Article I, Section 8, Clause 17) against all others, with the aid of a second part (Article VI, Clause 2).

Article VI, Clause 2 of the U.S. Constitution reads:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every States shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Therefore, because of Article VI, "*This Constitution*…shall be the supreme Law of the Land."

Makes sense.

Question: Is Article I, Section 8, Clause 17 of the Constitution for the United States of America part of "This Constitution?"

Yes, most assuredly. It is the seventeenth part of eighth Section of the first Article.

The strict words of Article VI also say that the "Laws of the United States *which shall be made in Pursuance*" of "the Constitution" shall also be part of the "supreme Law of the Land."

Question: Are the laws that members of Congress enact under their constitutional power of Article I, Section 8, Clause 17 part of the "Laws of the United States" made "in Pursuance" of "the Constitution?"

Yes, of course they are. They are laws of the United States enacted by Congress with the President's signature made in general pursuance of the seventeenth Clause of the eighth Section of the first Article of the U.S. Constitution.

Therefore, even laws enacted under Clause 17, as construed in its strictest possible form under Article VI, form part of that supreme Law of the Land!

Judges of every State shall then be bound thereby, regardless of what the laws or Constitution of any State says to the contrary.

This means judges throughout the Union must enforce the U.S. Constitution, and all the laws enacted thereunder, even those laws exercised by Congress for the District Seat.

But, what does that mean, exactly?

It means that if people aren't following what is going on at this nitty gritty level, their rights will be subverted.

Article VI, Clause 2, construed ever-so-strictly as it relates to Clause 17, provides Progressives with an ultimate loophole to bypass normal constitutional constraints.

In its original intention, Article VI coupled with Clause 17 would have merely allowed federal marshals to chase those suspects throughout the Union who were thought to have committed a crime in the District of Columbia and then fled the jurisdiction. That would be an example of a properly executed, nationally enforced, locally effective law.

Properly construing both clauses together merely allows for the bypass of the extradition processes for alleged criminals fleeing the limited jurisdiction.

The U.S. Constitution only acknowledges three classes of federal crimes (treason, piracies on the high seas, and counterfeiting the current coin and securities of the United States). These are federal crimes no matter where the crime occurred (i.e., even in a State).

The courts have two primary parameters for determining proper jurisdiction to hear a case—subject matter jurisdiction and jurisdiction over the person.

The laws of Congress enacted under Clause 17 provide the courts with "subject matter" jurisdiction, and if the defendant doesn't challenge personal jurisdiction when they are otherwise within a State (and therefore outside the District), then it will be assumed.[1]

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1. Please note that *Waging War without Congress First Declaring It* is not meant to be a primer on removing oneself from the jurisdiction of the District of Columbia when otherwise located within a State. This is or

The two alternative, corrective amendments discussed shortly seek to rectify the jurisdiction of the courts in two different ways (one related to jurisdiction over the person and the other both with regard to subject matter jurisdiction and jurisdiction over the person).

The impact of Article VI's "supreme Law of the Land" holding on the District Seat is that otherwise locally effective laws enacted by Congress for the District of Columbia may actually be indirectly enforced *nationwide* throughout the United States (they are not strictly limited to the geographical boundaries of the exclusive legislation areas).

As Alexander Hamilton first theorized, Clause 17—coupled with Article VI—created a sufficient fuzzy area he could exploit for all it was worth, if he could keep his opponents in the dark. It would appear that he and his cohorts were powerful wizards exercising unlimited powers, able to do as they pleased, no matter the words of the Constitution they could seemingly change at will. They only had to cover their tracks and throw others off the scent.

The only thing Hamilton, Marshall and their hangers-on feared was an independent-minded little dog with a trusty nose who took it upon himself to sniff out the powerful stench of corruption and expose the men standing behind the curtain who pulled the levers of omnipotent and omnipresent government.

Exposing the wizard as a fraud without any special power beyond deception should be the primary goal of every patriotic pooch, working to bring everyone up to speed on what has snookered them for so long.

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1. *Cont'd.*

would be an involved process, and even if it could be done adequately (which is doubtful), it nevertheless exposes one to harsh government retribution (thumbing one's nose at government officials isn't necessarily prudent). For those who seek to do so, this author says more power to them, but he figures it is so much better to seek to correct matters for all people for all times than to try and challenge it one lone person at a time.

Most strict constructionists of the Constitution are big fans of the 10th Amendment, which reads:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The 10th Amendment reserves to the respective States of the Union all the powers that the States did not transfer to the United States under Article VII ratification or Article V amendment processes (except those powers States are prohibited from exercising by the U.S. Constitution [Article I, Section 10 prohibitions, etc.] or the powers no American government holds [which are thus reserved to We The People]).

Many, many Patriots for many, many decades have asserted, time and time again, that members of Congress and federal officials routinely violate the 10th Amendment (by improperly exercising the reserved powers of the States). But, the Patriots making such assertions are wrong, nearly every time.

Question: Does the 10th Amendment apply in the District of Columbia (or other exclusive legislative properties scattered about the States that are used for forts, magazines, arsenals, dock-yards and other needful buildings)?

No, it does not. No, it cannot.

When the States of the Union began under the Independence Pie Chart, they held all governing power, individually, within each State.

When the States of the Union ratified the U.S. Constitution under Article VII (the Ratification Pie Chart), they ceded to Congress and the Government of the United States all the powers therein enumerated (and those means necessary and proper for carrying out the enumerated powers), keeping the remainder of powers in each State that were not delegated.

The dark wedge of federal authority in the Ratification Pie Chart was controlled by Congress and the Government of the United States—the large, light-colored remainder of the pie was reserved to the States,

individually, under the principles of a Republican Form of Government (and under the principles of the 10th Amendment, ratified three years later).

When three-fourths of the States of the Union ratified amendments under Article V of the U.S. Constitution (under the Amended Pie Chart), the federal wedge in most cases got a little bigger. The States again reserved the remainder of their powers that were not delegated in the new amendment under the express principles of the 10th Amendment.

However, when Maryland ceded its lands of Washington County for the District of Columbia under Article I (Section 8, Clause 17), it "forever ceded and relinquished to the Congress and Government of the United States" the lands, "in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon."

Maryland, in this case, ceded 100% of its remaining governing authority over to Congress and the Government of the United States. The State reserved no powers whatsoever over the deeded District lands—all of it was transferred. No power in the District Seat *could be reserved* for the State to later exercise (the Constitution required Congress to here in the District Seat exercise exclusive legislation, in all Cases whatsoever, [even if the States could reserve specifically-named powers, such as to serve legal process, in the other cases mentioned, for forts, magazines, etc.]).[2]

Stating the principle plainly, so all may understand—the 10th Amendment does not apply in the District of Columbia. It cannot.

Patriots must absolutely realize the vast differences between the two entirely different Forms of Government allowed by the U.S. Constitution.

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2. The reservation of legal process would have been a deal-breaker for the government seat, but typically wasn't for all other exclusive-legislation properties (so minimal reservations were often there allowed).

Ignoring the existence of the most powerful Form of Government on the face of the earth has not proven to be a successful path for maintaining individual liberty and limited government in the United States of America.

It is a fool's errand to try and reform government tyranny from within (even though that too is more-fully possible, once it is properly understood).

When seeking to eradicate criminal behavior, one may try and reform the criminal, to directly minimize the threat.

But, why seek to work on that resistant side of the equation when one may alternatively instruct would-be victims who are generally quite eager to learn how to defend themselves better?

The latter is the method *Waging War without Congress First Declaring It* seeks to do.

Fighting evil this way, one doesn't care *who* they are, only *how they have succeeded*.

When one works to stop evil in its tracks, all who follow that path are stopped (and there are no other paths for their success in the U.S.A.).

Throwing off a Tyrannical Form of Government of unlimited powers and supporting instead our Republican Form of Government of enumerated powers, using only necessary and proper means, takes knowledge.

Thankfully, our nation's Founders long ago eliminated government capable of exercising arbitrary action in all cases whatsoever throughout the Union, without our consent and against our will. Therefore, Patriots today need not fight any longer with bullets, cannon balls and bombs, but only knowledge, properly directed and effectively communicated.

This is a First, not Second, Amendment issue. Thankfully. After all, resorting to the Second Amendment effectively mutes the First.

Our studied voice of reason is our most potent weapon in this fight against tyranny and oppression because truth adequately exposed is our opponent's only weakness (they use all acts of violence to grab even more power).

Chapter 6. Once and For All—and—Happily-Ever-After

Wresting our Republic out from underneath Democratic Tyranny is conceptually quite simple. Putting it into practice, of course, takes greater effort (but is entirely achievable, nonetheless).

First, it is vital to realize that Americans are faced with a single political problem, even as it has a thousand different symptoms.

Just as 1776's America had only one political problem (rooted in Great Britain's explicit claim of power sufficient to act in America "in all cases whatsoever"), so too is modern America's single political problem manifested within our own federal government, which itself seeks to also exercise power "in all Cases whatsoever" throughout the Union.

Having one fundamental problem with thousands of readily-apparent symptoms means one must ignore the symptoms and concentrate only on the root problem.

This is why *Waging War without Congress First Declaring It* actually spends such little time upon the seemingly-important matter of American Presidents unilaterally waging war, because to spend too much time there foolishly concentrates on otherwise irrelevant symptoms only to ignore the actual underlying problem.

Instead, learning how government officials or members of Congress may ever bypass constitutional constraints and then properly dealing with that general case, eliminates all the varied instances that this general case could be carried out (the unilateral waging of war being one of them).

To restore our American Republic, we do not need thousands of answers for the thousands of seemingly different ways the federal government acts independent of the Constitution—we need only one of the two different methods herein discussed to take care of the single political problem once and/or for all or happily ever after.

Destroying the Constitution, which ultimately stands opposed to unlimited rule extended throughout the Union, is power-hungry Progressives only hope at continued power—for their harsh rule hangs only by the thinnest threads of deceit, which, once exposed, quickly breaks and ends their reign of terror.

Ending that false reign begins with exposing that mechanism of absolute government power being applicable directly only for the District Seat (and exclusive legislation jurisdiction forts, magazines, arsenals, dockyards and other needful buildings).

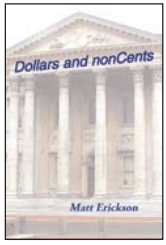
Education and Exposure are the first steps. Thankfully, these are steps an individual may easily perform on his or her own, today—right now!

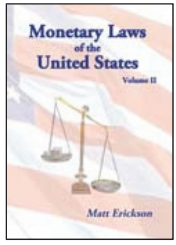
First, learn how tyranny's advocates succeed and then shout it out from the rooftops. It is that simple, in its most basic elements.

Restoring Our American Republic begins with diligent education efforts and continues with exposing that information far and wide.

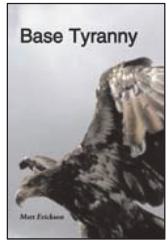
The author's public domain books (that may be freely viewed and/or downloaded at the websites that follow) are a good place to start with the education process:

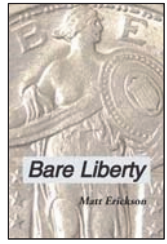
Non-Fiction:





Fiction:





www.PatriotCorps.org

www.FoundationForLiberty.org

www.Scribd.com/matt_erickson_6

www.Archive.org (search by book title)

www.Issuu.com/patriotcorps

Also informative are the author's public domain newsletters, *The Beacon Spotlight* (a newsletter examining constitutional issues, by topic) and *The Beacon of Liberty* (a study guide that proceeds clause-by-clause through the Constitution [the author hopes someday to resume this incomplete work]). The newsletters are also freely available at the first three websites above.

While the first phase of recommendations (education and exposure) may be performed on an individual basis, the second phase necessarily takes concerted effort—pushing forward with a constitutional amendment.

The Patriot Corps and the (non-profit, tax-exempt) Foundation For Liberty are both organizations this author has established for pursuing education and exposure.

Once the movement gains credibility, the Patriot Corps will help formally push the amendment forward (IRS 501 (c)(3) non-profit charities being otherwise prohibited from directly seeking to influence legislation).

Pushing any proposed amendment through the constitutional process is a difficult undertaking. Only 27 amendments have been ratified, even as the U.S. Senate website notes 11,669 attempts have been attempted between 1789 and January 3, 2017.[1]

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1. https://www.senate.gov/reference/measures_proposed_to_amend_constitution.htm

Do not become disillusioned by that grim statistic, however, for history shows that the U.S. Constitution has 27 ratified Amendments, and what may occur 27 times, may certainly be accomplished a 28th time, *especially when it is so important!*

Indeed, no amendment other than one following the general outline of one of the two hereinafter proposed may ever correct matters, for only an amendment that either directly *contains* or *repeals* tyranny is capable of closing the constitutional loophole.

Any other possible amendment would simply act like the remainder of the Constitution *that is already being ignored*, by political adversaries who cleverly exploit an otherwise unknown loophole.

That loophole must be contained or eliminated so the remainder of the Constitution may finally have its original, intended effect! Over the past 227 years, the once-proud Constitution has been sitting on the sidelines, as only a few of its clauses have played on the ballfield.

It is way past time to bench that ball hog (Clause 17)and bring out the whole team, to make all of the Constitution again applicable.

American history helps show the proper route forward to correct our errant ways.

First discussed will be the amendment to *contain* federal tyranny, to restrict the loophole to its original intended area and finally no further.

As much damage as Chief Justice John Marshall caused in his infamous court cases of *Marbury v. Madison* and *McCulloch v. Maryland*, he partially makes up for that damage in his 1821 case of *Cohens v. Virginia,* which examined a D.C.-based lottery as it spilled over into a neighboring State.

The first two of the three important points Marshall made therein help readers understand the difficulty of knowing which of two different rulebooks members of Congress are acting under at any given point in time (the two rulebooks being, *first*, the whole of the Constitution [*except* Article I, Section 8, Clause 17] for the Republic and the *second*, Article I, Section 8, Clause 17 [for the District Seat]).

The first passage of the 1821 court case details that the power of Congress to legislate for the District Seat, like all other powers conferred in Article I, Section 8 upon Congress, is "conferred on Congress as the legislature of the Union."[2]

The passage informs readers that members of Congress do *not* (temporarily) step down from their national capacity even when they enact laws that would otherwise be considered local legislation for the government seat.

Marshall acknowledges that there are no readily apparent differences in form between laws Congress creates for the Union or those for the District Seat (even as their substance varies considerably), making the job of differentiating between them that much more difficult.

Given the original wording and structure of the Constitution, it is difficult to argue the Court was wrong. Clause 17, after all, is also within Section 8 of Article I, just as are most of the remainder of express powers delegated to Congress for acting throughout the Union.

It is therefore important to examine the next phrase in the court case. The second passage reads:

> Whether any particular law be designed to operate without the District…depends on the words of that law.[3]

These words inform Americans that one must look to the substance of the enacted law to differentiate between those meant for the Union (i.e., *outside* or *without* the District of Columbia) and those meant for the Government Seat.

While the form between the two different sets of laws does not vary, the substance does.

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2. *Cohens v. Virginia,* 19 U.S. 264 @ 424 (1821).
3. *Ibid.*, Page 429.

Knowing there are no magic words or phrases that Congress must use to differentiate between the two opposing jurisdictions, Patriots are left to learn what is acceptable for the Union, to understand that everything beyond it may operate only for the District Seat (because to hold it for the Union would be to transgress the Constitution's impassable limits, which cannot and does not ever happen).[4]

The final passage of the 1821 *Cohens v. Virginia* supreme Court case provides the critical detail Patriots need for moving forward with the first of two possible amendments. The passage reads:

> Those who contend that acts of Congress, made in pursuance of this power, do not, like acts made in pursuance of other powers, bind the nation, ought to show some safe and clear rule (which supports their contention).[5]

Unfortunately, as Marshall inferred, there is not any *existing* "safe and clear rule" within the entire Constitution that would directly support the contention that Acts of Congress, made in pursuance of Article I, Section 8, Clause 17, do *not*, like all other Acts made in pursuance of all other powers, "bind the nation."

Only the *spirit* of the whole Constitution supports this contention, which evidently doesn't go far against opponents who only pay ultra-strict attention to the Constitution's *letter*.

Progressives have succeeded thus far because their opponents falsely believe that Progressives *liberally* interpret the Constitution, redefining words of the Constitution to some new meaning.

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4. The District of Columbia authority is the catch-all for all laws, regulations, executive orders, treaties, etc., that would otherwise violate the Constitution. Chances are that they would not violate the laws of the District of Columbia.

5. *Cohens v. Virginia,* 19 U.S. 264 @ 424 (1821).

Instead, Progressives hold two clauses of the Constitution to their strictest possible construction, so they may ignore everything else.

Thankfully, the Chief Justice's words provide Patriots a clear direction for moving forward to restore limited government, except since we cannot currently "show" the "safe and clear rule," which *already* supports our contention, *we now finally need to "make" one!*

Since proposing an amendment is an awesome task and great responsibility, it is proper to look for historical guidance.

The 11th Amendment, discussed earlier, was ratified in 1795.

It pertinent words read:

> The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Following the precedent of the 11th Amendment, which clarified how specified constitutional matters shall thereafter be construed, the Patriot Corps proposes the following *Once and For All Amendment* to *contain* federal tyranny:

> The exclusive legislation power of the Congress of the United States under the seventeenth Clause of the eighth Section of the first Article of the Constitution for the United States of America shall not be construed to be any part of the supreme Law of the Land within the meaning of second Clause of the sixth Article of the said Constitution.

This new amendment would simply clarify and now expressly provide that no longer does Article I, Section 8, Clause 17 constitute any part of the supreme Law of the Land under Article VI, Clause 2 (and, therefore, that no law enacted under Clause 17 may thereafter constitute any part of the supreme Law of the Land, either).

The effect of this amendment would be to provide the "safe and clear rule" that firmly and directly supports the contention that Acts of Congress made in pursuance of Clause 17 do *not* "bind the nation" like all other Acts made in pursuance of all other powers.

While the paragraph above contains the "meat" of the proposal, it is probably prudent to directly also spell out the limited nature of laws passed under Clause 17, perhaps including:

> Every law, resolution, rule, regulation, or order enacted, passed or otherwise hereinbefore or hereinafter acted upon under the seventeenth Clause of the eighth Section of the first Article of the said Constitution shall be strictly limited to its precise jurisdictional limits strictly applicable to exclusive legislation areas as must therein be hereafter designated.

It is also probably prudent to change the form of law so that people can easily distinguish between that second jurisdiction which is still being allowed to continue, something to the effect that every newly-enacted law under Clause 17 must thereafter begin:

> *Be it enacted in the District constituting the Seat of Government of the United States, by the Senate and House of Representatives of the United States of America, in Congress assembled…*

Besides holding all previously-enacted laws of the District only to that authority and besides clearly labelling all new laws for the District Seat as applicable only directly therein (and other exclusive legislative areas in the States, used for forts, magazines, arsenals, dock-yards, and other needful buildings), a section in the proposed amendment on formal extradition procedures for the District Seat (similar to that for States in Article IV, Section 2, Clause 2) would likely prove important, but that is but a small matter to add (of course, laws truly national in scope would yet be executed throughout all the States, as they have always been).

The Once and For All Amendment to *contain* tyranny would finally make all D.C.-based laws (all laws ultimately looking to Clause 17 for authority [perhaps some 95 or 99% of all laws enacted by Congress now]) truly local laws (even though they had been enacted by Congress and signed by the President).

Thus, laws for the District *would finally be restricted only to that limited geographical area, just like all State-enacted laws are everywhere else are only applicable locally therein* (State laws never bind the nation—hereafter, neither could D.C.-based laws [even though enacted by Congress and signed by the President]).

Patriots may reflexively offer that even after ratification of this amendment, government would simply ignore it, just as members of Congress and federal officials now "ignore" other parts of the Constitution without repercussion.

But, this futile protest wholly overlooks the fact that government may "ignore" the Constitution now *only by resorting to its alternate authority under Clause 17* and that is exactly what the Once and For All Amendment stops dead in its tracks, meaning that members of Congress and federal officials will any longer have that option.

Acting upon the insight given in a court case 197 years ago, Americans may rebuild our constitutional stronghold to finally *contain* federal tyranny as one of two options to proceed forward.

The other option is to *repeal* tyranny (repealing the seventeenth Clause of the eighth Section of the first Article) in its entirety.

The 21st Amendment, which repealed the 18th Amendment (Prohibition), is the model for this amendment. The 21st Amendment, ratified in 1933, reads (in its pertinent portion):

> The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

The Patriot Corps' *Happily-Ever-After Amendment* (to *repeal* tyranny) would be worded something to the effect of:

> Section 1. The seventeenth clause of the eighth section of the first article of the Constitution for the United States of America will hereby be repealed one year after ratification of this amendment.
>
> Section 2. The land originally ceded by the State of Maryland for the District constituted as the Seat of Government of the United States shall be either retroceded back to the State of Maryland or, if the residents of the District decide by vote within eight months following ratification of this Amendment—which vote is herein directed to be performed—the residents of the District shall be allowed to form a new and distinct republican State and be freely admitted into the Union on an equal footing with the original States, having the same rights of sovereignty, freedom and independence, in all respects whatsoever.
>
> Section 3. All lands earlier ceded to Congress and the Government of the United States for the use of Forts, Magazines, Arsenal, dock-Yards and other needful Buildings shall be retroceded back to the individual State that originally ceded them.
>
> Section 4. Congress, by appropriate legislation, shall carry out the provisions of this amendment within one year of ratification (except Congress shall carry out the District vote as hereinbefore directed within eight months).

With ratification of the *Once and For All Amendment* to *contain* tyranny, members of Congress and federal officials will no longer be allowed to rule authoritatively throughout the Union. They may still do as they see fit for the District, but never again could those local powers have any direct or even indirect effect beyond the District's borders (or beyond the borders of any exclusive legislative jurisdiction fort, magazine, arsenal, dock-yard, or other needful building).

With ratification of the *Happily-Ever-After Amendment* to *repeal* tyranny, however, members of Congress and federal officials will no longer *ever* have any powers except what they may exercise throughout the Union under the whole of the Constitution.[6]

Interpreting words found in the Constitution to anything other than what they originally meant at the time of ratification may only be achieved for the Union by constitutional amendment ratified by three-fourths of the States.

Only in the District Seat do judges have the discretionary power to make things up as they go along, redefining terms to suit their needs of the moment. Only in the District Seat is there no (local) applicable Constitution.

The U.S. Constitution is superior to each and every member of Congress, President, judge or other federal official. The U.S. Constitution does not bow to any person or power other than the States joined together in a common Union (whenever three-fourths of them decide to act in a new fashion).

The Constitution's only weakness is that it allows members of Congress or federal officials to act under two different Forms of Government, one of them essentially without limit.

It is only profound constitutional ignorance on the part of the people, however, that has allowed this simple fact to be turned into a horrendous nightmare by corrupt and designing scoundrels.

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6. Note that territorial Forms of Government established under Article IV, Section 3, Clause 2 of the U.S. Constitution were never subject to the same high-handed actions members of Congress or federal officials used for the District Seat.

Although territorial officers were appointed by the President of the United States (by and with the advice and consent of the Senate), territorial legislatures were always elected by the qualified voters of the territory, ensuring legislative representation, the bulwark of liberty.

The alternate authority—for the District Seat—is known to many people, but wholly discounted in its importance. People foolishly dismiss it, thinking legislation enacted under it is already strictly limited to the District. They are wrong, pitifully and absolutely wrong. That is the sole reason for Clause 17's spectacular success—its wholly unassuming nature coupled with widespread misunderstanding.

Perhaps, the best thing about pushing forward with an amendment now is that all the original culprits who set up this spectacular constitutional bypass mechanism are long since dead.

Once the ball gets rolling, current members of Congress and federal bureaucrats may seek to distance themselves from past deceptive actions (by pleading ignorance and expressing a desire to "get to the bottom of things").

Like cultures that long ago lost the important knowledge of how to build great machinery, but nevertheless have learned to mimic the pulling of levers to make existing machines work, today's members of Congress and federal officials probably have little clue as to how Hamilton and Marshall's Tyranny Machine actually works.

Thus, once the tide begins to turn, there may perhaps be a rapid movement forward toward a formal amendment for the States to ratify.

Members of Congress will undoubtedly prefer to stay in power, rather than go down with a sinking ship. Perhaps many progressive members of Congress may choose to do so as well.

Question: Do we absolutely need a new amendment, either the Once and For All Amendment or The Happily-Ever-After Amendment, since they can be rather difficult to ratify?

No, we don't. It just better protects posterity to have (one of) them.

Americans may well resolve tyranny even without either amendment. It will simply be that much more important to adequately disseminate constitutional awareness, to get things properly squared away.

Education and exposure are sufficient in themselves, to correct matters, if enough education and exposure take place.

For instance, think of the mindset of Dorothy, the Scarecrow, the Tin Man, and the Cowardly Lion in *The Wizard of Oz*, toward the seemingly almighty Wizard at the beginning of the movie (or book).

They blindly followed the dictates the Wizard issued from on high until Toto pulled back the curtain to expose the deceitful man who pulled the strings. The game was over once Dorothy and friends saw and understood the fraud. Things could never again be the same, once the lies were adequately exposed.

That is all it takes, as with any fraud—for truth adequately expressed, eradicates all lies.

Thus, the same may occur in real life, as increasing numbers of Americans discover that Congress and the Government of the United States may only exercise such great, great powers on a very small patch of ground.

In the immortal words of the Genie on the Disney movie *Aladdin*, though he may have "phenomenal cosmic power," he actually has only an "itty-bitty living space."

And, although The American Genie has great powers, the golden bands on his wrist signify he is only a faithful servant throughout the land. Our Genie—the Government of the United States—also has wristbands, which are the Declaration of Independence and the Constitution for the United States of America. We The People of the States of America who are united together are the master.

Ratification of one or both of the amendments will essentially deadbolt the corral gate shut after the wild stallions have been put back inside by education and exposure. In other words, government will already be well along in the process of being effectively restored by education and exposure before any amendment is ever ratified.

This author recommends nevertheless pushing through Congress the Once and For All Amendment to *contain* tyranny (it will be a much easier pill for members to swallow than the alternate proposal).

To add appropriate pressure to the congressional effort, this author next recommends that proponents for a Convention of States push forward with the Happily-Ever-After Amendment to *repeal* tyranny.

Faced with a growing independent movement to repeal Clause 17 through the Convention of States process—completely ending tyranny and the vast bureaucracy behind it—members of Congress may well find the incentive they need to push forward willingly to contain tyranny.

This author recognizes that the Happily-Ever-After Amendment to repeal tyranny is a harsh pill, cutting bloated government off in one fell swoop.

Repeal of Clause 17 through a ratified amendment would end all federal activity in excess of the U.S. Constitution strictly construed.

Gone would be the Independent Establishments and Government Corporations. Gone would be the Federal Reserve System and legal tender paper currencies. Gone would be Social Security, Medicare, and all federal entitlement programs. Foreign aid would be history.

Unfunded mandates for the States to toe the federal line beyond the strict confines of the Constitution would end.

The United States' membership in the United Nations would end (certainly as we know that membership today).

Foreign treaties signed under the power for the District of Columbia would evaporate if the District were eliminated, every bit the same as all domestic laws that were ultimately enacted only under the District's power.

The entire tax and spend liberal agenda, perhaps some 95%-99% of current government activity, would be gone, *for good*.

One could argue that new amendments could be proposed and ultimately ratified to finally give members of Congress and federal officers legitimate powers approximating those they currently exercise illegitimately.

While true, one has to ask why this approach wasn't used in times past—the answer being because such open transfers of authority wouldn't easily be approved by the requisite number of States (thus, the surreptitious approach).

After discovering how scoundrels have trampled on the Constitution for illegitimate gain for 227 years, surely 38 States would not willingly give crooks new powers that the States would not previously consider.

At best, the States individually would simply take over some of the improper functions of the U.S. Government and offer them directly to their citizens, under their own State power.

But, fiscal responsibility would be restored, and the free market unleashed in a truly revolutionary marvel that would very soon take Americans to a whole new level of achievement, all on their own accord. Fewer government roadblocks mean private initiative will explode with productive achievements beyond comprehension.

States would be mostly free to fill in for the federal government's current cradle-to-coffin progressive liberal agenda, if they wanted.

Other States would undoubtedly seek free market reforms and usher in new and unprecedented waves of productivity increases. 50 (or 51) States of one Union would finally offer citizens true choices of living in the kind of State they desired, yet still be part of the American Union.

People, including hard-working immigrants, would be again widely seen as our greatest resource.

Without any longer possibly being a drain on (federal) entitlement programs, freedom-oriented States would undoubtedly actively seek immigration from a wide variety of sources.

While Congress is given the specific authority for establishing uniform rules of naturalization, immigration would perhaps again be primarily a State concern.

Without the federal government imposing invalid federal mandates upon the States beyond proper constitutional parameters any longer, States could break out of the uniform mold and offer Americans true choices where they would like to live.

In the interim period—during a conversion process between before and after, between now and then—chaos could perhaps reign supreme, but only for a short time. Uncertainty would undoubtedly cause extensive fear, in the beginning.

However, without heavy taxes and undue regulations feeding a federal behemoth, it would be like doubling workers' pay and having their money go twice as far, essentially doubling or even quadrupling take-home pay.

With free and honest money (gold and silver), no longer would vast sums of wealth be confiscated off the top. Businesses could better forecast future demand.

Private charity would, perhaps, fill in some of the gaps left by government, as people increasingly had greater disposable income, realizing that poverty wasn't any longer a federal problem. But, even if charity did not increase, the important thing is to realize there would be lessening need of it, as increased efficiency lowered costs across the spectrum, ushering in new advances to lessen or even eliminate former burdens.

Scores of apparent problems, which are simply irrelevant symptoms, would begin to disappear as if by magic.

Having 50 (or 51) States moving forward no longer in mandated uniformity would mean that as the boldest pushed forward, the other States could learn how to do things correctly again.

Make no mistake, though, repeal of Clause 17 would be as harsh as it would be complete.

Ideally, perhaps it would be best for Congress to propose and the States to ratify the Once and For All Amendment to contain tyranny, and have it operate for at least five years, to get the ball rolling toward self-sufficiency. Thereafter, if deemed prudent at that time, the Happily-Ever-After Amendment to repeal tyranny could then be proposed and ratified. The Once and For All Amendment would act as a transition period before wholly throwing off all improper and invalid government, allowing people to begin taking appropriate care of themselves and the States as perhaps the only safety nets.

Of course, the Congress and Government of the United States have made a great many promises, especially related to Social Security and Medicare.

Workers (who have only paid *a tax* "in addition to other taxes" [euphemistically but inaccurately labelled as "Social Security" or "Old-Age, Survivors and Disability Insurance" deductions] into the General Fund) understandably expect to collect on the benefits promised them when their time to draw out comes due.

Despite the fact that current receipts have only ever paid current beneficiaries (there has never been any actual trust fund, only clever accounting entries to deceive everyone in an attempt to keep the pyramid scheme going), it isn't right to leave people high and dry who have relied upon government promises, even if those promises were eventually destined to fail.

Like all who promise more than they can deliver, Congress and the Government of the United States should use available assets to pay off valid debts to the extent possible.

History again provides us with the precedent of how to best proceed.

When the young Republic won the Revolutionary War that it fought almost without money, it didn't even have the funds available to make interest payments, let alone to pay the principal (indeed, to bring current the past-due debts is the primary reason for scrapping the Articles of Confederation and ratifying the Constitution).

The liquidated (funded) debt was acknowledged by Congress in 1790 to be $75,414,428, not counting two million more dollars (specie value) for paying off $231,552,775 (face value) of Continental Currency issued between June 22, 1775 and November 29, 1779.[7]

The August 4, 1790 legislative Act provided the payment for bills of credit (Continental Currency) at the rate of "one hundred dollars in the said bills, for one dollar in specie," i.e., a penny on the dollar.[8]

Using history as the guide, one hundred billion dollars of Federal Reserve Note dollar debt would pay off at one billion dollars (gold-dollar rate [25.2 grains of gold 90%-fine, per dollar]).

Whether this discount rate is equally valid today or greater discounting would be needed depends on the applied asset/liability ratios. With the amount of debt acknowledged in 1790, next came providing for its payment. Excises were laid to pay the interest on the debt.

To pay the debt principal, the western unappropriated lands that had been deeded to the United States by the seven of the original 13 States that had them (Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina and Georgia) were subsequently sold into private hands.

The resolutions and legislative acts involving these lands prove their historical purpose.

Virginia was one of the seven States with unpopulated western lands stemming from its original colonial charter. Examining its actions are representative of the remainder.

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7. For more information regarding Continental Currency, please see the author's public domain book, *Monetary Laws* (Chapter 2) at:

www.PatriotCorps.org, www.FoundationForLiberty.org, www.Issuu.com/patriotcorps, or www.Scribd.com/matt_erickson_6.

8. I Stat. 138. Section 3.

In 1784, in accordance with three previous calls by the Second Continental Congress for the States with unapportioned western lands to deed them over to the United States, the Virginia legislature executed a Deed, which Congress (under the Confederation) recorded and enrolled among their Acts on March 1, 1784, reading, in part:[9-12]

> To all who shall see these presents, we Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, the underwritten delegates for the Commonwealth of Virginia, in the Congress of the United States of America, send greeting…
>
> And…we…by virtue of the power and authority committed to us by the act of the said general assembly of Virginia before recited, and in the name, and for and on behalf of the said Commonwealth, do by these presents convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said states, Virginia inclusive, all right, title and claim, as well of soil as of jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying and being to the northwest of the river Ohio, to and for the uses and purposes, and on the conditions of the said recited act.[13]

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9. September 6, 1780 resolution, Volume 17, *Journals of the Continental Congress*, Page 804 @ 807.

10. October 10, 1780 resolution. 18 *Journals* 914 @ 915

11. April 18, 1783 resolution. 24 *Journals* 256 @ 259.

12. Unimproved land, of its own accord, could fight no battles—thus, it would take the people of all the States to free those assets, too. The unused assets which took the effort of all the people of the Union to free should be for use for all the States, the theory went.

13. 26 *Journals* 109 @ 113 - 116.

The "uses and purposes" of the lands transferred were therein specified:

> The territory so ceded, shall be laid out and formed into…distinct republican states, and admitted members of the federal union; having the same rights of sovereignty, freedom and independence, as the other states.[14]

The "conditions of the said recited act," detailed within the Virginia legislation, included:

> That all the lands within the territory so ceded to the United States...shall be considered as a common fund for the use and benefit of such of the United States, as have become or shall become members of the confederation or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever.[15]

As stipulated by the Virginia deed and as accepted by the United States, the Virginian lands of the Territory Northwest of the River Ohio were to be used to serve as "a common fund for the use and benefit…of the United States."

The deeded area of land was to be "faithfully and bona fide *disposed of* for that purpose, *and for no other use or purpose whatsoever*."

The purpose of the lands deeded to the United States by Virginia (and the other landed States) was for debt reduction, pure and simple, and could *only* be used for that purpose.

The legislative Act of Congress of August 4, 1790, for the borrowing of money, was a critical Act for working out a structured plan for bringing current past-due obligations from the War of Independence.

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14. 26 *Journals* 114.

15. *Ibid.*, Page 115.

Section 22 of that 1790 Act stated that the "lands in the western territory, now belonging, or that may hereafter belong to the United States" would be used "towards sinking or discharging the debts" of the United States "*and shall be applied solely to that use until the said debts shall be fully satisfied.*"[16]

This historical precedent shows that the western public lands owned in trust by the U.S. Government today should likewise be used to reduce the principal of the debt (and perhaps to meet the liability of Social Security and Medicare until alternate [fully-funded] private or State systems can be implemented).

The central and eastern States of the Union today have as little as one-half of one percent federal (Article I, Section 8, Clause 17) lands within their borders, in proper conformance with sound historical principles above-quoted.[17]

However, the western "public land" States, such as Arizona (45% federal); Oregon (52%); Utah (64%); Alaska (67%); and Nevada (83%) cannot have "the same rights of sovereignty, freedom and independence, as the other States," if the federal government owns and controls such huge proportions of land.[18]

The Union of States does not allow multi-tiered members, some of the first class and others relegated to a distant second-class status. To have the same rights of *sovereignty, freedom and independence* "as the other States," the western States cannot have large percentages of federal lands held off their tax rolls and unavailable for private purchase or use.

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16. I Stat. 144, Section 22. Italics added.

17. New York, 0.4%; Rhode Island, 0.6%; Massachusetts, 1.5%; Delaware, 2.1%; Pennsylvania, 2.3%; Maryland 3.1%, etc.

Public Land Statistics, 2013. Bureau of Land Management.

18. *Ibid.*

It must be noted that western "public lands" are *not* Article I, Section 8, Clause 17 properties (all States of the Union have a small amount of exclusive legislative properties otherwise within their borders).

When a trustee converts the property or money he holds in trust for the trust's beneficiaries instead over to his or her own private use, the trustee breaks his fiduciary responsibilities and commits a crime.

Keeping public lands under the continuous ownership and perpetual control of Congress and the Government of the United States similarly violates the fiduciary obligations to their beneficiaries—the several States of the Union.[19]

Selling the federal public lands of the western States into private hands for federal debt reduction follows the established precedent to restore fiscally responsible government and pay its rightful obligations.

Undoubtedly, financiers and real estate moguls (to say nothing about numerous individual homeowners) would rather see anything than a huge influx of land no longer artificially held off-limits to use and development. After all, basic principles of economics say an increased supply (or lowered demand) will press down values. And, if there is anything existing property owners don't like, it is falling real estate prices leading to a loss of equity and difficulty selling at ever-escalating prices.

When any prolonged subsidy is removed—freeing the marketplace to market conditions which should have always existed—those previously-subsidized scream the loudest when that improper subsidy is removed.

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19. Article I, Section 8, Clause 17 cessions of land from existing States are wholly different from lands deeded for debt reduction and admission of new States [see also Article IV, Section 3, Clauses 1 & 2 of the U.S. Constitution]).

Article I, Section 8, Clause 17 properties *are actually* the only properties allowed for permanent federal ownership and control. These Clause 17 properties are *not* part of the government's fiduciary trust properties that must be sold (although as needed to pay government debts, that is another matter entirely).

But, the perspective of existing landowners is not the only perspective that exists or that matters. There are millions upon millions of renters who want nothing more than their own piece of the American dream.

Just like the business perspective often leads not to the free market, but towards its opposite (of business owners striving to corner the market to be the sole supplier of scarce products for which their customers must grovel at their feet to obtain), so too should one look to the potential land *consumers* more than the existing *suppliers* to determine the best course of action to take.

The bottom line is that lowered land prices mean fewer 30-year indentures and greater land ownership. More land held by more people with less debt is ultimately a good thing.

Stable homes help build safe neighborhoods (which raise home values, not lower them).

And, in case any military-minded Patriots worry about how the Happily-Ever-After Amendment to *repeal* tyranny may affect forts, magazines, arsenals, dock-yards and other needful buildings (perhaps causing the Military undue hardship), a 1956 intergovernmental panel examined just such an issue.

Indeed, the lack of normal State services (marriage licenses, divorces, birth certificates, death certificates, school, fire, police, etc.) in large, exclusive legislative areas (other than in the District Seat, where Congress [early on] established a local government to provide local services therein) had caused extensive hardship throughout the country.

The panel talked at length to all the various federal agencies and departments, getting almost no resistance against eliminating (in principle) all exclusive legislative jurisdiction properties (outside and not counting the District of Columbia [since a local government structure providing local services there existed]) and returning them back to the States.

The Post Office Department, which owned a great many small properties for local post office buildings, was perhaps coolest to the idea, preferring the status quo, but admitting its concerns weren't great.

The Judge Advocate General of the Navy offered that: "there is no connection between the security of a base and the jurisdictional status of the site." [20]

The formal opinion of the Department of the Navy declared:

> …the jurisdictional status of the site of an installation is immaterial insofar as any effect it may have upon the security and military control over the property and personnel of a command are concerned.[21]

Besides, at the time of the study (1956), only 41% of the number and 20% by area of Army bases were housed on exclusive legislative jurisdiction properties. Only 36% of naval bases by number and 35% by acreages were housed on exclusive federal lands, and only 10% of Air Force bases were found also thereon (the remainder of bases were already located on State lands).

With 2.4 billion acres of land mass in the United States, it is wholly inappropriate that some 40,000 acres in the District of Columbia (roughly .001646%) would be allowed to continue to jeopardize the remainder. It is entirely proper that the 99.998354% of land mass that is the Union of States should set the standard, especially since governing those lands in a federal capacity was the explicit purpose for the Constitution.

The single clause of the Constitution that was meant to provide only for an unusual exception for an infinitesimal area of land cannot be

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20. *Jurisdiction Over Federal Areas Within The States, Report Of The Interdepartmental Committee For The Study Of Jurisdiction Over Federal Areas Within The States*. Part 1, Page 47. April, 1956. United States Government Printing Office, Washington: 1956. (KF 4625 A86).

21. *Ibid.*, Page 93.

allowed to continue to override and nullify the remainder of the Constitution, which established the firm rule meant for the whole and massive Union.

There is no danger today that the U.S. Government cannot maintain its legitimate power against any State where federal buildings or personnel may be found, such as there was at the establishment of the Constitution.[22]

The Federal government may continue to own lands even after repeal of Clause 17, but it would only govern them under its limited capacity for the whole Union (no longer ever "exclusively" [the States exercising governing powers on all State issues, even on lands owned by the U.S. Government]).

If America continues instead on her present course, she will soon be devastated by an economic and moral implosion, by design.

Proponents of omnipotent government seek to destroy the Constitution founded upon individual liberty and limited government. They want everyone, from every political persuasion, to agree that the U.S. Constitution is obsolete, useless, and powerless.

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22. Indeed, the primary stimulus for Article I, Section 8, Clause 17 seems to have been a 1783 historical "incident" where approximately 70 mutinous members of the Continental Army from Lancaster, Pennsylvania, marched on Congress in Philadelphia after the conclusion of the Revolutionary War seeking payment of past-due back pay, swelling in number to approximately 400 soldiers by the time of their arrival at Philadelphia.

After a few days of growing tension, the Second Continental Congress finally fled to Princeton, New Jersey (after Pennsylvania officials refused to provide protection), even though the rebellious soldiers didn't actually do anything more than otherwise intimidate a few overly-worrisome members of Congress.

Vol. 24, *Journals of the Continental Congress*, Page 410. June 21, 1783.

www.memory.loc.gov/ammem/amlaw/lawhome.html

That is because the Constitution, properly understood, prevents their absolute rule and, properly enforced as herein detailed, *ends their charade*.

Thus, to them, their only enemies are the Constitution and truth. Tyrants seek to destroy the former and hide the latter.

But, the Constitution cannot be scrapped until We The People demand it. Thus, one realizes the purpose of the intentional, generation's-long program to bring ruin to the American way of life.

The key to fighting tyrants is to know their vulnerability—meaning understanding their conniving and contemptible method used to gain unprecedented power so one may adequately expose their fraud. Deception, fear and intimidation are their tools of trade.

Get even. Educate yourself and talk to everyone you meet. Spread the word. If it is within your means and ability, help expose the deception to the bright light of day.

Talk to friends. Write a blog. Post information on social media. Start a new organization. Join an existing organization and make sure it proceeds forward on the right track. Call radio talk shows. Pen a letter to the editor of your local newspaper. Write a book. Take the information in *Waging War without Congress First Declaring It* and come up with a new title and place your name as the author (M.S. Word file at the www.PatriotCorps.org website), improving upon it if you are able (especially by simplifying the information). Post a sign. Put up a billboard. Charter the Goodyear Blimp. Be as creative as possible and spread the message far and wide.

The Patriot Corps and the Foundation For Liberty are here to help with shared efforts, if you care to join in theirs, but if you prefer to go forward on you own or with your own organization, go for it (multiple fronts pursuing the same ends a little differently are hardly a bad thing).

www.PatriotCorps.org

www.FoundationForLiberty.org

God Bless America; Land of the Free, Because of the Brave.

Appendix A: Gulf of Tonkin Resolution

Joint Resolution

To promote the maintenance of international peace and security in southeast Asia.

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any

member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated early by concurrent resolution of the Congress.

Approved August 10, 1964.

78 Stat. 384.

Appendix B: War Powers Resolution

Major points of the **War Powers Resolution** of November 7, 1973 include the following:

…

Section 2.

…

(c) The constitutional powers of the President as Commander in Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to

(1) a declaration of war,

(2) specific statutory authorization, or

(3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces…

SEC. 4.

(a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation; the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, -in writing, setting forth-

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

Section 5…

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a) (1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces…

87 Stat. 555.

Appendix C: Authorization for Use of Military Force

Joint Resolution

To authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States.

Whereas, on September 11, 2001, acts of treacherous violence were committed against the United States and its citizens; and

Whereas, such acts render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens both at home and abroad; and

Whereas, in light of the threat to the national security and foreign policy of the United States posed by these grave acts of violence; and

Whereas, such acts continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States; and

Whereas, the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the ''Authorization for Use of Military Force''.

SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) IN GENERAL.—That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored

such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

(b) WAR POWERS RESOLUTION REQUIREMENTS.—

(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

Approved September 18, 2001.

115 Stat. 22

About the Author:

Matt Erickson, past-proprietor of several failed businesses, is an office clerk. He lives in Quincy, Washington with his wife, Pam. He has two step-children and eight grandchildren.

Erickson is the founder and president of the Patriot Corps and the Foundation For Liberty, the latter of which is an IRS 501(c)(3) non-profit, tax-exempt charitable organization.

History readily proves there is sufficient evil in the world to make it essential for the United States of America to have a strong and capable military to provide for the common defense.

Not surprisingly, the U.S. Constitution enumerates extensive war powers—including the power of Congress "To declare War" and the power of the President as "Commander in Chief of the Army and Navy of the United States..." to wage it.

Yet, the United States' last declared war was World War II (1941-1945), hardly America's last prolonged military conflict.

No formal declarations of war were ever declared for any of the later so-called "wars" of Korea (1950-1953), Vietnam (1964-1973), Iraq (off and mostly on since 1990) or Afghanistan (2001-present), or any number of smaller incursions in-between.

With 100,000 American combat deaths from these non-declared wars and over $5 trillion (present-day dollar value) borrowed to fund them, the United States' odd affair with undeclared wars continues to plague us.

Whether the President cites authority under the U.N. Charter instead of the U.S. Constitution (like President Harry S. Truman, when sending troops into Korea) or points to open-ended military discretion given by Congress (like President Lyndon B. Johnson, when sending in troops into Vietnam), the Constitution is effectively bypassed when members of Congress allow the President the discretion to decide when to commit troops to long-term battle.

Waging War without Congress First Declaring It examines the peculiar phenomenon of American Presidents repeatedly engaging in protracted armed conflicts without Congress first declaring war.