# TWO HUNDRED YEARS OF TYRANNY

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# *Two Hundred Years of Tyranny*

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To my loving wife, Pam; for all her love and support and in memory of my late parents, Vinton and Helen Erickson, of Vancouver, Washington.


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*Two Hundred Years of Tyranny*

## INTRODUCTION

March 3, 2021 marked the 200th anniversary of the dreadful U.S. Supreme Court opinion, *Cohens v. Virginia*, that firmly set America's fate on a collision course with tyranny and secured the growth of a budding Administrative State.

On March 3, 1821, Chief Justice John Marshall wrote the often-overlooked (if not obscure) decision, that drove the final group of nails in the limited-government coffin, that he had begun securing with his earlier, well-known opinions, 1803 *Marbury v. Madison* and 1819 *McCulloch v. Maryland*.

Together, these three court cases firmly set the federal government upon a divergent path away from the limited-government model the Framers had established, towards the all-powerful model that Alexander Hamilton had sought at the Constitutional Convention of 1787, but didn't get.

It was at the convention, on June 18th, after all, that Hamilton had outlined his preference for what can most-politely be called a strong central government of inherent discretion, more accurately described as the tyranny and absolute despotism, of which our Declaration of Independence complained.

Hamilton's primary political platform sought to establish the express power for members of Congress to be able "to pass all laws whatsoever," subject only "to the Negative hereafter mentioned."[1]

As if Hamilton's first plank (of being able to do anything and everything, except only those things expressly prohibited) weren't enough, his second was to "extinguish" or "abolish" the States

1. https://consource.org/document/james-madisons-notes-of-the-constitutional-convention-1787-6-18

themselves, although he later admitted to the necessity of leaving them in a "subordinate jurisdiction," wholly under the thumb of the national government.[2]

Finally, the third major plank of Hamilton's 1787 Totalitarian Manifesto, to establish his preferred, all-consuming, omnipotent central government, lay in giving U.S. Senators and American Presidents their respective positions "for life" (or, failing that, "at least during good-behaviour").[3]

Thankfully, the remaining delegates at the convention ignored his oppression-oriented recommendations and instead went on to intentionally create a limited federal government of named powers, that could be exercised throughout the Union, using only necessary and proper means for carrying them out.

While it is important to note that while Hamilton did *not* get his preferred omnipotent form of government for direct exercise throughout our whole Republic of States, it is nevertheless critical to realize that *he did get it*, for the District Seat.

And, that seemingly-small allowance was the first critical piece of the all-powerful-government puzzle that Hamilton would need to transform, in time, the limited federal government that the Framers instituted, to his personal preference we face today.

This first part of Hamilton's devious, two-part "loophole" mechanism for rectifying his convention loss, necessarily relies upon the inherent power the Framers allowed Congress for the District Seat.

The second critical component simply extends that unlimited power that is otherwise readily allowed in the District of Columbia, far beyond its rightful confines, to infect the remainder of the country.

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2. *Ibid.*

3. *Ibid.*

While Hamilton is the chief architect of this one-two knockout punch, it was John Marshall as the Chief Justice who really got the ball rolling, once he got a majority of the Supreme Court to buy off on Hamilton's devilish plans.

And, in the end, all it really took was a single sentence in *Cohens,* that first stated the obvious and then provided the Court's resulting conclusion, stating, in full, that:

> "The clause which gives exclusive jurisdiction is, unquestionably, a part of the Constitution, *and, as such, binds all the United States.*"[4]

And, with those 21 simple words, the die was sufficiently cast to bring about the odd phenomenon we witness today, of federal servants now appearing to be our political masters.

The conclusion (the last five words of the cited quote, above) in *Cohens* simply carries out the precise words and legal principle of Article VI, Clause 2, that says "This Constitution….is the supreme Law of the Land" (and thus, "the Judges in every State *shall be bound thereby").* Because no words in the Constitution specifically exclude Clause 17 from inclusion, then Marshall and the Court held that even said Clause 17 is part of the supreme Law of the Land that binds the States through their judges.[5]

And, that simple ruling, progressively carried out in case after case for over two hundred years, has brought us today where it otherwise appears that the spirit of the Constitution is dead and that federal servants may rule untouchably from on high, falsely appearing as our political masters.

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4. *Cohens v. Virginia,* 19 U.S. 264 @ 424 (1821). Italics added.

5. Since there is only one section (of one article) with 17 clauses in the Constitution—Article I, Section 8, Clause 17—for sake of brevity, it will be hereafter referred to as "Clause 17" in this book.

As explained in the remainder of this short book, this simple conclusion creates a clever constitutional-bypass mechanism, to extend the inherent authority allowed in the District Seat, far beyond its limited confines, which are otherwise primarily restricted to a ten-miles-square domain.[6]

Never mind the Constitution's spirit, Marshall implied, for if the spirit and letter of the Constitution oppose one another, the letter necessarily wins. And, the current letter of the Constitution gives no exemption whatsoever to negate the principle that the whole Constitution—every clause—is part of the supreme Law of the Land that binds the States through their judges.

Thus, this simple statement and conclusion in an 1821 Supreme Court case was the final cog in the totalitarian wheel needed for the federal government to grow beyond recognition, over the intervening two centuries.

The expansion grew slowly at first, to prevent proponents of limited-government from easily discovering what actually lay at the foundation of the inherent discretion allowed in the District Seat instead now being exercised throughout the land. After all, what may be accurately diagnosed, may often be corrected. And, in this case, we need only expose this constructive fraud to the bright light of day and take a few relatively minor steps and we may fully resolve it, *permanently*.

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6. It is noteworthy to mention that *Cohens* purposefully does not delve into the very limited extent to which Clause 17-based laws may actually "bind" the States (the inherent weakness of Hamilton's position, which is thus largely bluff).

By being ultra-precise one moment, only to go to the opposite extreme (ultra-general) the next, Hamilton and Marshall were able to create a clever loophole, to extend the unlimited authority allowed in the District Seat, throughout the country. Equally as clever, they avoided discussing the very limited nature to which the States may actually be bound, instead implying the States may be bound without limits, which is what it turns out to be, when no one challenges it.

No person who exercises but delegated federal powers, after all, may ever change the Constitution or increase their powers, for direct exercise, throughout the Union. Their sworn oaths verify their subservience to the Constitution they swear to support.

Article V of the U.S. Constitution also provides conclusive proof that changes to the Constitution can only be accomplished by three-fourths of the States ratifying formal amendments.

All other "changes" are but an illusion, waiting to be swept away with a return of sanity, after understanding how court rulings, congressional Acts, Presidential dictates and bureaucratic red tape falsely appear as the supreme Law, even when far in excess of the remaining enumerated powers.

All that we view politically today at the federal level that is contrary to the spirit of the Constitution is necessarily but a subsequent symptom of this single problem, of members of Congress and federal officials having worked out a devious way to bypass their normal constitutional constraints, with impunity.

Members of Congress and federal officials may currently bypass their constitutional constraints, with impunity, only by extending the inherent power allowed them in the District Seat, beyond the District's borders. Judges needed only to hold that Article VI has no express words that exempt Clause 17 from being part of the supreme Law of the Land that binds the States.

Foolishly, conservatives have been led far away from this vital truth that lays at the base of omnipotent government action. Instead, patriots have listened to the absurd lie that federal servants have the magical power to change the meaning of words found in the Constitution, to give themselves new powers, for direct exercise throughout the Republic. In actuality, servants may only take words found in the Constitution, and give them new meaning, *only for the District of Columbia*, where they may and even must make up all their own rules, as they go along.

*Two Hundred Years of Tyranny* discusses the two critical factors in Hamilton's Constitution-bypass strategy, in-depth and individually.

Part One of this book concentrates on the inherent power of the District Seat—under Article I, Section 8, Clause 17—to explain it fully, so readers may understand its resulting implications, that necessarily lay at the foundation of unlimited federal power cleverly extended throughout the land.

Part Two next concentrates on the curious mechanism Hamilton devised and Marshall fully implemented to extend this peculiar power of Clause 17 far beyond its proper boundaries.

Part Three lastly offers two alternate cures, to throw off all that is beyond the spirit of the Constitution, by changing the letter of the Constitution through one of two simple amendments.

Both cures bring the spirit and the letter of the Constitution back into permanent harmony, but by two different paths. Either would overturn *Cohens* and stop Hamilton's constitutional-bypass mechanism that currently exploits the contradiction between the Constitution's letter and spirit.

Either way, wayward federal powers would be either fully contained to D.C., or Clause 17 would be fully repealed. Either option would be game-over, for federal tyranny exercised throughout the land.

Americans must look under every rock to discover how we've been snookered, to figure out how our constitutional form of limited government of enumerated powers exercised using necessary and proper means was ever subverted by those who must yet swear an oath to support the Constitution.

*Two Hundred Years of Tyranny* is the rock under which Americans must look, to restore our American Republic. Please keep reading…(below, or at www.PatriotCorps.org).

## PART ONE

### Government Power—The Normal Case

American governments have but delegated powers.

"Rights"—at least as the Declaration of Independence and the U.S. Constitution understand the term—are, alternatively, unalienable rights given mankind by his Creator, as free gifts necessarily resulting from His gift of life.

The idea that man-made government could have "rights" that are inherent to it contradicts the American concept of limited government, of delegated powers. Unalienable rights belong only to individual people—human beings.

Part One of this book concentrates on thoroughly examining the highly-unusual exclusive legislation power, that is specifically enumerated in Article I, Section 8, Clause 17 of the U.S. Constitution.

This exclusive legislation power is wholly-different from all other powers listed in the U.S. Constitution, which explains the necessity of paying special attention to it.

The exclusive legislation power is, in fact, an opposing power, founded in tyranny, at the opposite end of the political spectrum of available government power as the remainder of enumerated federal powers. Exclusive legislation authority is the inherent ability to do all that members of Congress and federal officials desire, except those few things expressly prohibited them.

But, before beginning a thorough examination of this special authority, a brief look at the normal powers, from a very broad perspective, is helpful. One should understand at least the basic points of the normal case, before getting into the abnormal.

All of the normal federal powers, listed in the remainder of clauses of the U.S. Constitution (that are meant for regular and

direct exercise throughout the country), all trace their origin back to the ratification of the U.S. Constitution or the amendments.

The U.S. Constitution, after all, is the document that the several States created and ratified that ultimately *divided* available governing powers into the enumerated federal powers and reserved State powers.

The basic principle is that the U.S. Constitution is the compact approved by the States, which *divides* available governing authority into enumerated federal powers and reserved State powers. The full answer is that the U.S. Constitution also lists a few express prohibitions that the States agreed that they would no longer perform, which were not given to Congress or the U.S. Government, either (which means that these powers prohibited the States and never delegated to the federal government went back to the people at large, not given to any American government).

The later-ratified Tenth Amendment expressly confirms that the powers not enumerated in the Constitution, nor prohibited the States, were reserved to the States or the people.

Since the normal federal powers rest directly upon the U.S. Constitution, one may understand the importance of studying it.

Except, as the years and decades pass, there seems to be a growing amount of evidence asserting that the inviolable rules of the Constitution no longer seemingly apply, even as the Constitution is the supreme Law of the Land. But, nothing trumps the Constitution, except, of course, the States individually acting in concert together, when they ratify constitutional amendments according to Article V, to change the Constitution.

This odd appearance of a contradiction between founding principles and everyday federal actions explains the express purpose of this book—to make sense of two hundred years of nonsense stemming from the 200-year-old *Cohens* case.

Indeed, that it appears today that members of Congress and federal officials may somehow subvert the Constitution they must yet swear to support, explains the necessity of examining false appearances to learn what is really going on beneath the surface.

This book seeks to shine the bright light of day on the underlying fallacy that supposedly allows federal servants to become our political masters. It is imperative that we accurately diagnose what we actually face, so we may finally cure it and restore law and liberty throughout the land.

## Government Power—The Abnormal Case

Article I, Section 8, Clause 17 of the U.S. Constitution discusses the highly-unusual power for the District Seat (which District, in time, became the District of Columbia). Clause 17 reads:

> "The 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 the 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."

To begin the important investigation into this highly-unusual clause, it is proper to start with the reason the Framers of the Constitution sought to create an exclusive-legislation federal seat in the first place.

Following the successful conclusion of the Revolutionary War, the States were largely broke. The war debts loomed heavy over the new States. The States were free, but they were deeply in debt.

Vendors supplying the war effort went unpaid. The loans taken out by Congress were delinquent. And, while the soldiers had been sent home, they hadn't been paid, for a long time.

In June of 1783, a small group of ex-soldiers, from Lancaster, Pennsylvania, decided to march on the delegates of the Second Continental Congress who were meeting at the Pennsylvania State House (Independence Hall) in Philadelphia, to demand the back-pay they were owed. By the time the group reached Philadelphia, the number had swelled to approximately 400 men.

The so-called Pennsylvania (or Philadelphia) Mutiny intimidated Congress, even as the men did not turn violent.

Congress appealed to the Supreme Executive Council of Pennsylvania for protection, but the council refused to call out the State militia (perhaps fearing their militia would simply join the mutineers [as many were owed backpay as former soldiers]).

After a few days of intimidation, Congress fled, in humiliation, to Princeton, New Jersey, cowering in shame.

At the Constitutional Convention of 1787, James Madison proposed, on August 11th, an exclusive federal city ("a central place for the seat of Gov't").[7,8] On August 18th, he expounded further upon the need for creating an exclusive federal city, wholly under the exclusive authority of Congress.[9]

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7. https://nhccs.org/dfc-0811.txt

8. On May 29th, Charles Pinckney, of South Carolina, submitted his plan for the federal government, which was referred to the Committee of the Whole appointed to consider the state of American Union (along with the plan, of Edmund Randolph, of Virginia).

Point 11 of Pinckney's 25-point plan outlined a call for "exclusive powers" of the Senate and House of Delegates, in Congress assembled.

9. https://nhccs.org/dfc-0818.txt

The ultimate outcome of Madison's recommendation for the weak federal government to be able to protect itself without being at the mercy of any single State is today known as Article I, Section 8, Clause 17 of the U.S. Constitution.

This unique clause empowers Congress to be able to exercise what otherwise amounts to local legislative powers, powers like those that are elsewhere exercised by States.

With the unique federal city being created out of cessions by particular States, no State would remain empowered within the District Seat to enact local legislation therein needed, as the States normally enact elsewhere. Since someone must yet provide these powers, the U.S. Constitution vests them in Congress.[10]

The whole purpose of the District Seat, after all, was to establish a unique federal area, *free from State authority and control,* so the federal government could protect itself. It is no coincidence that today—laying at the base of invalid federal issues—are federal powers capable of being operated wholly independent of the States.

There are several major differences, that make Clause 17 unique and even opposite than all other clauses found in the Constitution.

It is imperative to understand these differences, to begin to understand just how special is this power, that allows members of Congress and federal officials an alternate source of authority to exercise, that has nothing to do with the remainder of the U.S. Constitution.

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10. Ignore, as irrelevant, any delegation that members of Congress may give to a purely local government (such as a mayor and city council), because the U.S. Constitution directly vests these exclusive legislation powers in Congress. Thus, the "buck" thus always starts and stops with Congress.

## First Major Difference of Clause 17

The first major difference of this clause is the unique power itself—note the specific words that "Congress shall have Power… To exercise *exclusive* Legislation, in all Cases whatsoever."

This phrase shows that the power to exercise legislation in the District Seat is found *exclusively* in Congress, and not only in the *occasional* case, but "*in all Cases whatsoever*."

In every case that may come up in the District Seat, members of Congress may exercise legislation, *exclusively*. No State has any authority with the District of Columbia, ever.

It is vital to realize the necessary implications of this unique situation. For Congress to be able to exercise *exclusive* legislation, in all Cases whatsoever, means that in the District Seat, *all governing powers have been here united in Congress*.

This is important, because in the normal case, regarding all other clauses enumerated in the Constitution, the governing powers were *divided* by ratification of the U.S. Constitution into enumerated federal powers and reserved State powers.

But, here, Clause 17 discusses a *special* place which *accumulates* all governing powers, *in Congress and the U.S. Government*. And, this difference, begins to explain the extraordinary circumstances involving Clause 17, that will be discussed in depth throughout this book.

## Second Major Difference of Clause 17

The second major difference is the peculiar and unique way this special power was actually transferred to Congress.

Before getting into this abnormal case for transferring governing powers, it is again appropriate to cover first the normal [transfer] process.

The Congress and U.S. Government, after all, have no inherent powers for exercise throughout the country. All their

powers for exercise throughout the Union came from the States' individual ratifications of the U.S. Constitution, i.e., from the enumerated powers that the States gave up, to members of Congress and federal officials, that are found listed in the U.S. Constitution and amendments which the States ratified.

In the normal Article VII ratification process, *all* the States of the Union ratified the U.S. Constitution, on their own timetable, as Article VII shows, by its words:

> "The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution, between the States so ratifying the Same."

While it took the ratifications of nine State ratifying conventions before the Constitution could take effect, the words "between the States so ratifying the Same" acknowledges that no State could ever be bound by the U.S. Constitution, but by its own decision. In other words, no State could ever be initially forced to give up a portion of its own sovereignty and give express governing powers over to Congress and the U.S. Government.

Only when an individual State voluntarily ratified the U.S. Constitution did it give up the powers listed therein and by that ratification transfer the listed powers to Congress and the U.S. Government (and the State thereafter otherwise barred from exercising those same powers).

New Hampshire was the ninth State to ratify the U.S. Constitution, on June 21, 1788. With that trigger, the States which had been meeting under the earlier Articles of Confederation set aside a date the following March (1789) to begin meeting under the U.S. Constitution.

By the time the appointed date rolled around, two more States had ratified the Constitution, bringing the ratification total to 11 States. The following March, those 11 States began meeting together and began establishing government under the powers and principles of the U.S. Constitution.

It was not until November 21, 1789 that North Carolina as the 12th State ratified the U.S. Constitution. Only thereafter did North Carolina choose its U.S. Representatives and U.S. Senators, and begin sending them to meet in Congress to help craft federal laws.

And, it wasn't until May 29, 1790 that Rhode Island, as the last of the 13 original States, ratified the U.S. Constitution and soon began meeting in Congress.

These last two States—prior to their individual ratifications—were, in effect and in deed, independent nation-States. Therefore, none of the new laws of the United States enacted by the first 11 States had any effect in those two independent nations, and trade between them involved import duties as with other foreign nations.

Besides the original powers transferred to Congress and the U.S. Government, by ratification of the U.S. Constitution, there is also an amendment process, described in Article V, for changing the allowed federal powers, as needs arise, over time.

Article V specifies that to change the Constitution (and thus change federal powers), that at least *three-fourths* of the States existing at the time of ratification must ratify formal amendments (that had been proposed by two thirds of each House of Congress or proposed by two-thirds of the States, in a separate convention for proposing amendments).

There have only been 27 amendments ratified to date (which are binding upon all of the States of the Union [even those States that didn't themselves individually ratify the proposed amendment]).

With the normal transfer of powers mechanisms described by the Article VII ratification and Article V amendment processes, it is now appropriate to examine the unique transfer process described in Article I (in Section 8, Clause 17, specifically).

Clause 17 enumerates a special, *alternate* power transfer mechanism, otherwise outside of both the ratification or amendment processes.

The Clause 17 mechanism is otherwise *outside* of the normal ratification process—even as Clause 17 was part of the originally-ratified Constitution—to the extent that ratification of the whole Constitution did not by itself directly transfer any of the unique powers actually delineated in Clause 17.

Ratifying the whole Constitution merely allowed the individual States of the Union to approve of and buy off also on the specified process that Clause 17 allows for a *later transferring* of special powers.

In other words, ratification of the Constitution merely *pulled back* the hammer on these special powers. It wasn't until later actions were specifically performed to *pull the trigger* that members of Congress actually had new powers to implement.

By itself, Clause 17 is therefore a *conditional* clause, properly *dormant* until specifically activated.

It takes later, specific actions to make Clause 17 fully operational (once the specified conditions were met).

And, the wording of Clause 17 specifies the unique actions that it would later take to give members of Congress their new power—the words "by Cession of particular States, and the Acceptance of Congress…"

The first major difference in the power transfer mechanism described in Clause 17 can be understood by recalling that ratification of the whole Constitution in Article VII took the action of *every* State (to bring that State into the Union of States, dividing governing powers into delegated federal authority and reserved State authority).

Then, at least *three-fourths* of the States ratified the amendments that are now operational and binding upon all the States, as detailed by the Article V amendment process.

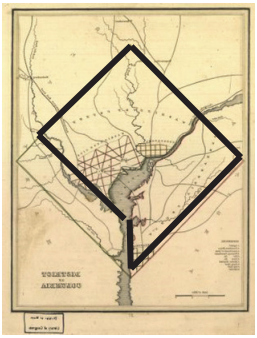
But, Clause 17 transfers of special power occur by a simple two-fold process, beginning with the action of a *single* State—of a "particular" State—in the offer to give up governing control over a specific parcel of land for a particular use. And, the second part of that process is merely "the Acceptance of Congress."

It is imperative to understand that a *single* State transfers the exclusive legislation powers that are discussed in Clause 17. The specific wording found in the clause expressly points to cession "of *particular* States."

While Clause 17 is worded in the plural form—"particular *States*"—please realize that this was worded so that *multiple* States could individually cede respective parcels of land to create *one* federal District, for instance.

Because, of course, only *one* State ever governs any particular parcel of ground at any one time. Only the particular State governing a particular parcel of ground may ever give up governing power over that parcel, and transfer the local governing authority that exists over the parcel, to Congress and the U.S. Government.

Maryland and Virginia ended up being the particular States that later ceded individual parcels of land, that together would make up *one* new federal parcel for the District Seat, that could not exceed ten miles square overall (ten-miles-square is ten miles-by-ten miles, or 100 square miles [some 64,000 acres of land]).



It should be noted, however, that Virginia's parcel of land—Alexandria (south and west of the Potomac River)—ceded in 1791 to Congress for the District Seat, was retroceded back to that State in 1846, because it wasn't needed. Today, only the former lands of Maryland north and east of the Potomac make up the District of Columbia.

This transfer of unique power thus involves a particular State "throwing the ball" at Congress, so to speak—*offering* to cede a particular parcel, for a particular use. Once members of Congress "catch the ball," and approve of the cession, the power is transferred.

The process for ceding lands in particular States for exclusive-legislation-area "Forts, Magazines, Arsenals, dock-Yard and other needful Buildings" follow the same cession process as does the District Seat, in the affected States and Congress. While the forts, magazines, arsenals and dockyards are self-explanatory, the "other needful Buildings" phrase isn't necessarily, and most often refers to Post Offices and federal court houses.[11]

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11. Please note that only about one-third of army and naval bases, and one-tenth of Air Force bases, are found on exclusive legislation grounds (the federal government in other instances is just the landowner, with the respective States still maintaining local governing authority over these military lands).

The process described above for transferring the exclusive legislation power under Clause 17 is wholly different from the Article VII ratification process and also from the Article V amendment process. Ratification of the original Constitution necessarily took individual action by all the States of the Union and ratification of individual amendments necessarily involves affirmative decisions in three-fourths of the States (yet binding affecting all of the States).

Article I cessions, however, only involve *single* States—*particular* States.

When a State ratified the U.S. Constitution originally, it transferred only the specific governing powers that were enumerated in the Constitution, over to Congress and the U.S. Government.

When three-fourths of the States ratified formally-proposed amendments, all of the States transferred only the specific powers therein discussed within the proposed amendment (or pulled back the specific powers, as the case may be).

But, when exclusive legislation powers are ceded by a particular State, *the State's entire governing authority* over the particular parcel of ground gets ceded or transferred to Congress and the U.S. Government.

And, that fundamental and even opposing difference—of the State *fully divesting itself from all remaining governing authority over the specific tract of land being ceded* under Clause 17 purposes—has significant ramifications that extend to every matter Americans witness today, in evidence of federal tyranny.

Because of that essential importance, it is necessary, before moving on, to prove that a ceding State wholly divests itself from all remaining governing authority over the tract of land it cedes via said Clause 17.

The first proof is the constitutional requirement itself, found in said Clause 17 itself, that details that "Congress shall have Power…To exercise *exclusive* Legislation in all Cases whatsoever."

Should there be a case where the ceding State could later exercise governing authority in the District, then Congress would not have "exclusive" power to legislate "in all Cases whatsoever," as the Constitution mandates for the District Seat.

The cession Acts of the ceding States additionally prove the complete cession of power in the case for the District Seat, without reservations of any remaining State authority lingering past the cession, whatsoever.

For instance, in its December 19, 1791 cession Act, the Maryland State legislature:

> "forever ceded and relinquished to the Congress and Government of the United States [the lands of Columbia] in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon."[12]

By these words, Maryland's cession Act ceded parcels of land and the legal jurisdiction over all persons and property therein, to Congress and the U.S. Government (subject to claims of private property owners, under eminent domain, if need be).[13]

The Maryland cession Act also detailed:

> "the jurisdiction of the laws of this state, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress shall by law provide for the government thereof ."[12] (again)

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12. Archives of Maryland, Volume 0204, Page 0572 - Laws of Maryland 1785-1791 (@ Chapter XLV, Section II [Page 573]).

13. https://founders.archives.gov/?q=stoddart%20&r=12&s=1111311113&sr=

These words confirm that Maryland's law would "cease and determine" (stop and terminate) once Congress accepted the land as the permanent federal seat and began to govern the area (which acceptance was scheduled in 1790, for the first Monday in December, 1800 [after the lands were platted, roads built and buildings constructed, and government began in the District]).[14]

Understanding the Article VII ratification and Article V amendment processes more fully helps explain the fundamental differences as compared with Article I cessions.

Once the States ratified the U.S. Constitution under Article VII, the enumerated powers therein delineated for exercise throughout the country were withdrawn from State authority, and given over to members of Congress and federal officials.

And, likewise, later increases to federal powers by and under the amendment process, also necessarily come out of the powers the States had otherwise earlier reserved to themselves, after they had ratified the original portion of the Constitution (and after any earlier-ratified amendments).

Again, it is critical to realize that both the original ratification of the Constitution and all later-ratified amendments, both transfer only named powers, from the States, to the federal government (while realizing that amendments may also pull back federal powers that were earlier given).

But, the cessions of exclusive legislative jurisdiction are completely different. Not only do Article I cessions transfer *all remaining State authority* over to the federal government, Article I cessions actually transfer *the ability to govern*, in the first place, going back to a sovereign level (where the power to govern rests).

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14. See: Volume 1, Statutes at Large, Page 130. July 16, 1790 & also see; 2 Stat. 103. February 27, 1801.

Virginia's cession Act was structured the same, with the same result.

While the first portion of Clause 17 allows cession of lands and governing authority by particular States *for the District Seat*, the second portion of Clause 17 allows for cessions of "like Authority" for *forts, magazines, arsenals, dockyards and other needful buildings*.

It should be mentioned that it was common in these secondary instances, for ceding States to hold unto themselves the express power to serve legal process in the ceded area, even after cession and acceptance (allowing the State to serve summons, etc., in otherwise exclusive legislation jurisdiction forts, magazines, arsenals, dockyards and other needful buildings).

Even with this explicit reservation of a named power, however, one must realize this is yet *opposite* of the transfers of governing power in normal ratification or subsequent amendment processes (that *transfer* the named powers and *reserve* all others).

In Article I cessions involving forts, magazines, arsenals, dockyards and other needful buildings, only the explicitly-*reserved* powers are *kept* by the ceding State and all other powers are *given up* and *transferred* (in the Article I cessions for the District Seat, no powers were reserved).

Accordingly, Article I transfers of exclusive federal authority are fundamentally *opposite* the Article VII ratification and Article V amendment processes.

Article VII and Article V ratifications follow the normal template for a Republican Form of Government—of enumerated powers that may be exercised using necessary and proper means. Article I cessions, however, allow the exercise of *inherent discretion* for members of Congress as they see fit, except as the Constitution otherwise prohibits them from acting.

And, by such actions, advances the progressive march of The Administrative State, that Congress may create or allow, in D.C.

Given the depth and breadth of ramifications involved in these Article I cessions, further examination into them is necessary.

The two major transfer mechanisms covered (Article VII and Article V ratifications as the primary transfer mechanism, and Article I cessions as the odd alternate), rest at opposing ends of a political spectrum.

Article I cessions of exclusive legislation authority are the complete abdication and withdrawal of governing authority (unless specific reservations were excluded), much like a treaty following the conclusion of war, where the losing party gives up all claims of any continued ability to govern thereafter in the disputed area).

Examination of the Paris Peace Treaty, ending the Revolutionary War, helps prove the similarities.

In the 1783 peace treaty, King George III, through his minister, explicitly stated that:

> "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.*"[15]

Importantly, the British king "relinquishes all claims to the government, propriety, and territorial rights" that he once had in and over the 13 former British colonies in North America, giving them up to the United States, severally.

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15. https://avalon.law.yale.edu/18th_century/paris.asp. Italics added.

The peace treaty does not read that the king simply gives his express governing powers to the United States, but that he gives up his claims and ability to exercise governing authority over said lands.

In the same manner as the original States aren't today bound by British-enacted laws or the (unwritten) British constitution, per se, members of Congress are not bound by Maryland's former legislative Acts or by the Maryland State Constitution. Federal servants have a clean slate of powers available for the District Seat.

Which brings forward additional implications. The U.S. Constitution has express prohibitions against "States," such as those found in Article I, Section 10.

When the U.S. Constitution places express prohibitions on "States"—keeping them from doing such things as coining money, emitting bills of credit (paper currency), or making anything besides gold and silver coin a tender in payment of debts—these express prohibitions *do not apply* in the District of Columbia, because the "District" is not a "State" and members of Congress are not State legislators.

While members of Congress may not emit bills of credit for the Republic under their enumerated power to coin money (because these are not necessary and proper means to enumerated ends [as correctly ruled by three U.S. Supreme Court opinions]), they may, however, do whatever isn't prohibited in the District Seat. Thus, members of Congress *break no express prohibitions and they do not violate any express constitutional principle* when they emit a paper currency under Clause 17 *for the District Seat*.

While members of Congress may not perform actions throughout the country beyond those enumerated, exercised using necessary and proper means, members *may nevertheless do whatever they want* in the District Seat, except those things expressly prohibited.

The differences in allowable government action, for the Union and District Seat, stand at opposing ends of the political spectrum.

The power available for exercise throughout the country—using necessary and proper means to pursue enumerated ends—is the most limited form of government on the planet.

However, the ability to exercise inherent government power in the District Seat, that need only avoid express prohibitions elsewhere listed, is the most oppressive in the known world.

Only one clause of one Constitution even discusses the available power for the District Seat and it expressly details that "Congress shall have Power…To exercise exclusive Legislation *in all Cases whatsoever."*

With the realization that the "District Seat" is NOT a "State" comes the realization that District residents are neither represented in Congress, because only "States" elect U.S. Representatives and U.S. Senators.[16]

That not even the most basic protections against tyranny—legislative representation—is secured in the District Seat, shows just how different is this exclusive legislation power, opposing even the fundamental nature of American government.

Indeed, the Declaration of Independence refers to legislative representation as "a right inestimable" to the American people (being so important, that its true estimation or worth cannot be determined) and all calls for its abolition are "formidable to tyrants only" (to seek to abolish representation is tyranny). Given the importance of this exclusive legislation power, it is necessary to examine it further, to understand just how extensive is its awe-inspiring power.

One must realize that members of Congress may not only make up the rules in the District Seat as they go, but they *must*

16. See Article I, Sections 2 and 3 of the U.S. Constitution.

make up the rules as they go along, for there are no other rules *anywhere to be found*.

Indeed, there are no operational parameters or even guidelines for the District Seat found in any State Constitution, State-like or District Constitution, that are applicable in the District Seat (for no local Constitution therein exists).

And, the U.S. Constitution only has one clause that specifically addresses the unusual powers therein allowed, and it specifically details that members may exercise exclusive legislation in all cases whatsoever.

Clause 17 is therefore like a magical [genie] lamp, but a lamp so powerful that it grants its master[s] unlimited wishes, rather than just three.

To prove this assertion, concentrate on the four-word phrase "in all Cases whatsoever."

The most persistent and careful student of early American history should perhaps recognize this phrase, because it is found, verbatim, in our Declaration of Independence.

But, it should strike readers as rather odd that the same phrase found in the Declaration of Independence (the document which pointed to the fundamental problem faced by the American colonists) is also found in the U.S. Constitution (that was ultimately crafted to help rectify the problem).

Numerous paragraphs in the middle of the Declaration begin with the phrase "He has…" These paragraphs list the various injuries and usurpations of the British king, to prove his tyranny and absolute despotism.

The 13th of these "He has" paragraph discusses British "Acts of pretended Legislation."

This 13th paragraph is itself broken up into nine sub-paragraphs, each beginning with the conjunction word, "*For*…" The last of those nine sub-paragraphs reads:

> "For suspending our own Legislatures, and declaring themselves invested with power to legislate for us *in all cases whatsoever*."

Since all nine of the sub-paragraphs refer to "Acts of pretended Legislation" imposed by the British King and Parliament, it is appropriate to examine applicable British legislation.

In 1765, Great Britain imposed upon her British colonies in North America, a Stamp Tax. This mild tax was imposed upon documents found in the American colonies—on property deeds, court documents, business invoices, bills of lading, newspapers, pamphlets, and even on dice and playing cards.

The imposition of this tax imposed upon the American colonists by British Parliament—where colonists were not represented—led to colonial uproar. Recall the colonial chant, "Taxation *without Representation."* Again, *representation* is *the* key feature of American government, even from its beginning.

Up to this point in time, the colonial legislatures (consisting of the colonists themselves) had imposed their own internal taxes for their own domestic issues, while legislation in British Parliament that affected the colonies predominantly dealt with external matters relating to war and external trade.

In response to this 1765 Stamp Tax, the American colonists wrote petitions, remonstrances, and protests, to the king and Parliament, that went summarily ignored.

Seeking to have their voices heard, the colonists did the only thing they figured out to do—they agreed with one another to support non-importation agreements—agreeing to refrain from purchasing specified goods imported from Great Britain.

As the goods exported from Great Britain in British merchant ships went unsold in the colonies, the heavily-impacted British merchants (who were represented in Parliament) found only unwilling buyers, so they began pressuring Parliament to back off, so that the colonists would resume their purchases.

By willingly suffering deprivation and learning to do without, the colonists found their leverage.

On March 18, 1766, Great Britain finally repealed the dreaded Stamp Act, but not without—on the same day—making a declaration of her own, for the American colonies.

The British Declaratory Act said:

> "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*."[17]

Here one finds the origin of the four-word phrase found in our Declaration of Independence and ultimately even our U.S. Constitution—*in all cases whatsoever*.

Britain's 1766 Declaratory Act references inherent power—"full power and authority"—to "bind" the American colonists, "*in all cases whatsoever*."[18]

South Carolina's 1776 State Constitution provides additional insight into this phrase, as its opening line speaks of Britain's claim to bind the American colonists "in all cases whatsoever," but adding "*without their consent and against their will*."[19]

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17. https://avalon.law.yale.edu/18th_century/declaratory_act_1766.asp Italics added.

Without the colonists' consent and even against their will, Great Britain specifically declared the overt power to *bind* the colonists, in all cases whatsoever.

Thus, these four words—*in all cases whatsoever*—found in our Declaration of Independence, ultimately summarize the *single* political problem the American colonists faced in the troublesome decade between 1766 and 1776.

If one thinks about it, one will realize that all other injuries and usurpations listed in the Declaration of Independence are but various symptoms of this single political problem. The American colonists faced *one* issue—government officials seeking to rule over them, absolutely, in all cases whatsoever.

The turbulent decade of 1766-1776 was the direct result of Great Britain proclaiming the absolute power to bind the American colonists without their consent and against their will, in all cases whatsoever, and then carrying out the totalitarian claim, in every instance presenting itself.

How this claim of absolute government dominion played out in any particular circumstance was ultimately immaterial.

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18. The extent to which law could "bind" people—as declared in Britain's 1766 Declaratory Act—must be understood.

The U.S. Constitution of 1787 uses the similar term—"bound"—*for indentured servants and slaves*. The Constitution refers to indentured servants as persons "bound" or held "to Service," while it referred to slaves as those persons bound or "held to…Labour."[18b]

That Britain's 1766 Declaratory Act specifically stated that the British government could "*bind* the colonies and people of America…" therefore shows that "bound" colonists would be legally equivalent to indentured servants and slaves, in the eyes of British government.

18b. See: Article I, Section 2, Clause 3 and Art. IV, Sect. 2, Cl. 3.

19. https://www.consource.org/document/constitution-of-south-carolina-1776-3-26/

Upon a deep examination, one discovers that today we face the same fight as our forefathers did at our nation's founding. The only difference is now this same absolute power is being waged against us by our own federal servants who have effectively become our political masters, by exploiting this unknown loophole without our knowledge. Tyrants still seek to bind us in all cases whatsoever, without our consent and against our will.

Federal servants have seized the same foul reins of absolute power, and they don't mean to let go, as long as they may hide what they are doing, so we won't be able to defend ourselves.

It is our job to tip the scales of justice and remove this option from tyrants, for we are not powerless, just like our forebears were not without the means and ability to throw off the tyrants who sought to rule over them.

Thankfully, today, however, we do not need bullets—only truth, adequately voiced. The overt war against this inherent power to act "in all cases whatsoever" over every square foot of American soil was already fought and won, two hundred and thirty-eight years ago.

Today, this unique power is directly allowed only in the District Seat and other exclusive federal areas used for forts, magazines, arsenals, dockyards and other needful buildings.

It has only been allowed to "escape" from these exclusive legislation grounds, because we weren't minding the fences, that long ago broke down due to our ignorance and neglect.

Today, we need only mend the fences or tear down the Clause 17 corral, completely.[20]

The only thing our current political "masters" fear is that we learn what we face politically, for once we understand it, we may

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20. See *Part Three* for recommended cures to restore our Republic.

take a few minor steps to resolve it, once and for all or happily-ever-after.

Indeed, Americans must realize that all government servants who exercise delegated federal powers, must already swear an oath (or give an affirmation) to support the Constitution (or work under a superior, who has already sworn that oath).[21]

Every elected member of Congress, every elected President and Vice President, and every appointed officer, must give their respective oath, directly acknowledging that they stand *inferior to the Constitution* they individually swear to support.

Nothing any member of Congress, any President, or any Supreme Court justice, or all of them combined, may ever do, or have ever done, now or at any time or all times in the past, may ever change the Constitution—their oath and the Article V amendment process prove it (only ratified amendments change the Constitution and only States ratify amendments).

Therefore, everything done beyond strict construction of the whole Constitution—since the founding of our Republic—*may thus be swept away, in one fell swoop*—once we understand what we face and respond appropriately!

But first, further study is necessary, to prove that assertion.

## Facially-Unconstitutional vs. Unconstitutional "As Applied" in a Particular Case

There are likely few patriots who haven't themselves already claimed, even hundreds or thousands of times, that various federal actions which appear to exceed the enumerated powers of the Constitution, are "unconstitutional," even after the court has approved them.

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21. Except the President, of course, who must take his own special oath, to "preserve, protect and defend" the Constitution, and to "faithfully execute the Office of President of the United States."

Almost always, however, such claims are wrong. And, thus explains the absolute impotence of making claims of unconstitutional government behavior.

Indeed, if federal servants may successfully do what patriots assert they cannot, then surely the former must be omnipotent. But, of course, they are not omnipotent, and cannot be, for the Republic, at least—explaining our need to diagnose their spectacular means of success.

In other words, conservatives cannot continue to do in the future what has failed us in the past.

Instead of simply crying "foul," we must *show how the scoundrels succeed*, when we know they should fail. And, that is a wholly different strategy.

Our job is thus that of a heckler in the audience of a magician who claims magical powers. Patriots need to point out the hidden trap door, the barely-visible cable, the unseen access panel, and the false bottom, that the "magician" uses to support the illusion that he has magical power, *when he doesn't*.

When a patriot asserts some federal action is "unconstitutional" but he or she doesn't differentiate it further—then, by default, the patriot asserts that a given action is "facially" unconstitutional (that a given action is unconstitutional, on its face, in every instance, without exception).

To prove this claim, the claimant must show that federal officials or members of Congress may *never* perform the specified action, even in one case.

But, given the inherent power that members of Congress may exercise under Clause 17 of the U.S. Constitution, readers should realize just how difficult it would be to prove a facially-unconstitutional claim (that federal servants may *never* perform X, Y or Z actions, even in the District Seat, where they may do anything and everything, except as they are expressly prohibited).

Instead, in the era of unbridled Clause 17 actions, an alternate claim is the far better approach—that a given federal action is unconstitutional "as applied" to the particular case being discussed, given a particular set of facts.

This "as-applied" claim of unconstitutional government behavior may readily acknowledge that a given action may be allowed in one instance, or even in several instances, but not necessarily in the case before the court. As long as the government isn't operating in one of those allowed instances, then the individual may more-easily prove that government officials are acting beyond the scope of their authority, in the particular situation covered by a particular court case.

When members of Congress and federal officials may do anything and everything under Clause 17, except what is expressly prohibited, a claimant will only be able to successfully uphold a facial claim in one of those rare instances that are named and specifically prohibited.

When saying that federal servants may do anything under the District Seat power except as it is specifically prohibited, it helps to know what an actual express prohibition looks like. An example of an express prohibition may be found in the First Amendment, for example, such as in the instance:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Since this express prohibition is not place-sensitive, then not even in the District of Columbia may Congress establish a religious organization, even where members otherwise have inherent power to do as they please.

One must realize that the originally-ratified U.S. Constitution is *not* a compilation of negative prohibitions detailing the things government may not do (allowing everything else). That was actually Alexander Hamilton's preferred form of government.

Since the Constitution is not an exhaustive list of negative prohibitions, then one must realize that there are few express prohibitions ever given, which may cause short-sighted people to wish there were a whole lot more, to better protect us.

In fact, any number of well-intentioned patriots offer a laundry-list of suggested amendments which would specifically prohibit federal servants from performing specific activities—a form of Bill-of-Rights, on Steroids, so to speak.

This approach, however, is a fool's errand, for federal servants need only dissect apart the specific words used to prohibit their activity and modify their approach slightly, to work around the restrictions, in legalistic manner. We couldn't ever keep up.

The Framers took an opposing approach—which is allowing the exercise of only enumerated powers, using necessary and proper means. Everything beyond that list is *prohibited*.

The wise approach taken by the Framers places the burden on government servants, restricting them from acting directly throughout the Union, *unless* they are specifically empowered. Thus, all means (but one, for now) are closed, that are not specifically opened to and for them.

Our political problems today stem from Hamilton's work-around mechanism, that bypasses our system of limited government that he despised, to put in its place, the inherent power to do as members of Congress and government officers pleased, except as they were specifically restricted.

That the U.S. Constitution contains no express prohibitions in the originally-ratified articles, sections and clauses isn't therefore a setback, but instead, the ideal situation, written in stone. We must merely get back to that ideal, by exposing the work-around mechanism as fraud, to remove false impressions of omnipotence, of claimed power to redefine words to give themselves more power.

Not even the express list of limitations found in Article I, Section 9 contain an original set of blanket prohibitions against powers not elsewhere discussed in the Constitution. Instead, Section 9 is merely a set of limitations on some of the powers that were elsewhere-enumerated (primarily in Section 8).[22]

An example of an express limitation on a delegated power is the Article I, Section 9, Clause 1 limitation on the power of Congress "To regulate Commerce" that is enumerated in Article I, Section 8, Clause 3.

Article I, Section 9, Clause 1 details 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."

This clause therefore places a (temporary) ban upon the delegated power of Congress to regulate commerce with foreign Nations, among the several States, and with the Indian Tribes.

The restriction temporarily prevented Congress from banning the slave trade—the bringing into States, slaves from outside the Union.[23]

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22. Article I, Section 10 of the U.S. Constitution does list specific prohibitions, against State governments. The States—otherwise holding the residual of powers under their own State Constitutions—do need express prohibitions to keep them from acting, if the U.S. Constitution is to prohibit specific State actions.

23. Of course, after the time limit expired (by 1808), then the slave trade could be regulated, even out of existence.

As a side note, on March 2, 1807, Congress prohibited the slave trade, effective January 1, 1808 (II Stat. 426), the first day the Constitution would allow. On May 15, 1820, Congress made the slave trade an act of piracy, punishable by death (III Stat. 600).

It should be mentioned that the Bill of Rights, ratified in 1791, does contain express prohibitions, that prohibit Congress from exercising powers nowhere mentioned in the originally-ratified Constitution. These were "declaratory and restrictive clauses" added to "prevent misconstruction or abuse" of federal powers.[24]

The States were so wary of potential abusive federal authority, that they took the unusual step of specifically listing express prohibitions against federal actions that were never given, to ensure better individual liberty and limited government.

That doesn't mean, however, that we must add an ever-increasing list of prohibited actions. Instead, we must first understand how the enumerated powers of government were ever circumvented, and then take the necessary and proper steps to eliminate the loophole used by tyrants to do as they please.

Indeed, remove their bypass mechanism and suddenly a whole list of prohibitive amendments become unnecessary. Excessive federal actions are but symptoms of the underlying disease, not the disease itself. Cure the disease and the symptoms subside on their own.

Given the extensive power referenced by the exclusive legislation powers of Clause 17, patriots should avoid making facially unconstitutional claims (that members of Congress and federal officials may *never* perform X, Y, or Z actions).

Instead, it is proper to narrow the argument, and alternatively claim that X, Y, or Z actions are unconstitutional "as applied" to the specific facts of a given case.

If readers haven't yet noticed, Part One of this book centers primarily upon the "facially"-unconstitutional argument, showing why patriots should never make this blanket accusation—because

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24. See the Preamble to the Bill of Rights.

most any government action may legally rest upon Clause 17 (even though that one instance where the action is allowed necessarily involves the District Seat or other exclusive legislation lands, it is nevertheless a case allowed Congress).

Part Two of this book will concentrate on modifying one's challenge; that a given federal action is unconstitutional, "as applied" to the given facts of a specific case, properly limited.

### 1803 *Marbury v. Madison*

Given that 1803 *Marbury* and 1819 *McCulloch* served to lay the groundwork for 1821 *Cohens*, a look at these earlier precedent-setting court cases is appropriate.

Now, the "Madison" of the *Marbury v. Madison* case was James Madison, Secretary of State under President Jefferson.

The "Marbury" fellow was William Marbury, a man nominated and confirmed to be a new Justice of the Peace, but who didn't receive his commission, because it didn't get delivered to him in time, before Thomas Jefferson took office as President, in 1801 (who had the undelivered commissions pulled).

In the Presidential election of 1800, Thomas Jefferson and Aaron Burr each had an equal number of Electoral Votes when those votes were counted on February 11th, 1801. This meant the tie would necessarily be thrown into the House of Representatives to settle, where each State gets one vote.

The Federalists knew their candidate—single-term President John Adams—had already lost. Thus, the Federalist majority in Congress immediately enacted a new Judiciary Act to try and secure Federalist influence past President Adams' term.

The new Judiciary Act of February 13th, 1801 created 16 new circuit court positions. Federalist President John Adams nominated Federalist judges and the Federalist Senate quickly confirmed them, with all the new judges quickly taking office.[25]

Then, just two weeks later, Congress and President Adams also enacted the Organic Act for the District of Columbia.[26] Adams quickly nominated 23 Federalist Justices of the Peace for Washington County and 19 for Alexandria County. The Senate again quickly confirmed all these local justices, to secure a prolonged Federalist influence, long after their political influence would evaporate and the party would fall into obscurity.

President Adams signed the commissions and his Secretary of State—John Marshall—affixed his secretarial seal for these *Midnight Judges*, whose commissions were sealed near midnight, of Adams' last day of office.

John Marshall charged his brother, James, to deliver the commissions. James Marshall delivered all the commissions to the Alexandria County Justices, but none to the Washington County Justices.

Thomas Jefferson took office the next day, March 4, at noon, having won on the 36th ballot in the House of Representatives, with Aaron Burr becoming his Vice-President.

When the Jefferson Administration found the undelivered commissions, Jefferson ordered his new Secretary of State, James Madison, to deliver only those commissions Jefferson approved of, but to withhold delivery to the 11 men he did not.

Ten men went away quietly, but the 11th—William Marbury—sued in federal court to get his commission.

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25. 2 Stat. 89. February 13, 1801. Judiciary Act

26. 2 Stat. 103. February 27, 1801.[27] Organic Act for D.C.

27. If one looks deep enough, one can see these two legislative Acts by Federalists are the official beginning of today's Deep State mentality—The Administrative State—which has been oppressing us ever since. Elected members of Congress and elected Presidents and Vice Presidents "come and go," but the bureaucrats remain.

When the matter came before the Supreme Court, John Marshall, once Secretary of State, but now Chief Justice—having been nominated by President Adams and confirmed by the Federalist Senate—came to rule over the case where he had been a material participant, if not the ringleader.

Marshall refused to recuse himself, even with his obvious conflict. The undelivered commissions set up the whole case Marshall would use to extend federal [judicial] authority far past its original constraints, by implementing Hamilton's loophole.

Marshall took the opportunity presented and established *Judicial Review*. He implied, of course, his new standard was not merely for the District Seat, but the whole Union.

*Marbury v. Madison* begins to make perfect sense, only when one realizes that the commission Marbury never received was for that of a Justice of the Peace, *for the District of Columbia* and the legislative Act serving at the very base of Marbury's claim was the *Organic Act* for *the District of Columbia!*

One may confirm Marshall examined Marbury's claim under the 1801 D.C. Organic Act, by realizing the Chief Justice not only references the Act's name (as italicized below), he even quotes from its Section 11, in his first 300 words, when he writes:

> "The first object of inquiry is:
>
> "1. Has the applicant a right to the commission he demands?
>
> "His right originates in *an act* of Congress passed in February, 1801, *concerning the District of Columbia*.
>
> "After dividing the district into two counties, the eleventh section of this law enacts,
>
> "'that there shall be appointed in and for each of the said counties such number of discreet persons to be justices of the peace as the President of the United States shall, from time to time, think expedient, to continue in office for five years'."[28]

A comparison of Section 11 of the February 27, 1801 Organic Act and the February 13, 1801 Judiciary Act easily proves the quoted words are from the D.C. Organic Act.

Under the inherent discretion of District Seat, there is no reason why the Court cannot serve as the ultimate arbiter of all things constitutional, if the Court can justify that position.

Who is to say it is improper for the Court to step in and protect the people time to time, from the arbitrary exercise of essentially unlimited power otherwise available to members of Congress, or the President, under the exclusive District power?

What the Supreme Court ruled in *Marbury*—for a Justice of the Peace *for the District of Columbia* under the District's Organic Act—hardly holds true for the Republic, under laws enacted under the remainder of the Constitution, however.

This doesn't mean parts of it can't, but those parts that do, *must* pass the appropriate standard for allowable government action in the Union, after looking at the whole Constitution.

While it is common for patriots to complain of court justices "legislating from the bench," one must realize that there is no legislative representation *in the District Seat!*

Remember, the District is not a State—only "States" elect Representatives and Senators to meet in Congress.

In the free-for-all that is D.C., members reign supreme—it was, after all, explicitly to Congress, that the States gave the express constitutional authority to exercise exclusive legislation, in all cases whatsoever, in Clause 17, of the U.S. Constitution.

However, with 435 Representatives and 100 Senators now serving in Congress, they may easily become deeply divided on the multitude of issues members must now face under exclusive D.C. powers, that reach to every conceivable topic.

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28. *Marbury v. Madison,* 5 U.S. 137 @ 154. 1803. Emphasis added.

With only nine Supreme Court justices, however, it is much easier for them to come to agreement amongst themselves—thus, in arbitrary government, *power tends to concentrate in the least-populated political bodies.*

Of course, with the President as the sole voice of the Executive branch, in the current anything-goes atmosphere, power concentrates here, first; the courts, second; and Congress ends up being the weakest of the three branches, in practice.

Article IV, Section 4 of the U.S. Constitution guarantees to every *State* in the Union a Republican Form of Government.

Article I, Sections 2 and 3, of the Constitution, clearly show only *States* elect U.S. Representatives and U.S. Senators.

Of course, the District of Columbia is not a *State* and thus the District Seat *has no legislative representation in Congress.*

Washington, D.C. license plates even complain of their "Taxation without Representation."


The Democrats' continuing push for D.C.-Statehood nominally rests upon the fact that D.C. residents have no elected representatives in Congress (even as that excuse is largely a ploy for Democrats to get two perpetually-liberal U.S. Senators and a full [voting] U.S. Representative).

Without legislative representation in D.C., nothing prohibits members of Congress from delegating some of their *exclusive* legislative authority to executive agency bureaucrats, and nothing prevents judges there from "legislating from the bench," to fill in all the missing pieces of broadly-worded laws enacted by Congress under their exclusive legislation authority of Clause 17!

The unification of all governing power in Congress and the U.S. Government, in the District Seat and exclusive federal areas, explains the root source of all improper federal action over the last two centuries, even as it doesn't directly tell anyone how this unlimited government ever escaped its limited confines.

Members of Congress and federal officials do not have mystical powers—only those enumerated, *which necessarily include Clause 17!*

Tracing mystical powers back to their source is *the only way* for Americans to understand what we face, so the appropriate steps may finally be taken to end the charade of government omnipotence, of federal servants' claims of magical government powers, *for direct exercise throughout the country*.

## Tenth Amendment Claims

Another false assertion patriots routinely make, besides falsely claiming so many federal actions are "unconstitutional" (even when they may be performed within D.C.) is its corollary—that these actions violate the 10th Amendment.

It is thus appropriate to examine this claim, which is readily proven false, whenever it deals with actions within the parameters of Clause 17.

In 1791, recall, the State of Maryland "forever ceded and relinquished to the Congress and Government of the United States" the lands of Columbia "in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon."

Further, "the jurisdiction of the laws of this state, over the persons and property" shall "cease" and "determine" when "Congress shall by law provide for the government thereof."

In other words, once Congress accepted the land and began providing for the government of the District Seat, Maryland *had no more governing authority therein*, for the Tenth Amendment to ever come into play, in the future!

The Tenth Amendment has *no* "teeth" in the District of Columbia. It cannot.

One must realize that the Tenth Amendment does not preclude the possibility of States *later ceding additional powers*—whether by Article V ratifications of proposed amendments or *by Clause 17 cessions by particular States!*

## The Non-Delegation Doctrine vs. the Cession of Exclusive Legislative Authority

The exercise of the powers that are enumerated within the Constitution, that were transferred to Congress by all the States of the Union for direct exercise throughout the Union, *cannot be delegated to others*. This prohibition on transferring the enumerated legislative powers, extends, of course, to officers in the executive or judicial branches, and to federal bureaucrats in the alphabet agencies, independent establishments and government corporations.

This is the Non-Delegation Doctrine, where the legislative powers "vested" in Congress must remain in members' hands, just as Article I, Section 1 expressly commands.

What is vested or fixed in Congress by the Constitution cannot be transferred elsewhere, as additionally guaranteed in Article IV, Section 4 (of a Republican Form of Government).

In 2019, the U.S. Supreme Court examined the Non-Delegation Doctrine, in *Gundy v. U.S.*

Interestingly, the ultra-liberal justice who authored the opinion for the majority made several revealing comments, even as she strained to keep patriots from understanding what she and the other justices were doing behind the scenes.[29]

Studying this case thus helps us learn to read between the lines of court opinions.

In the opinion, Associate Justice Elana Kagan wrote:

> "The nondelegation doctrine bars Congress from transferring its legislative power to another branch of Government."[30]

And, she again brought up this vital principle, worth its weight in gold, writing nearly identically:

> "accompanying that assignment of [legislative] power to Congress is a bar on its further delegation."[31]

Both statements are as good as gold, regarding strictly construing the Constitution, even had such words been written a hundred years ago. Americans should find great comfort realizing these words were recently written.

Of course, what won't bring anyone comfort is how she immediately switched gears, as she next wrote about all the ways this fundamental principle may easily be set aside.

For instance, she next wrote that the standards for delegating legislative powers "are not demanding" and noted the Court has "over and over" upheld "even very broad delegations."[32]

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29. And, not just the majority, either, for those in the minority said nothing to expose the fraud (as did none of the justices, who came before).

30. *Gundy v. U.S.*, No. 17-6086 (U.S. June 20, 2019), Page 5.

31. *Ibid.*, Page 8.

32. *Ibid.*, Page 20.

In fact, she all but bragged that "only twice in this country's history" has the Court "found a delegation excessive."[33]

These opposing statements, issued within the same opinion, just pages after some of the best words were ever written on the subject, undoubtedly caused a great deal of heartache and frustration as conservatives tried to resolve the internal and infernal conflict.

How could the majority effectively nullify the great principles they just cited themselves? In the very same opinion?

The puzzle may be resolved by realizing she merely cited two opposing and available standards, *without ever disclosing the Court was merely switching gears*.

Very simply—the Non-Delegation Doctrine bars members of Congress from delegating their enumerated legislative powers that members received from all the States of the Union, for direct exercise throughout the Union.

Those powers are *vested*—fixed by the U.S. Constitution—only in Congress. The vesting of *those* powers in Congress serves as an absolute bar on any further delegation beyond Congress and neither Congress nor the Supreme Court can do anything to change that vesting.

However—regarding the *exclusive* legislative powers ceded to Congress by only the particular State of Maryland—they are, however, exercised *without* any guarantee of legislative representation *and may thus be freely delegated.*

So, *Gundy* clearly shows the intentional and duplicitous actions of federal servants who seek to remain our political masters.

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33. *Ibid*.

Judges intentionally muddy the waters, to keep We The People from ever discovering their source of inherent power, because once we understand what is going on, we may end their perpetual grab of power, permanently, and rather quickly, at that.

It's important to examine an actual instance on occasion, instead of speaking only generally, to show just how devilish is this deception, to ground oneself in reality instead of mere theory.

As readers undoubtedly know, Article I, Section 2, Clause 2 enumerates the specific qualifications of U.S. Representatives—whom may exercise enumerated legislative powers. To be a Representative, one must be 25 years of age, seven years a Citizen of the United States, and an inhabitant of the State elected.

Article I, Section 3, Clause 3 in like manner provides the qualification for U.S. Senators—30 years of age, nine years a Citizen of the United States, and an inhabitant of the State elected.

Article II, Section 1, Clause 5 likewise provides the requirements for the President—35 years of age and a natural-born Citizen (resident within the United States for 14 years). And, by the 12th Amendment, Vice-Presidents must meet the constitutional qualifications of Presidents.

Of course, all these people must also give sworn oaths, before they exercise any federal powers, by the commands of Article VI, Clause 3 (Article II, Section 1, Clause 8, for the President).

So, given these mandated qualifications and required oaths before Americans may exercise federal powers, just how were members of Congress yet able to give the U.N. Security Council, "on its call," the express ability to decide when to commit U.S. troops to combat, in 1945?[34]

The answer, of course, necessarily relies upon Clause 17, like all other instances of constitutional bypass (for only Clause 17 allows an alternate playbook, while using inherent power).

Only members of Congress meeting the qualifications of Article I and swearing an oath to support the Constitution under Article VI have the constitutional power to declare war for the Union, under Article I, Section 8, Clause 11 of the Constitution.

Legislative powers vested in Congress may not be given even to the American President, let alone over to foreign dignitaries who aren't even U.S. Citizens and who have never taken (and cannot take) an oath to support the U.S. Constitution.

But, under Clause 17, that is entirely another matter, entirely.

Regarding the war power, it is pertinent to realize that Article I, Section 10 expressly details that "No State shall…engage in War" on its own accord, even as it gives an exemption to that prohibition—"unless actually invaded, or in such imminent Danger as will not admit of delay."

States may thus always defend themselves, not only against invasion, but also against its imminent danger.

Recall the newly formed States engaged in the Revolutionary War on their own accord. The Constitution wasn't proposed and ratified for over a decade, and even the Articles of Confederation proposed in 1777 weren't actually ratified until 1781.

The States declared their independence in 1776, and backed their declaration with military action, even as they had defended themselves, before 1776 and before their declaration.

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34. Article 43 of the U.N. Charter 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."
> www.un.org/en/sections/un-charter/chapter-vii/ Italics added.

Therefore, the States necessarily had, at the time they declared their independence from Great Britain, in 1776, the power to engage in war, *at the State level*. If they hadn't, we would still be dependent colonies today.

The war-making power of the individual States who met in a Continental Congress (essentially as a group of ambassadors, without any power of coercion over the States) necessarily stayed with them, individually, until they voluntarily gave it up or restricted it of their own accord.

So—because of Article I, Section 10 of the U.S. Constitution—the States, in ratifying the Constitution they created, voluntarily gave up their power to initiate or engage in war, short of being in imminent danger of attack.

The question which must be asked is, "*Is the District Seat equally deprived of its inherent ability to engage in war (as a governmental authority exercising sovereign power)?"*

In ceding land for the District Seat, Maryland didn't give to Congress the powers it retained after it had ratified the Constitution, *but the ability or power to govern*, going back to a base, sovereign nature.

Therefore, the exclusive legislation powers that members of Congress exercise in the District Seat *are not limited by the Article I, Section 10 prohibitions* against "States."

Neither are members of Congress restricted to exercising only the powers Maryland could exercise after that State had ratified the U.S. Constitution. Instead, members received *the sovereign power to govern, after the previous sovereign withdrew its ability to govern therein.*

Thus, one must realize, because of Clause 17 and the cession of power by Maryland, today members of Congress have a *separate* ability—*beyond* Article I, Section 8, Clause 11—to engage in war.

Besides the enumerated power given by all the States to engage in war, members of Congress have the separate power and ability to engage in war that a State of the Union had, *equivalent to the powers they had before ratifying the U.S. Constitution* (by and through Clause 17 and Maryland's cession).

While members of Congress cannot delegate their enumerated legislative powers for the Union—including their enumerated power to engage in war for the Union, over to foreign officials—they can nevertheless delegate their *exclusive* legislative powers, including the sovereign power to engage in war every nation-state has, over to U.N. officials.[35]

This example should begin to give readers a grasp of just how extensive is this exclusive legislation power (and how clever is the deception involving it).

That foreign officials may never exercise any of the legislative powers of the Union of States shouldn't even be questioned. Yet, the United States ratified the U.N. Charter, of 1945. Well, it wasn't the Union of States that ratified it, it was ratified through the exclusive authority of Clause 17!

However, nearly every bit as forbidden as foreign dignitaries exercising U.S. governing authority, is delegating the enumerated legislative powers for the Republic even to federal officials in the executive and judicial branches.

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35. For elaboration on the war powers, see Matt Erickson's 2018 public domain book "*Waging War without Congress First Declaring It,*" freely available electronically online at www.PatriotCorps.org.

To understand this Non-Delegation principle more fully, it is necessary to understand our Republican Form of Government, and the fundamental separation of powers between members of Congress who exercise the legislative powers of the country, and the federal officers of the executive and judicial departments who carry out enacted law.

The U.S. Constitution demarcates a near-absolute separation of powers, except where the Constitution clearly specifies otherwise (such as the Vice President of the United States, serving as President of the Senate).

Some of the confusion stems from the false claim of Congress being a co-equal branch of the United States.

The concept of co-equality sounds good, even wise, perhaps. Three co-equal branches supposedly serve as a check upon one another, or so the theory goes.

But, said another way, the error becomes more evident.

If the structural framework of the Constitution doesn't protect Americans from tyranny, then no co-equality between Congress, the President, or the Courts can.

The co-equality of government asserts the jealousy of each branch guarding against an encroachment from the other branches protects us all.

The doctrine of co-equality—of Congress, the President and the Courts—rests upon the absurd premise that these servants alone are the superior parties and there is no one or nothing superior to them, that they have the final word on what is the Constitution and what are their powers.

But, with that false base, what happens when all three work together, *against* private citizens? What happens is tyranny, which we have increasingly faced over the past 200 years.

The concept of co-equal powers rests upon a false foundation, that government servants who exercise but *delegated* government powers, instead have *inherent* powers. Thus, it argues it takes two more tyrants, who also exercise arbitrary powers, to keep the other one in check.

The idea that we are safer with three tyrants battling one another for supremacy is an exceedingly bad idea, as American history readily proves.

The doctrine of co-equal powers for the Union is false—after all, it was the *States* who created the U.S. Constitution and ratified it into existence. It is the *States* who ratify changes to the Constitution through the amendment process.

It is the *States* who are the principals to the agreement which is the U.S. Constitution, with Congress, the President and the Courts merely the delegates and agents of the States.

The first bit of evidence showing this theory of co-equal powers for the Union to be false is the length of Article I, as compared with the lengths of Articles II and III.

Article I—which discusses the legislative powers granted to Congress—takes up over half of the entire Constitution, as it was originally ratified, all by itself.

In contrast, Article II—which discusses the executive powers granted to the President—takes up less than a quarter.

And interestingly enough, Article III, which discusses the judicial powers granted to the Courts, makes up less than one-tenth of the words found in the original Constitution.

To believe half as many words in the Constitution nevertheless make the executive branch equal in power with Congress is to believe the specific listing of allowable powers in an enumerated government *is largely meaningless* and perhaps even irrelevant.

Or, said another way, if the Court be co-equal in power to Congress, then the 377 words found in Article III must be *six times as powerful* as the 2,268 words of Article I!

The co-equal powers doctrine asserts the *more* the Constitution enumerates, the *less* power each word holds!

If the powers be co-equal, then Article III could have simply stopped after its first 30 words:

> "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

And, if the enumeration of powers were ultimately meaningless, then why would the Framers have not simply given Congress the legislative power, the President the executive power and then the Courts the judicial power, *and then ended the Constitution*, right then and there?

If government be divided into three *co-equal branches*, then why did Madison promote ratification of the proposed Constitution, in *The Federalist* #51, by saying?

> "In republican government, the legislative authority necessarily predominates."[36]

The strength of Congress is why it is in turn divided into the House of Representatives and the Senate.

One must understand this heavy emphasis in the Constitution, on Congress and their legislative powers, for the answer helps explain *how* the vast bulk of the Constitution is being sidestepped today.

Within the U.S. Constitution, there is a strict division of labor —a clear separation of powers—but no "co-equality," as such.

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36. www.https://avalon.law.yale.edu/18th_century/fed51.asp

The needed examination into this division of powers can begin by looking into the word "Congress." Everyone falsely presumes this word is singular, pointing to the entity or branch of government making law.

But the Constitution repeatedly shows "Congress" to be a *plural* term, rather than singular.

In Article I, in the discussion of taking the census (every 10 years, thereafter), Section 2 details:

> "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—referring back to "Congress"—readily shows the plural nature of Congress as a meeting of legislative members who represent the States rather than an entity of its own accord.

Section 4 similarly directs:

> "The *Congress* shall assemble…on the first Monday in December, unless *they* shall by Law appoint a different Day."

And Section 7 indicates if the President does not return a bill within ten Days, the same shall be a law:

> "…unless the *Congress*, by *their* Adjournment prevent its Return."

Several other clauses repeat this same formula, showing Congress to be a plural term.

A deeper dig into the explicit reason for the plurality shows why this issue is of critical importance.

As Sections 2 and 3 show, members of Congress are elected by voters of their respective States, to represent their State, in a meeting of all the States, through their elected delegates.

"Congress" refers directly to this meeting of the States. For example, in the section examined a moment ago, notice its words:

> "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."

The word "Congress" points literally to a "Meeting" of the States, as the States united together in a common Union. Section 4 repeats this understanding, saying:

> "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."

"Congress *shall assemble*…in…*such Meeting"* shows the literal assembling of the States in their joint meeting to enact law within their delegated powers.

A brief examination of the Bill of Rights, in its preamble, helps show what citizens today miss, which the Framers understood well. The third paragraph of the preamble to the Bill of Rights details:

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

Note especially the ending of this passage—"*in Congress assembled."* This phrase and this ending are found in every legislative resolution ever resolved, as every legislative resolution of Congress proves.

The Senators and Representatives from the States which elected them *assemble in Congress* and pass resolutions according to their delegated powers.

Every legislative Act is similarly worded:

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

One cannot overlook the meaning and importance of these phrases. Each and every legislative Act and each and every legislative resolution confirm U.S. Senators and U.S. Representatives *of the several States* assemble together in a Congress of all the States—assemble together in a meeting of the States, meet together in an assembling of the States—and pass laws within the authority ceded by every State as evidenced by the written U.S. Constitution.

The Constitution places so much emphasis on Congress because members represent the principals (the States) under the agreement known as the Constitution. Members of Congress are the delegates of the States, when those States meet under the terms of the Constitution, and as it guides their allowable action, as determined by the original agreement, as amended.

The opening line on the Bill of Rights clearly shows this truth, as it reads:

> "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…"

The critical principle needing to be discovered within this opening line may be easier seen when it is shortened to "Congress of the United States, *begun and held* at the City of New York," or, shortened more fully, "*Congress…begun and held*."

One must ask oneself, may the phase "Congress…begun and held" make any grammatical sense—or retain any rational meaning whatsoever—if "Congress" means an entity or branch, like commonly thought?

The answer, of course, is "No;" for while an entity can begin—it can be created—it certainly cannot be "held."

"Entity…begun and held" or "Branch…begun and held" make absolutely no sense whatsoever, no matter how you slice the phraseology.

Viewed in proper form, in contrast, "Congress"—meaning the meeting together of the principals to the agreement known as the U.S. Constitution, through their chosen delegates (their U.S. Senators and U.S. Representatives)—"begun and held" makes perfect sense.

"Congress…begun and held" makes perfect sense *only* when you realize it means "Meeting…begun and held" or "Assembly…begun and held."

"Congress" literally means a meeting or assembling of the States, through their elected delegates.

Only States may change the Constitution, by ratifying amendments proposed by their elected delegates who represent the States in the common meeting of the States, or by the States themselves, in conventions.

Importantly, not even the direct agents of the principals themselves—the elected Representatives and Senators—may ever increase their own powers. These men and women who serve in Congress may only ask the principals, directly, to consider giving their delegates more powers.

Never may officials in the executive or judicial departments have any say whatsoever to changes of Constitutional authority.

And, that is also why the enumerated legislative powers listed in the Constitution are vested only with members of Congress and why executive and judicial officers may never exercise them.

It is because the executive and judicial officers aren't elected to represent the individual States in the meeting between the States. No federal officer—even the President—is ever elected or appointed to represent single States of the Union, in a meeting of all the States.

The fundamental Wall of Separation separating Congress and the U.S. Government (the latter consisting only of the executive and judicial branches) is additionally evidenced by closer examination into the fundamental differences of the legislative powers, from the executive power and judicial power.

Article III, for example, simply begins:

> "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

Article II is similar, beginning:

> "The executive Power shall be vested in a President of the United States of America."

Both the judicial "Power" and executive "Power" are worded singularly. Note, however, the fundamental difference of wording regarding the legislative *powers* granted to Congress.

Pay particularly close attention to the fact that Article I is *not* worded like Articles II and III — it does *not* read, for example, "The legislative Power shall be vested in Congress."

Article I actually begins with the words:

> "All legislative Powers *herein granted* shall be vested in a Congress of the United States…"

So, while Article II gave all the federal executive Power (as a whole power [undivided]) to the President and Article III gave all the judicial Power of the United States ("Power" again listed *singularly)* to the supreme and inferior Courts, the States through the U.S. Constitution yet only gave the enumerate legislative Powers to Congress that were *therein granted* ( *"Powers"* referenced in *plural* form, with an "s," showing only *part* of the legislative power was delegated [with the States reserving unto themselves, individually, the remainder of powers]).

Here, Article I clearly shows that members of Congress have NOT been granted all the legislative Power, only the particular powers *therein enumerated,* within the articles, sections and clauses of the Constitution.

And, of course, the Tenth Amendment clearly verifies this fundamental American principle, of enumerated federal powers and reserved State powers.

While the word "All" of Section I may initially look like it would refer to every imaginable legislative power being given to Congress, when reading it carefully, one clearly sees the qualifier "herein granted" that limits the powers to those listed.

The word "All" is actually used to keep the granted legislative powers *away from the President and courts!*

The word "All" helps prove no legislative powers may ever be exercised by the President or the courts (unless specified in the Constitution)—instead, the enumerated legislative powers therein granted are all vested in Congress (and *only* in Congress).

Indeed, one could write "*Only* the legislative Powers herein granted shall be vested in a Congress of the United States" and the substitute wording wouldn't extend or restrict the enumerated powers given to members of Congress to any extent.

Substitution of "All" with "Only" simply make it *less obvious* that the President and the Courts *have NO legislative power*.

These are the fundamental reasons for the Wall of Separation between Congress whose members represent States, and the executive and judicial branches, as these latter two branches comprise and make up the Government of the United States.

There is more to look at, but first it is appropriate to turn our attention to the term—*the United States*—to understand what the Constitution signifies when using this term.

Literally speaking, the terms "United States" and "United States of America" are also *collective* terms, not *singular*.

There is no separate entity known as "the United States" just as there is no separate entity known as "the Smith Family," that has a life of its own, apart from individuals. It is just Mr. John Smith, Mrs. Jane Smith, Johnny Smith, and Janie Smith, who share a common bond. Four individuals in one family, just as there are now 50 States in one Union.

The U.S. Constitution confirms the meaning of United States as the collection of States united together in every passage of the Constitution that indicates word form.

For instance, look at Article III and its definition of *Treason*. It discusses "Treason against the United States," as consisting only in "levying War against *them*, adhering to *their* Enemies," giving those enemies "Aid and Comfort."

The use of the pronoun "them" and then a moment later, using the possessive pronoun "their," indicate a *plural* meaning of the noun therein referenced—"the United States."

The Thirteenth Amendment equally shows the plural nature of the United States:

> "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."

If the United States were a singular entity of its own accord, *"its"* would have been used, not *"their."*

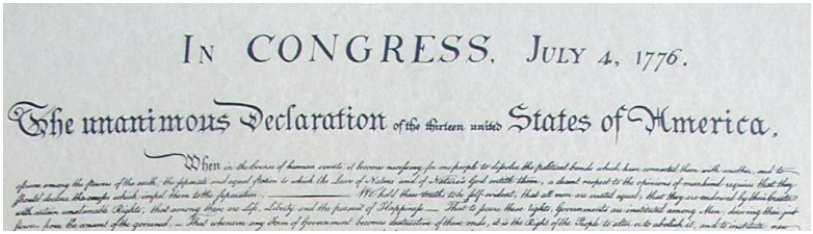
There is no such thing as a United States apart from the States united together. *We have never faced a "them versus us" battle*—between the federal and State governments—for there is only "us."

It is not the United States as its own entity, versus the individual States, wholly separate, for there are no United States *apart from the consideration of States*. Eliminate the States and the United States *automatically cease to exist*. But eliminate the United States and the individual States remain.

It is the same principle as family, covered a moment ago. Eliminate the individuals in the family and the family ceases and nothing remains to exist, but the individuals of a family can and do often go their separate ways and no longer function as a family.

The Declaration of Independence clearly shows this principle of the States united together, showing a plurality, reading:

> "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,

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's god entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any form of government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new

There were initially *thirteen* united States of America—now there are *fifty*.

While some patriots may protest, claiming this comparison intermixes differing eras and differing principles (because of ratification of the Constitution), the Constitution itself shows that this fundamental proposition didn't change with ratification.

This is clearly shown by examining the Eleventh Amendment, ratified in 1795—six years *after* the United States began meeting under the Constitution.

The Eleventh Amendment to the U.S. Constitution clearly tells of the judicial power of the United States no longer being:

> "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 Subject of any Foreign State."

That the Eleventh Amendment expressly speaks to "*one of* the United States," just as the Declaration of Independence speaks to the *thirteen* united States of America, proves the contrary assertion wrong.

The Eleventh Amendment directly speaks to each of the States *united together in common Union*, not any type of United States *apart from and above its members*.

There are the individual States of the Union that individually exercise their reserved powers locally within their borders, and those same States uniting together, sharing their national and federal powers amongst themselves, through their elected agents (their elected members of Congress). Without the Congress, the U.S. Government (executive and judicial branches) ceases to exist.[37]

**Eleventh Amendment**

In 1793, the Supreme Court understandably upheld the strict *words* of Article III, Section 2 of the Constitution, regarding whether the federal court had jurisdiction to hear controversies between a State and citizens of another State.

The Supreme Court ultimately held the State of Georgia could be sued in federal court against its will, by Chisholm, who was an executor for a South Carolina estate of a man who had loaned money to Georgia during the Revolutionary War, to help fund the war effort. The executor was seeking to collect on a delinquent loan due the estate from the State of Georgia.

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37. Indeed, as Chief Justice John Marshall noted in *Cohens v. Virginia* (19 U.S. 264 @ 389. 1821): "the States can put an end to the government by refusing to act. They have only not to elect Senators, and it expires without a struggle."

The clear words of the U.S. Constitution detailed that federal courts had jurisdiction to hear "Controversies…between a State and Citizens of another State," implying, evidently, *even against the State's wishes*.

The Court all but ignored the concept of sovereign State immunity, of a State deciding when it would allow itself to be sued. But this holding was not the intention of the States which ratified the Constitution, even if one could perhaps argue it had been the intent of the delegates who framed the Constitution, given their choice of wording.

When the Supreme Court ruled States could be sued in federal courts against their will, the highest court in the land had settled the matter, according to today's standards.

But the principals (the States) to the contract (the Constitution), are the only true parties to provide final clarity on the Constitution. Only States resolve constitutional conflicts in final resolution, via ratification of a clarifying amendment.

Thus, in two short years, the States' representatives in Congress, following directives from their respective States, proposed a constitutional amendment, which the States quickly ratified. The Eleventh Amendment, of course, *overruled* the Supreme Court's 1793 opinion.

This amendment clarified that the judicial power of the United States, *shall not be construed* to mean what the Court had just ruled (in this case, States being able to be sued in federal court, against their will).

The Eleventh Amendment stands as official testament to the fundamental principle of the States as the principals that created and ratified the U.S. Constitution have the final say on what the Constitution means, *not the Supreme Court*, which was overruled by the amendment.

There was not necessarily anything nefarious about this case. It is even understandable why the Court ruled as it did. The words of the Constitution, strictly construed, appeared to mandate the conclusion the justices gave.

In this case, the Court supported the Constitution's express words, even as the States later clarified this meaning wasn't what they had meant—or, at a minimum, it was not what they would accept.

The fundamental difference between Congress (representing the States) and the U.S. Government (the executive and judicial officers, as agents of the States, who merely carry out the will of Congress, acting within delegated powers) is why the U.S. Constitution necessarily places a firm divide—a true Wall of Separation—between them.

This divide is why the U.S. Constitution, in Article I, Section 1, expressly "vests" or permanently "fixes" the enumerated legislative powers *only in Congress*.

This division is why every State of the Union is expressly guaranteed a Republican Form of Government in Article IV, Section 4. A "Republican Form of Government" means a Representative Form of Government, *legislative representation* being the fundamental building block of the Union.

The Non-Delegation Doctrine attests to the vesting of the enumerated legislative powers only in members of Congress, whose members are altogether unable to delegate them elsewhere, such as to federal officers of the executive or judicial branches.

The ability to delegate the enumerated powers for the Union is wholly and totally beyond the authority of Congress and wholly and totally beyond the authority of the Court—per the States' express mandates, per the U.S. Constitution.

Yet, it is Article I, Section 6 that confirms this separation, showing just how firmly is this separation of powers, wholly separate from executive and judicial officers, in its final words:

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

Being an officer of the United States absolutely prevents those officers from simultaneously being a member of Congress, but no more so than it prevents any member of Congress from holding any Office under the United States.

To the extent one is an officer of the United States, *one is thus constitutionally barred from holding a legislative seat*.

Since federal officers are precluded from exercising the enumerated legislative powers vested in Congress, it is also patently obvious no member of Congress *holds any office under the United States*.

This fundamental separation between legislative members and federal officers is what many call a *Wall of Separation.*

Whatever may be the office to which members of Congress have—since the Civil War—pledged their oath of support, it is not and absolutely cannot be, an *office under the United States*. The latter absolutely prevents the former.

References to members of Congress being federal *officers* directly violates this inviolate principle of the Constitution.

The 14-word oath prescribed by the very first Act of the very first session of the very first Congress merely to "support" the Constitution—as mandated by Article VI—was changed during the Civil War, to thereafter include a reference to an "office," for the first time ever.[38]

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38. 1 Stat. 23. June 1, 1789.

Beginning in 1862, members of Congress—who are constitutionally barred from holding an office under the United States—began swearing the odd oath to "well and faithfully discharge the duties of the *office* on which [they are] about to enter, so help [them] God."[39]

The bottom line is, whatever is the office that members of Congress are about to enter, it is, was, and absolutely cannot be, an office *under the United States* (but, it may be a D.C. office).

It is true that the last clause of Article I, Section 2, speaks of the House of Representative choosing "their Speaker *and other Officers,"* (and Section 3, also, speaks to the Senate, similarly), but those sections point to the few *legislative* officers who are not officers *of the United States*.

The only members of Congress who are legislative officers are the Speaker of the House and the President pro tempore of the Senate. There are a few other legislative officers, like the Sergeant at Arms, Clerk of the House, Secretary of the Senate, and Chaplains of each House, but none of these other legislative officers are members of Congress.

To the extremely limited extent legislative officers are members of Congress (the Speaker and President Pro Tem), they don't otherwise vote, except to break a tie. There simply are no other legislative officers who are members of Congress. Thus, the oath that all regular members of Congress take, cannot point to a legislative office under the United States.

When one asserts that members of Congress are officers, one must also realize this assertion directly contravenes the clear words of Section 2, as it openly declares:

> "The House of Representatives shall be composed of *Members*…"

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39. 12 Stat. 502. July 2, 1862.

Section 3, similarly details:

> "The Senate of the United States shall be composed of two *Senators* from each State…"

And, Section 5, in multiple instances, details "Each House" doing various things with *"its own* Members," showing Senators are also considered members, never officers.

The oath required in Article VI likewise clearly separates *members* of Congress from executive and judicial *officers*.

And, Article II, Section 3 details that the President "shall Commission *all the Officers of the United States.*" No American President ever commissions any member of Congress.

Likewise, Section 4 details "*all* civil Officers" are subject to impeachment—but members of Congress, as Article I, Section 5 details, may only be "expelled," never impeached.

The bottom line is if any person is an officer under the United States, then the Constitution bars them from being a member of Congress and from the exercise of legislative authority for the Republic.

Thus, members of Congress cannot be officers of or under the United States, even as each House of Congress has one legislative officer who is a member of Congress.

### 1819 *McCulloch v. Maryland*

In his 1791 Treasury Secretary's opinion on the constitutionality of the [first] bank of the United States, Alexander Hamilton gave his "allowable-means-test"—his standard for determining allowable federal action. He wrote:

> "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."[40]

This standard is little more than gibberish. When boiled down to its basic meaning, it necessarily implies: "*Whatever is not expressly prohibited, is allowed.*"

Because, after all, who determines if the end is legitimate?

Who determines if the end is within the scope of the constitution?

Who determines if the means implemented are appropriate?

And, who determines if the means are plainly adapted to that end?

Following Hamilton's lead, Marshall answered, of course (in *Marbury)*—"the Supreme Court."

*Marbury* mapped out a course to usher in inherent federal discretion, now exercised with the express consent of the Court. It was *McCulloch,* however, which helps prove that Marshall was really only following Hamilton's 1791 lead.

While Hamilton responded in 1791 to the question of the constitutionality of the *first* bank of the United States (1791 - 1811), *McCulloch v. Maryland* answered in response to the constitutionality of the *second* bank (1816 - 1836).

In *McCulloch*, Marshall wrote, almost verbatim, what Hamilton had written in 1791. Marshall explicitly wrote:

> "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."[41]

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40. https://press-pubs.uchicago.edu/founders/documents/a1_8_18s11.html

41. 17 U.S. 316 @ 421. 1819 https://www.law.cornell.edu/supremecourt/text/17/316 (@ 81)

Both Hamilton and Marshall were really only giving their "allowable-means-test" as the "standard" for allowable government action, *under Clause 17*, *for D.C.,* even as they implied it was the true standard for the whole country.

Indeed, Article I, Section 8, Clause 18 of the Constitution already expressly detailed the appropriate allowable-means-test for the Republic, being "necessary and proper." Hamilton and Marshall, as Secretary of the Treasury and the Chief Justice, respectively, cannot change the meaning of words found in the U.S. Constitution—they can only throw off and deceive their opponents, who don't understand what they are doing.

Implementing enumerated powers using necessary and proper means is the true standard for allowable federal action throughout the Union, which cannot be changed by executive or judicial officers (who may only change the meaning of terms found in the Constitution, *for use in the District Seat).*

Both Hamilton's and Marshall's unlimited-power standards necessarily only apply under the exclusive legislation power of Clause 17. Remember, *Marbury* dealt with D. C. *McCulloch*, likewise, which may be best-understood by following Hamilton's 1791 opinion (on the first bank, as shown below).

To get his preference for omnipotent government action rolling in 1791, Hamilton had to be a little more forthcoming than Marshall was in 1803, 1819 or 1821.

Thus, it isn't surprising that in Hamilton's 1791 banking opinion, he had to offer a bit more truth than Marshall would later admit.

Hamilton wrote his opinion in direct response to President Washington's order (under the President's express authority under Article II, Section 2, Clause 1) for the Treasury Secretary to give his official opinion on the constitutionality of the proposed banking bill to the President.

The banking bill ultimately approved February 25, 1791 was the first real constitutional controversy, where the first claims of unconstitutional government behavior were widely alleged.

In 1791, the banking bill to charter the bank landed on President Washington's desk for his signature. But, Washington had also been President of the 1787 Convention where delegates framed the Constitution and sent it to the States for ratification.

Thus, Washington would have personally heard and witnessed the conversation of September 14th, involving James Madison's suggested motion, asking delegates to consider adding in a proposed power:

> "to grant charters of incorporation where the interest of the U.S. might require & the legislative provisions of individual States may be incompetent."[42]

The pending power was debated, but ultimately stricken from being included within the proposed Constitution, in no small part because delegates feared it could perhaps be stretched to reach the establishment of a national bank, and then paper currency (of which there were few proponents at the convention).

When the stricken proposal to charter a corporation nevertheless came before President Washington in the form of an approved bill just four years later—incorporating a bank, no less—it shouldn't surprise anyone he sought formal opinions from his principal officers on the subject, as it related to the duties of their respective offices, before making a final decision.

Secretary of State Thomas Jefferson specifically noted in his formal reply, "the very power now proposed as a means was rejected as an end by the Convention which formed the Constitution," showing how inappropriate he thought it was, given the delegates' overt denial of giving the express power.[43]

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42. https://press-pubs.uchicago.edu/founders/documents/a1_8_7s1.html

Both Jefferson and (Attorney General) Edmund Randolph argued the proposed bill was *unconstitutional*. These two men first laid out the failed strategy of declaring things otherwise allowable under Clause 17, (facially) *unconstitutional*.

Like all who would later follow their ignominious lead, they suffered the same result—failure.

Failure to contain Hamilton at that critical juncture ultimately led us down the path we find ourselves facing today, staring into an abyss, ready to plunge into chaos at any moment.

Hamilton, as the primary advocate for the controversial banking bill, had to give his best performance yet, if he wished to get the President to sign it.

It is interesting to note, that before he gave his treasury secretary's opinion in favor of the bill, Hamilton first *affirmed* that the power of erecting a corporation was not included in the enumerated powers and he specifically *conceded* that the power of incorporation was not expressly given to Congress.

In a government of delegated powers, exercised only using necessary and proper means, it would be difficult to make such admissions and recover. But, with deft precision, Hamilton moved past government of defined powers and laid the groundwork for inherent discretion, stating:

> "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."[44]

43. https://founders.archives.gov/documents/Jefferson/01-19-02-0051

44. https://founders.archives.gov/documents/Hamilton/01-08-02-0060-0003

In other words, Hamilton let it be known to the careful reader (who could sift through a great amount of filler he had added to confuse matters and hide the real issue), he was not going to look at the normal rules of the Constitution to support his favored bill, as did his opponents, to object to the bill.

Hamilton merely sought to exploit what would later prove to be conservatives' Achilles Heel—their blind inability to ever consider Clause 17 as granting power to Congress, *even as the clause allows Congress essentially unlimited power*.

Failure to look at this clause in 1791 proved to be an accurate foreshadowing of the next 230 years of failed conservative action, proving conservatives simply don't understand the devious mind that seeks its warped ends through despicable means.

So, while conservatives only look to the normal rules of the Constitution, Hamilton looked instead to the Constitution's highly usual exception, for authority to act where and when the normal rules wouldn't otherwise allow him, since he didn't necessarily care how he got it, only that he did, somehow.

Hamilton continued, making his subtle point a bit clearer, yet keeping it sufficiently obscure to avoid tipping his hand, for those who needn't follow along:

> "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."[45]

Whereas the Secretary of State and the Attorney General didn't address the highly-unusual exception to all the normal rules of the Constitution, Hamilton correctly pointed out members of Congress could—under their exclusive authority for

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45. *Ibid.*

the government seat—do whatever they wanted, under this unique power, except those matters that were expressly prohibited. And, since the Constitution does not anywhere expressly prohibit Congress from chartering a bank, then Congress could charter it, under their exclusive power.

Hamilton expressly admits that this power to exercise exclusive legislation in all cases whatsoever, allows government "to do…all that any government whatsoever may do" because "language does not afford a more complete designation of sovereign power than in those comprehensive terms."

Powerful words, indeed.

Hamilton effectively pointed out that Secretary of State Thomas Jefferson and Attorney General Randolph failed to look at every clause of the Constitution before they asserted that members didn't have the power to enact the banking bill.

Hamilton easily proved them wrong, simply by showing that the proposed banking bill was not "facially" unconstitutional, *in every case*. In one case—under the District Seat power of Article I, Section 8, Clause 17—members of Congress could assuredly charter a bank.

Game. Set. Match. And, repeat this devilish means, over and over, for the next 230 years.

Today, we sadly continue to make the same exact mistake made by Jefferson and Randolph, out of profound ignorance and blind inability to ever see how our political opponents succeed.

Of course, in February of 1791—when the banking bill was before President Washington—there was yet no permanent District Seat. And, it wouldn't even be until December of that year, that Maryland and Virginia would even cede the lands for the District of Columbia, to Congress and the U.S. Government.

The District of Columbia would not be accepted as the permanent seat of government until the year 1800. So, just how did Hamilton get his bank allowed under the exclusive power, before there was even an exclusive federal seat?

The answer: Largely by bluff, based upon the wild card hidden up his sleeve, of a theoretical power to do most anything.

If one asserts that Clause 17-based powers only apply in D.C., and in exclusive legislation forts, magazines, arsenals, dockyards and other needful buildings, then the answer would necessarily have been that he couldn't have succeeded, even using Clause 17 (for a bank in Philadelphia [only the acting capitol]).

But, Hamilton did get his bank, meaning that Clause 17-based powers are not in and of themselves expressly limited to Clause 17-based properties.

Sovereign power is so powerful, it even seems to have preceded the actual cessions by particular States (at least by bluff, that went unchallenged). Just the existence of this clause seems sufficient to draw upon its inherent power (when no one correctly challenges it, anyway).

The critical point of bypassing normal constitutional constraints today, is whether this highly-unique clause may ever bind the States, beyond District boundaries.

If one argues "No"—that the highly-unique power and inherent discretion allowed by Clause 17 *cannot* provide Congress an alternate means to bypass normal constitutional constraints beyond D.C.'s borders—then the only remaining argument will necessarily rest upon an inherently greater power and even more preposterous claim.

If one discounts this bypass system—using two clauses of the Constitution as a loophole to bypass the remainder, because it seems too preposterous—then the claimant is left to claim that

federal servants may disregard *all of the Constitution* and do as they please, since the get away with it.

It is far easier to believe that the special clause which allows Congress to use the inherent powers they may use for special areas and extend that allowed power beyond its proper geographic boundaries, by holding that even Clause 17 is part of "This Constitution" that Article VI declares as the supreme Law of the Land that binds the States through their judges.

Is it easier to believe that an allowed discretion has simply escaped its true borders by devious means, or that those who swear an oath to support the Constitution, signifying their subservience to it, may instead do as they please and ignore all of the Constitution all of the time?

It makes far more sense to believe that devious scoundrels merely exploit the Constitution's highly-unusual exception because we don't understand how they succeed, than to believe that the Constitution which empowers federal servants cannot also contain their power, and instead allows them to become our political masters.

Our nation's founding principles may not be stretched by members of Congress and federal officials who merely implement their delegated powers.

Instead, the Constitution may only be bypassed where it allows itself to be bypassed, which is for the District Seat, and other exclusive legislation lands.

Clever and deviant scoundrels have simply taken this allowed discretion and temporarily extended it beyond its true boundaries, because patriots haven't discovered how they were able to pull off their spectacular political coup, to stop them.

It takes a mystical belief in the inherent power of federal servants, to claim they may change their powers, at will.

To argue that federal servants may become our political masters by redefining words found in the Constitution to give them inherent power for direct exercise throughout the country is to believe that impossible fairy tales are more believable than allowed powers merely escaping their lawful boundaries.

Only by showing how our political opponents succeed, despite the chains of the Constitution, can conservatives ever restore our American Republic.

It is now time to examine more closely how Alexander Hamilton and James Marshall successfully extended the exclusive legislation authority far beyond its true geographic boundaries.

## PART TWO

Part One of *Two Hundred Years of Tyranny* explained how Article I, Section 8, Clause 17 of the Constitution for the United States authorizes members of Congress to exercise inherent powers for the District Seat, and also for exclusive legislation forts, magazines, arsenals, dockyards and other needful buildings.

While Alexander Hamilton didn't get this inherent power for direct use throughout the whole country as he had sought at the Convention, he did get it, however, *in and for the District Seat*.

And, with that base of inherent authority, all that he lacked after that was some means to extend that unlimited power far beyond its original geographic constraints.

It took him almost no time to find an acceptable route, if he hadn't planned it from the onset. He only needed to rely upon a clever bit of deception to keep his means well-hidden and then keep his mouth shut, so his political opponents couldn't easily discover his clever means of success.

After all, his Constitution-bypass mechanism necessarily relies upon the frailest of foundations. Once liberty advocates discover his devious methods of extending inherent discretion, they may begin to take the needed steps to end his charade, forever.

Part Two of *Two Hundred Years of Tyranny* thus seeks to explain how Alexander Hamilton and James Marshall were able to extend this inherent discretion allowed in D.C. instead throughout the Republic.

Hamilton merely used the *letter* of the Constitution against its *spirit*, in the odd instance when they contradicted one-another.

The *spirit* of the Constitution would hold Clause 17 powers to exclusive legislation boundaries, to allow the remainder of articles, sections and clauses of the Constitution, their full effect and authority, without undue interference.

The *letter* of the Constitution, however, holds "This Constitution" (all of it) as the supreme Law of the Land.

Hamilton's Constitution-bypass strategy simply sought to exploit the peculiar contradiction between the spirit of the Constitution and its letter, to get by indirect means over time, what Hamilton did not directly get at the convention, up front.

Hamilton's bypass method succeeded because he only needed to hold the letter of the Constitution to its strictest-possible understanding and then obscure his tactics.

To throw off his political opponents, he only needed to mislead them, into thinking he and his cohorts were liberally-construing words found in the Constitution, to some new and alternate meaning (for the whole country, even as the new definitions could really only apply to D.C.).

When constitutionalists read Supreme Court opinions—where words found in the Constitution appear to be redefined by those who yet swear an oath to uphold the Constitution—they foolishly came to believe what they were told, by their adversaries who knew almost no bounds.

Patriots' biggest mistake is imprudently believing wizards' self-professed claims of omnipotence—believing in fairy tales—instead of continuously searching for their opponents' clever method of constitutional bypass.

Conservatives failed, because they came to falsely believe that Hamilton's progressive followers were liberally-construing the Constitution, to change its meaning, for the whole country (because that is what Hamilton, Marshall and their followers all but told them, even if not always in quite so many words).

By getting their opponents to believe the opposite of what was really happening, Hamilton and Marshall were able to effectively expand federal power while keeping in the dark the proponents of individual liberty and limited government.

After centuries of propaganda, there is hardly anyone alive today who doesn't believe that Supreme Court justices aren't able to redefine words found in the Constitution, to some new meaning for exercise throughout the Republic, appearing to give federal servants governmental powers that the Framers never intended.

Instead, all that Supreme Court justices have actually done is redefined words found in the Constitution, differently, *for use within the District of Columbia*, but then indirectly extend those redefinitions throughout the country, by holding that even Clause 17 is part of "This Constitution" which Article VI lists as the supreme Law of the Land that binds the States.

Said most succinctly, the patriot's job today is to show how actions that appear to violate the spirit of the Constitution may nevertheless find support in its letter. *Patriots must show how our opponents succeed*, if we are to have any chance to restore limited government (we cannot cure what we cannot diagnose).

Supposedly, "reinterpreting" words found in the Constitution are central to that apparent success—words and phrases like "necessary and proper," "Commerce" and "general Welfare."

In the 1819 court case of *McCulloch v. Maryland*, Chief Justice John Marshall pulled out all the stops, in support of unlimited federal power, following Hamilton's express lead.

What Marshall did in *McCulloch* was perhaps best paraphrased in an 1871 Supreme Court case where the justices all but bragged that the 1819 *McCulloch* case had essentially redefined "necessary and proper" to mean only "convenient."

Associate Justice Strong, for example, wrote:

> "Under the same power and other power over the revenue and the currency of the country, for the convenience of the treasury and internal commerce, a corporation known as the United States Bank was early 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 for accomplishing one or more of the ends for which the government was established, or, in the language of the first article, already quoted, *'necessary and proper'* for carrying into execution some or all the powers vested in the government. Clearly this necessity, if any existed, was not a direct and obvious one. Yet this court, in *McCulloch v. Maryland*, unanimously ruled that in authorizing the bank, Congress had not transcended its powers."[46]

Of course, members of Congress didn't transcend their powers—because they could tap into members' inherent authority for the District Seat, where they may do anything and everything, except what is expressly prohibited.

And, since the Article I, Section 10 prohibitions on emitting bills of credit and making things other than gold and silver coin a tender in payment of debts do not apply to Congress exercising authority in the District Seat, then *The Legal Tender Cases* court could also hold that Congress "had not transcended its powers" when the Court upheld paper currency (for D.C.), even as three earlier cases had prohibited legal tender paper currency (for the Union).

"Necessary and proper," as the allowed means to pursue enumerated ends—as found in Article I, Section 8, Clause 18 of the U.S. Constitution—may be redefined to mean "convenient," *only in the District Seat*, since the phrase's meaning is necessarily fixed for the whole country, by the Constitution itself.

Words found in the Constitution for the Republic must keep the meaning assigned to them as they meant at the time of ratification, except as amendments later-ratified by the States may change them.

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46. *The Legal Tender Cases*, 79 U.S. 457 @ 537, 1871. Italics added in first two instances.

But, in the District of Columbia—where no State-like or District Constitution exists to define and enumerate allowed powers—members of Congress may take words otherwise found in the U.S. Constitution *and use them differently for the District Seat*.

Remember, no local District Constitution exists to define the parameters for allowed action, so members of Congress must make up their own rules, as they go along.

There is nothing preventing them from using words otherwise found in the U.S. Constitution, for the Union, but defining them differently, for the District Seat.

Take, the word "dollar," as found in Article I, Section 9, for instance.

The use of the term *dollar* by the United States within the Constitution doesn't restrict or prevent other jurisdictions from around the world from also having their own "dollars," *which aren't the same*.

Thus, Canada, Australia, New Zealand, Hong Kong, Barbados, Fiji, and many other countries may denominate their official currency in *dollars,* if they choose. None of those foreign dollars are the same as the American dollar.

Having a coin of silver or gold called a dollar for the Republic doesn't either preclude the District of Columbia from also having its own dollar, which is also separate from the coined American dollar. Irredeemable paper currency may be legal tender in the District of Columbia, and other exclusive legislation areas, if Congress so decides, within members' exclusive legislation authority.

The District Seat is not a *State*, so the express prohibition listed in Article I, Section 10, preventing *States* from emitting Bills of Credit—paper currency—cannot bind Congress for D.C.

Neither is D.C. a *State* that is expressly prohibited from "making any Thing but gold and silver Coin Tender in Payment of Debts."

While members of Congress cannot emit a legal tender paper currency for the whole country, because—as the Supreme Court correctly ruled three earlier times—it is not a necessary and proper means for exercising an enumerated end for the Union, *members may yet do so for the District Seat*. And, carefully reading *The Legal Tender Cases* shows this understanding *in the Court's ruling*.[47]

Alexander Hamilton, in his January 28, 1791 Treasury Secretary's Report on the Establishment of the Mint, told of people being made "dupes of sounds," by calling coins with differing amounts of precious metals, the same name.[48]

Redefining old words with new meanings has been going on for centuries—confusing people with legalese, to take away with the small print what the big print doesn't restrict.

That federal servants appear to direct the future course of American government, away from the Constitution, when they may only exercise delegated powers, mistakes servants for the master.

People are tragically mistaken if they think voting and elections—Democracy—can save our Constitutional Republic. We cannot restore liberty and limited government in a piecemeal,

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47. For additional information on the topic, please see Matt Erickson's public domain books, *Understanding Federal Tyranny, Monetary Laws of the United States, Dollars and nonCents, Patriot Quest,* and *Fighting Back against The Decree of '33*, freely available electronically online at www.PatriotCorps.org.

48. See *Monetary Laws of the United States*, Volume II, Appendix C—Reports, Page 79 @ 88. www.PatriotCorps.org.

step-by-step basis, repealing one improper law here and overriding a given Supreme Court case there, by electing angels to positions of unlimited power. Indeed, so many would-be angels become devils, precisely through the exercise of absolute authority, with its corrupting influence on mortal man.

We must instead contain or repeal the corrupting influence on our System of Government. We must end the distortion of our Republican Form of Government, ending the disruption of enumerated powers, exercised using only necessary and proper means, where every person exercising delegated federal powers must swear an oath to support the Constitution.

Always keep centered in one's mind that no person who exercises delegated federal powers may change their own authority—or that of their friends, or even enemies—for exercise throughout the country.

No member of Congress or federal official who is delegated enumerated powers and who swears an oath to support the Constitution may change the Constitution in any way, shape, or form. Any deviation from this fundamental truth necessarily rests upon D.C. power.

The moral of this particular story is we citizens ignore this fundamental requirement—the oath to support the Constitution—at our peril, because, in the end, it is all that matters. Nothing any federal servant does may ever supersede the Constitution—their oath proves it.

They may only sidestep the Constitution, *where and how the Constitution itself allows the sidestepping*.

And, the Constitution only allows a sidestepping of the enumerated powers under the District Seat power, and the power available for use in other exclusive legislative lands ceded throughout the Union, and used for forts, magazines, arsenals, dockyards, and other needful buildings.

Patriots must quit living in a fictional, make-believe world, where false appearances supposedly trump reality.

Conservatives need to stop ignoring reality and start paying attention to it, so they can fight the legal fiction that our opponents spout, in their attempt to pull off their absolute rule throughout the Republic, for immense personal gain.

It is up to each of us to pull back the curtain and rediscover the truth hidden from us, because we have been living in their make-believe fairyland, foolishly believing in fairytales. We must get back to reality and learn to stay there. We must dig past appearances and instead seek the truth.

Until *Cohens* is overturned, each person confronted with unlimited-power government must fight it, individually, on a case-by-case basis.

To combat Hamilton's political heirs now, one must appropriately narrow one's assertion, and assert that ominous federal actions are unconstitutional *as applied* to the current facts of a properly-narrowed case, and argue one's case, precisely.

But, the practical reality of each person becoming a constitutional scholar to fight off tyranny, individually, is as impractical as it is unrealistic.

And, thus explains the ultimate push for a constitutional amendment, to overturn *Cohens*, as we permanently seek to remove the inherent contradiction between the Constitution's letter and spirit and bring them into harmony.

Amending the Constitution and overturning *Cohens* will remedy the situation, once and for all, fully, for everyone, permanently.

Only by repealing *Cohens* can we end the individual fights—until then, one will need to defend against unlimited government power, anytime one is individually and personally confronted.

The Constitution's Supremacy Clause—Article VI, Clause 2—expressly 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 State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

This statement is one of the most basic and fundamental of all propositions. It is referred to constantly, especially by conservatives and strict constructionists. Nothing else trumps it. No law of Congress, no Presidential action, and no ruling of the Court can violate the supreme Law of the Land.

Only laws enacted *in pursuance of the Constitution* are constitutional. Everything else necessarily bows before the supreme Law of the Land.

Yet, despite their understanding, strict constructionists still accept a false reality—that the Supreme Court may redefine terms found in the Constitution, to give federal authorities new powers, for exercise, everywhere. Conservatives, at best, only weakly object, while repeating impotently that such actions are "unconstitutional."

Americans are being snookered because no one even acknowledges the existence of what amounts to a *second* rulebook.

The first rulebook is obviously the whole of the Constitution, except one clause. The second rulebook is that one clause, found within the first rulebook—as its special exception—ultimately creating its own set of special rules.

The single rule of the second rulebook says members of Congress and federal officials not only *may* make up the rest of the rules as they go along, but they *must* make up all the rest of

the rules, as they go along, because nowhere else are any rules ever given for the District Seat, at least beyond of few named prohibitions, such as are found in the Bill of Rights.

### *Cohens v. Virginia*

In 1821, the Supreme Court case of *Cohens v. Virginia* solidified a path away from the whole Constitution, and pushed inherent discretion into overdrive.

The Cohens brothers of Virginia had sold D.C.-based lottery tickets in their State, in contravention to Virginia law. The lottery had been organized under an 1812 legislative Act of Congress for Washington, D.C.[49]

When hauled into court, the brothers asserted the Act—being an Act of Congress and signed into law by the President—was a law binding upon the States.

Virginia argued laws enacted by Congress under Clause 17 for the District Seat weren't laws *of the United States*. Or, even if they were yet laws of the United States, they certainly were not part of the supreme Law of the Land that bound the States.

Chief John Marshall found himself in a pickle. He knew he had to rule in a way that would ultimately support the brothers, even as he felt no compunction to actually rule for them. He just knew it was essential for his long-term plans that he later be able to tap into that fount of inherent discretion for the whole country, which Hamilton began setting up in 1791 and that Marshall had been supporting since at least 1803.

Marshall willingly sacrificed the brothers, even as he nevertheless found his means to support his desired outcome.

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49. 2 Stat. 721. May 4, 1812. Section 6: "the said corporation shall have full power and authority…to authorize the drawing of lotteries for effecting any important improvement in the city…"

If Marshall had openly ruled for the Cohens brothers, then Virginia and the rest of the States could simply have followed their strategy for the Eleventh Amendment and immediately pursued an amendment to foreclose this horrible path, forever.

So, Marshall and his cohorts on the bench necessarily took the scoundrels' approach, for it was the only one they had left. They scandalously nominally ruled *for* Virginia, *against* the brothers, but only to the extent as saying, that Congress didn't intend to bind the States *in this particular case*.

It was a brilliant move, from an absolutely devilish standpoint. The Court supported arbitrary and inherent discretion, now made fully capricious.

Marshall established an obscure path for expanding D.C.-based laws, far beyond their true confines, so those without a moral compass, could exploit it at will, *at any point in the future*.

By saying that Congress didn't intend *in this case* to bind the States, the Court nominally ruled *for* Virginia, stopping the Cohens brothers from selling D.C. lottery tickets in Virginia.

Virginia had no objection to the Court's opinion. After all, why or how would Virginia oppose the ruling it had just won?

By saying Congress did not intend *in the present case* to bind the States with this Clause 17-based law, Marshall nevertheless set the precedent—by official Court ruling—that Congress *could* bind the States, via Clause 17, *whenever they intended*.

And, since the standard *of Congressional intent* was clearly laid out in *Cohens*—of States being bound by Clause 17-based laws *whenever Congress intended it*—no future court case needed again overtly restate this vital principle. *Future courts could now follow Cohens without expressly reciting those words.*

Instead, future courts could just make up a bunch of confusing, contradictory, and impossible-to-follow rulings, but actually rule according to *Cohens*.

*Cohens*, as an opinion decided by the highest court in the land, laid out the horrendous principle that an arbitrary Congress could bind the States under Clause 17-based laws, *whenever members intended*.

*Cohens* could only be overturned by a future Supreme Court ruling or a properly-proposed and ratified amendment. But, absent either of those, and without proper exposure, government officials could now do as they pleased.

The secret of future success lay only in keeping quiet that which was well-hidden.

Members of Congress need only write vague and contradictory laws under Clause 17, and government officials could do largely what they wanted, seeking to enrich themselves and their friends with unfathomable wealth and power.

Following Marshall's *Tyranny Trifecta*—1803 *Marbury*, 1819 *McCulloch*, and 1821 *Cohens*—without ever disclosing what was going on behind the scenes, The Administrative State begun under the Federalists was freed to grow and blossom.

Ignorance of the law being no excuse meant defendants who failed to bring up the proper arguments would lose their cases. And, sadly, so many defendants have lost their cases, because they never knew what the Court and Congress were doing.

The vital precedent put into place by Marshall in *Cohens* established the standard of laws enacted by Congress under Clause 17 would bind the States, whenever the Court held members of Congress *intended to bind the States*, which turned out to be, *whenever the defendants didn't know how or what to argue*.

Of course, the multi-trillion-dollar question the justices intentionally left obscure in *Cohens* was the *extent* to which these laws of the United States under Clause 17 actually *bind the States*, which, will be discusses in Part Three.

Chief Justice John Marshall established this court-approved deviation, away from the Framers' plan of the Constitution, to follow Hamilton's vision. And, that is where we find ourselves today, *far down that bumpy road.*

Establishing this standard of inherent discretion, via Supreme Court precedent, meant once the United States were several generations away from the Founders and Framers, those who pushed for absolute government control could surreptitiously begin their progressive march forward toward absolute government discretion practiced throughout the Republic.

The dirty little secret behind decades and centuries of convoluted court rulings and incoherent legislation all point to this absolute necessity to obscure the truth, because Americans may only be bound by lies. Federal servants may only become our political masters by deception, while truth sets citizens free.

That is why one finds such obtuse and contradictory Court opinions such as the 2019 non-delegation case mentioned earlier. The Court's convolutions keep those not needing to know from ever figuring out what in the world is actually going on.

# PART THREE—The Cure

## What Won't Work

Before investigating the cure for the single political problem that we face federally, perhaps it is appropriate to discuss, what won't work.

What won't work to restore our American Republic is continuing our near-absolute reliance on voting and elections—Democracy.

This approach, which consumes nearly 100% of most people's political efforts, is doomed to failure, because it necessarily relies upon the false premise that election winners may steer the federal government in a path of their own choosing, even a path contrary to the U.S. Constitution.

The Progressive Left has long been using pure Democracy of inherent power to push toward the destruction of society, to make things so bad, that all sides and every political division will finally agree that the Constitution is broken and that we must start over.

Unfortunately, too many conservatives seek methods none too dissimilar (because, as the Left has long been successful pushing the country further left, the Right trends closely behind), making the choice of picking the lesser of two evils hardy enticing, even if they trend closer to the target.

What must be ignored are the pleas to push for vast constitutional changes, including dozens of amendments. The call for a grocery list of amendments provides compelling evidence that the person pushing such nonsense fails to grasp what we actually face.

To use a metaphor in our "hunt" for truth, we need a "sniper bullet" approach—on target—not a "shotgun" approach, that leads to a lot of casualties, including innocent victims.

The shotgun approach, after all, is a reversal of our proper Republican Form of Government, *of enumerated powers exercised with necessary and proper means*.

Our true and correct federal government cannot do anything, directly, for the Union, except those things expressly enumerated and implemented using necessary and proper means. Thus, to restore our Republic, we must expose the fraud that has taken us off our proper path, rather than try and ratify a so-called "Bill of Rights, on Steroids."

A vast listing of express things the government cannot do—the *BoRoS* approach—is a fool's golden idol and an unholy grail. It is based upon a radical reversal of the truth, with proponents thinking a lie will save them.

Always ask the question—better than what? Better than now, or better than our constitutional ideal? *We can have our ideal*, once we realize how we were tricked and take a few relatively minor corrective steps to restore limited government.

Seeking a multitude of amendments to limit future federal actions *gives up* our Constitutional Republic of enumerated powers—and accepts in its place, Democracy of unlimited power, *except as prohibited*. That is Hamilton's game plan, in a nutshell. Patriots should never follow Hamilton's lead, because they will lose our Republic of limited powers in the process.

Instead, we must throw off all of improper government. We can never accept 200 years of improper government action, as the proper starting place for needed governmental reform!

Left to their own devices, Democrats push for a great rewriting of the Constitution, to something unrecognizable. Leftists want to throw out God and throw off God's Law, and implement their own law, made in their own image, with them ruling from on high.

Proponents of Big Government have always sought Hamilton's vision of inherent federal power *for direct use throughout the Union,* except a few named limitations. Those on the Left just have a slightly different version than those proponents of Big Government on the Right. Both seek unlimited power, bent toward their particular ideology.

Unless one party moves forward on its own, the United States are currently headed toward The Great Compromise, after The Great Collapse.

If the Left succeeds on its own, we'll just go immediately to The Great Rewriting (of the Constitution), after The Great Collapse.

The Progressive Leftist movement is destroying the greatest county in the history of the world, by intention. It is not a coincidence that the Left pushes for things which destroy justice, individual liberty, incentive, rights, property, fiscal responsibility.

The Great Collapse is necessary, Big Government knows, because only in the bottoming out of society will all sides finally agree that the Constitution doesn't work anymore.

Under this new, rewritten or reformed Constitution, proponents of Big Government will finally give the federal government, for direct exercise throughout the whole Union, all power, except a few named prohibitions, to institute Hamilton's preference, at last, directly, for the whole Union.

But, until then, truth adequately exposed is the tyrant's only true enemy, because tyrants may only exercise tyranny today, indirectly, throughout the Union, and then only by clever deception, by working within the loophole currently allowed by use of Clause 17, coupled with Article VI.

Things are now at their most vulnerable, right before the tyrants' final push, because things are now at their most apparent, as compared in the past, when they were more obscure.

Thus, witness the response to the 2020 coronavirus, and the world-wide shutdown by totalitarian-minded governments, which push for absolute control.

Whether the virus was an intended release or a seized opportunity, there is no doubt, given the uniform response throughout the world, there was an express decision to oppress and clamp down on society like never before, no matter the collateral damage. No cost was too high, as totalitarians implemented their next oppressive dictate.

**Term limits for Congress**

Term limits for Congress is a popular proposal, but would nevertheless be turned against us, for one cannot collaterally attack exclusive legislation jurisdiction.

For instance, to the degree congressional term limits would actually lessen or restrict congressional power, power would not simply revert to the States or to the people—there is absolutely no reason or historical precedent to believe any sudden political vacuum in Congress wouldn't simply shift government power even further over to the executive or judicial branches.

That the United States operates today under the false concept of co-equal powers, of three parties vying for control of absolute power, means that a void in one part will induce the other two to jump in to fill it.

Thus, congressional term limits would shift governmental power *away* from voter control and over to unelected bureaucrats—the very definition of tyranny and necessarily a recipe for disaster.

Our country was built upon *legislative representation*—the fundamental building block of the Union—for a reason. Legislative representation rests on the voters of each State and district deciding *who* they want to represent them, and ultimately for how many terms.

Legislative representation necessarily means it is wholly improper *for other States*—for other people—to tell one State and one people whom they may pick to represent *them*, and how long.

Such matters are only for the people who are being represented to decide. Undermining legislative representation will only better-secure The Deep State.

Congressional term limits are wholly unlike Presidential term limits imposed by the Twenty Second Amendment, for the President doesn't represent any divisible body of the American people. There is no concept of executive representation in American government.

One cannot collaterally attack symptoms and ever hope to get to the root. The problem is not the number of terms members of Congress may exercise federal powers; it is the *extent of power* they may exercise while they hold a legislative seat. Limit the power—by limiting the improper extension of D.C.-based powers beyond D.C. or by repealing Clause 17 entirely—and the number of terms members serve in Congress again becomes irrelevant.

**The Balanced Budget Amendment**

The Balanced Budget Amendment would likewise fail to correct matters. The problem is not merely spending more money than received, it is spending vast sums of money on a whole host of issues far outside of the Constitution's proper parameters.

End the improper extension of allowable federal action, and expenses will again shrivel back to appropriate boundaries.

People who think a Balanced Budget Amendment will contain spending don't realize the amendment will not and cannot directly place limits on federal purchases; it would simply attempt to limit purchases to income, in theory.

But, to equate the two—expense and income—members of Congress needn't cut expenses—*they can also raise taxes*.

The Balanced Budget Amendment, once ratified, would require even the most fiscally-conservative member of Congress to vote to raise taxes whenever federal expenditures exceeded income, forcing the government to seek to increase income tomorrow *to pay for what was already spent yesterday*.

Procedural protections other than the two amendment proposals hereinafter recommended aren't enough, because, at best, they only attack symptoms. We must get to the root of inherent discretion and restrict it properly or tear it out completely. We cannot continue to allow federal servants to extend the exercise of inherent authority under a special, alternative set of powers indirectly throughout the Union. Instead, we must stop the use of inherent discretion beyond District borders.

No change in or to the Constitution, which doesn't directly contain or eliminate inherent discretion, will ever cure our single political problem, to any degree whatsoever.

It is imperative to understand that ratifying any other proposed changes to the Constitution that don't directly contain or eliminate the current bypass strategy will simply *add more clauses to the Constitution that their clever loophole may also sidestep*. We must first end the bypass, before anything else.

**What Will Work**

Two options exist for permanently restoring our American Republic.

The first is *Containment*—to contain the tyranny that is allowed under Clause 17, only to exclusive legislation lands, preventing it from escaping, even indirectly (as it does now).

The second option is *Repeal*, of Clause 17, fully.

**Option 1. Containment.**

The first option to restore our American Republic is *Containment*, to restrict the exercise of inherent discretion that is expressly allowed by Clause 17, only to exclusive legislation lands (the District of Columbia, and also exclusive legislation forts, magazines, arsenals, dockyards and other needful buildings, that are scattered throughout the Union).

For all the harm Marshall caused with his three court opinions hereinbefore discussed, including *Cohens*, his last ruling actually had one good point to it. And, that was the passage where he admits what his opponents could do, to prove him wrong, where he writes:

> "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."[50]

It is surprising to this author that Marshall actually revealed to his political adversaries the pathway they could use to win their political battle with him, which they should have immediately performed with a containment amendment, to end the reign of tyranny just as it was readied to move into high gear.

Marshall's admission reveals one of two ways to stop the progressive march of tyranny and Big Government. The only hitch in his admission is that the current Constitution has no existing safe and clear rules which would exempt Clause 17 from being part of the supreme Law of the Land (as he knew well).

But, that doesn't mean that we cannot simply *add* the needed rule, by proposing and ratifying a new constitutional amendment to provide the missing but needed words, to bring the spirit and letter of the Constitution finally into harmony.

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50. *Cohens v. Virginia,* 19 U.S. 264 @ 424-425.1821. Italics added

Marshall placed the burden of proof on those who asserted Clause 17 does *not* bind the nation, because the justices looked, but couldn't find, any express principle that would clearly exclude Clause 17-based laws from being a part of the supreme Law of the Land.

Marshall said, in effect, "look, we justices have examined the Constitution, and it offers no alternate guidance that would say that Clause 17 is exempt from being part of the supreme Law of the Land. Thus, *absent proof otherwise*, Clause 17 *must* be included as part of the supreme Law of the Land, because Article VI itself clearly says that *'This Constitution*…shall be the supreme Law of the Land'."

In conformance with Marshall's acknowledgment on how to overturn *Cohens*, is the author's recommended *Once and For All Amendment* to contain tyranny. It needs only follow the path provided by the 11th Amendment, to say something to the effect:

> "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 under Article VI."

The author's recommended *Once and For All Amendment* to *contain* tyranny restores the proper balance to federal powers, by clearly removing all Clause 17-based laws from being any part of the supreme Law of the Land that is ever capable of binding the States.

No local law of any State ever binds any other State. Neither should otherwise-local laws for the District of Columbia. Just because Clause 17 is part of the U.S. Constitution doesn't mean laws enacted by Congress under this clause should be any part of the supreme Laws of the Land that ever bind States, even indirectly.

Once D.C.-based powers are finally limited to D.C., then none of those powers may ever again be exercised even indirectly

beyond the District's geographic limits, except as they relate to other exclusive legislation areas scattered throughout the States and used for forts, magazines, arsenals, dockyards and other needful buildings.

Of course, Marshall could only offer his opponents a suggestion for overruling him, by first coming to a conclusion that his opponents wouldn't like. And, the primary conclusion to which Marshall came, that so powerfully allowed Hamilton's Constitution-bypass strategy, was:

> "The clause which gives exclusive legislation is, unquestionably, a part of the Constitution, and, as such, *binds all the United States*."[51]

Marshall's reasoning rests on the unquestioned fact that Clause 17 is a part of the Constitution, and, as such, that it therefore necessarily binds the States, at least minimally, *at least until the States clarify otherwise in a ratified amendment.*

Given the current wording of the Constitution, it is difficult to fault Marshall's conclusion, even as is easy to despise the evil manner by which he surreptitiously and intentionally undermined the Constitution he swore to uphold, *which includes a lot more than just two clauses*.

Thankfully, Marshall's implication—that States may be readily bound, to any or even every appreciable degree by Clause 17—is patently false, and his hand, 99% bluff.

A hypothetical case showing the minor degree to which the States may actually be bound by indirect extension of Clause 17-based laws beyond District borders may help explain matters.

If a man commits a crime in the District of Columbia against one of the laws of Congress enacted under Clause 17, and then flees to one of the States, saying that Clause 17-based laws *bind*

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51. *Ibid.*, Pg. 424.

*all the United States* simply means in this case that federal marshals may directly chase the alleged suspect throughout the Union and bring him back to justice, themselves, directly.

In the case at hand, it merely means federal marshals needn't resort to the normal extradition process that States must use when one of their suspects commits a crime but flees the State (to have another State deliver up the suspect once caught).

Of course, Marshall implies all federal actions resting on Clause 17 nevertheless *directly* bind all the States, in most or all cases, which is patently false. He falsely implies the same [federal] crime committed *outside* exclusive legislation areas, in one of the States, would still be a federal crime. Thankfully, that assertion isn't true, which is why Marshall doesn't overtly declare it.[52]

To determine whether a crime was truly federal—everywhere against the law—one must look to the Constitution, to see if the crime was enumerated therein.

The only federal crimes specifically enumerated in the Constitution are treason, counterfeiting, and piracy. One could add impeachment as the fourth crime, but one must place an asterisk next to it, since it only allows political punishment.

One can read about the true federal crimes in the Crime Acts of 1790 and 1825, which followed correct constitutional principles.[53]

Remember, the powers not delegated to the United States in the Constitution *are reserved to the States*, unless the Constitution prohibits the States from exercising a named power

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52. This statement doesn't address the many possible ways one may inadvertently "volunteer" to the D.C.-based jurisdiction, even as one otherwise resides in one of the States (which is outside the scope of this book).

53. 1 Stat. 112 (4/30/1790) and 4 Stat. 115 (3/3/1825).

and thus reserves it unto the people. This division of governing power reaches to the division of crimes, as well.

The federal crimes are those detailed in the U.S. Constitution and the remainder are State crimes.[54]

No other possible amendment can have any lasting effect, until either an amendment to contain or repeal tyranny has been ratified.

We cannot collaterally attack this constitutional-bypass loophole indirectly—we must face it, head-on. We must contain tyranny to D.C. or blast its roots out of existence, everywhere.

Any other amendment would simply add to the bulk of the Constitution *already being ignored or bypassed*.

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54. Federal crimes also include Clause 17-based crimes, of course, as the 1790 and 1825 criminal Acts readily show.

Realize that without any State involvement within exclusive legislation areas, someone must provide for the remainder of criminal punishments that are elsewhere handled by States. And, the Constitution itself determines "who," as it specifically vests exclusive legislation powers *in Congress* "in all Cases whatsoever." These "Cases" would extend also to literal cases, both civil *and* criminal.

Thus, treason, counterfeiting, piracy and impeachment are the four federal crimes "mentioned in the Constitution," that had "direct reference…in the Constitution," and where the criminal jurisdiction was "expressly conferred" in the Constitution, whereas Clause 17-based crimes are inferred and included within the express words "in all Cases whatsoever."[55]

55. *The Legal Tender Cases*, 79 U.S. 457 @ 536, 545, and 536, respectively. (1871).

See the discussion on federal crimes in Matt Erickson's public domain book *Dollars and nonCents* (Chapter 3) www.PatriotCorps.org.

The only weapon needed in this fight against fraud is truth, adequately voiced. Truth is our sword and our shield. Truth is ample against our opponents' lies, *once it is adequately voiced.*

One must realize that no person who exercises federal powers, who has taken a solemn oath to support the Constitution, may ever change the Constitution, in any way, shape or form.

Thus, nothing any member of Congress, nothing any American President, and nothing even any Supreme Court justice has ever done, individually by themselves or collectively together, now or at any time in the past, or at all times of the past, has ever changed the Constitution, to the smallest degree, whatsoever.

The containment amendment would allow all existing laws ultimately enacted under Clause 17 to remain, but no longer could any of those laws ever reach beyond District borders, even indirectly, as they are now extended.

**Option 2. Repeal.**

The second option is the author's far harsher-acting alternative, his *Happily-Ever-After Amendment*, to Repeal Clause 17, entirely, immediately terminating all of exclusive federal authority, everywhere.

The *Happily-Ever-After Amendment* to repeal tyranny needs only follow the path of the 21st Amendment (which repealed Prohibition, that had been put in force by the 18th Amendment), and simply read, something like;

> "The seventeenth Clause of the eighth Section of the first Article of the Constitution for the United States of America *is hereby repealed*, terminating all exclusive legislation jurisdiction."[56]

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56. Enactment of a new amendment to end tyranny would also need wording on retrocession. And, with retrocession of D.C., the 23rd Amendment wouldn't any longer be needed (which provided District residents a voice in presidential elections).

With repeal of exclusive legislation jurisdiction—including the District Seat, forts, magazines, arsenals, dockyards and other needful buildings—the federal government would still own the lands that it now owns and would still perform its legitimate federal functions that it may yet exercise under the remainder of clauses of the Constitution.

Besides its enumerated powers as the remainder of clauses give it, the federal government would yet have its ownership rights as a landowner in the cases involving federal buildings and lands. It is just that even federal properties would be under the governing jurisdiction of the State where the property is found.

While the federal government would retain some measure of exemption from State laws, the remainder would apply. There would be no other federal crimes, than treason, counterfeiting, piracy and impeachment, except as new amendments may specifically designate. All Clause 17 crimes (including relating to court houses, post offices, etc.,) would thereafter need to be enacted as State crimes (absent new amendments).

The Virginia precedent of 1846 serves as the model for retrocession of exclusive legislation lands with repeal of Clause 17, when Virginia received back the lands of Alexandria that Virginia had originally ceded to Congress for the District Seat in 1791, but were never used as intended and no longer needed.

While proposing and ratifying a new amendment is a difficult process (over 11,000 attempts have been made, with only 27 ratified), that difficulty may be overcome when the need for an amendment is broadly understood (such as in 1793, when it only took two years to ratify the Eleventh Amendment).

Thankfully, the difficulty of the amendment process has kept the Constitution largely intact, with precious few changes, allowing us today a clear path to throwing off all that is beyond the Constitution, that is centered upon Clause 17.

To spur demand for the cure, the information found in *Two Hundred Years of Tyranny* needs only to be simplified and broadcast far and wide, explaining how scoundrels in government have been able to bypass their constitutional constraints with impunity.

Never before in the history of man has it been so easy to disseminate critical information to millions of people. The Internet Age allows us to bypass major communications companies and get out the word, directly.

All it will take is one person who has an adequate political platform for speaking the truth, and he or she can change the country and thus the world.

The whole edifice of The Deep State will necessarily crumble in rapid succession once properly exposed, because it is all built upon lies.

No member of Congress, no President, no bureaucrat, and no Supreme Court justice can stand in the way, *nor even all of them together*. Their only defense against truth will be to ridicule and discredit the speakers, mock the information provided or seek to distract us from our task. But, truth is its own strength.

Once this information takes hold, members of Congress may at some late point even begin to fall all over themselves seeking to distance themselves from the vast corruption being exposed.

After all, current federal servants are not the original scoundrels who corrupted government. Those evil men are long since dead. We must always leave eternal rewards or punishments to God. We can, and should, of course, correct the history books.

A simple two-pronged approach offers a viable strategy going forward. First, push Congress to propose a constitutional amendment to contain Clause 17 to exclusive legislative jurisdiction grounds, relying upon public exposure to spread the word.

Then, simultaneously, work with the States to call for an Article V Convention, but for only the express purpose of directly proposing an amendment *to repeal Clause 17*.

This one-two punch uses the convention process as a sledgehammer to help induce Congress to step up and do the right thing—to propose the lighter-acting amendment to contain tyranny to D.C., quickly.

It is true, left to their own accord, members of Congress won't pursue the containment amendment voluntarily, but this doesn't mean that we cannot force their hand. We can pressure them sufficiently to get them to propose the less harsh amendment, *by pushing hard the harsher-acting amendment*.

To keep their wild stallions, even if only in a corral not to exceed ten miles square, members of Congress may well choose to round them up for containment (keeping repeal from figuratively shooting the stallions on sight, wherever they may be found).

**D.C. Statehood**

There is a third way forward, however; an offshoot on the option involving repeal of Clause 17, but sped up by working with our opponents, to give them something they want badly.

Instead of seeking retrocession of all exclusive lands back to the State that originally ceded them—including D. C.—an option would be to allow D.C. residents to seek Statehood.

Now, there are a multitude of very good reasons that D.C. Statehood *shouldn't* be allowed, but there is one very good reason for attempting it (that outweighs all the reasons against it).

And, that good reason for doing so is because, with our progressive-minded opponents wanting D.C. Statehood very badly, *means they may be willing to strike a deal*, quickly, that would get our preferred amendment proposed by Congress, quickly, if we simply concede to D.C. Statehood.[57]

It is easy to understand why progressives want D.C. Statehood—it would give them two new liberal U.S. Senators and a new [voting] U.S. Representative, that would undoubtedly remain progressive, into perpetuity.

So, why would a conservative, strict-constructionist patriot accept D.C. Statehood, given what liberals would get?

The answer is because we could get our preferred corrective method, proposed rather quickly. It is important to realize that ratifying the Happily-Ever-After Amendment to repeal Clause 17 would be a VERY BIG DEAL.

It is important to realize just how radical would be the repeal of Clause 17. While the Once and For All Amendment to contain tyranny would be huge (to contain to D.C., probably some 95% of all federal activity), the Happily-Ever-After Amendment to repeal tyranny is the Red-Button Nuclear Option, to destroy progressive government, permanently, forever.

Gone would be the District of Columbia, and in its place, under this option, would rise a very small, very progressive 51st State—New Columbia; State of Washington, Douglass Commonwealth; or some other designation.

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57. This author doesn't think D.C. Statehood can be accomplished without a constitutional amendment, or also without Maryland specifically agreeing to the arrangement (since Maryland would get back the District Seat, in retrocession).

Although Maryland fully ceded the District in 1791, without later claim, it ceded the area in trust for a specific purpose.

When trust lands are no longer needed for their original purpose, those lands should be retroceded back to the ceding party; unless, in this case, Maryland could be induced to waive its justifiable claim (in line with Art. IV, Sect. 3, Cl. 1, when States are formed by parts of States, needing the consent of the legislature of the States involved).

But, also gone forever would be all of federal government resting upon Clause 17—the EPAs, the FDAs, the FCCs, the FTCs, the SECs, the Federal Reserve, the Social Security Administration, and all similar bureaucracies and entitlement programs, including much of the IRS.

Repeal the clause that allowed all those independent establishments and government programs to exist in the first place, and with repeal, *they would all be gone*. Short of new amendments, they could not ever again be allowed (because only Clause 17, despite inferences otherwise, allowed their existence).

One could even argue repealing Clause 17 would be too harsh, too radical, too much change, too quickly.

After all, repeal would immediately throw off 230 years of wayward federal action, throwing off everything that necessarily rested on Clause 17, probably some 95% of all federal action, permanently.

There are two imperatives in any negotiation with progressives regarding D.C. Statehood—

1. That Clause 17 is repealed, fully, without hint of any continuing exclusive legislation whatsoever, not even over one square foot (not the White House, not the National Mall, and not any other thing or place); and
2. That one and only one new State may be admitted in the place of D.C. (prohibiting the creation of a multitude of micro-States, each sending new members to Congress to pack the legislative votes).

While Democrats could more easily gain legislative majorities with a new progressive State, gone would be the jurisdiction which had allowed them to rule as they pleased in the first place.

Even the most progressive Democrat, operating within the Union, *without Clause 17*, would only be empowered to exercise

enumerated powers, using only necessary and proper means, as those terms meant at time of ratification 230 years ago, until changed by amendment.

D.C. Statehood is a *very small* concession to pay, for quickly proposing and ratifying a constitutional amendment to end the long reign of tyranny in the Land of the Free and Home of the Brave.

**Retrocession of Forts, Magazines, Arsenals, Dockyards and other needful Buildings.**

Conservatives, typically being pro-military (at least as it relates to common defense), may think retrocession of our exclusive legislation jurisdiction military forts would risk base security and thus potentially jeopardize military installations.

They would be wrong.

In 1956, a federal intergovernmental group empaneled at the recommendation of the Attorney General, with approval of President Eisenhower and his cabinet, gave its report, on the problems arising out of the jurisdictional status of federally owned areas located throughout the several States.

After examining all the difficulties from not having local services as elsewhere provided by States and local governments (dealing with marriage, divorce, recording of deeds, births, and deaths, police, fire, and schools, for example), the panel concluded:

> "The most immediate need, in the view of the Committee, is to make provision for the retrocession of unnecessary jurisdiction to the States."[58]

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58. *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 71. April, 1956. United States Government Printing Office, Washington: 1956. (KF 4625 A86).

Further, the principal committee conclusions included:

> "1. In the usual case there is an increasing preponderance of disadvantages over advantages as there increases the degree of legislative jurisdiction in the United States;
>
> "2. With respect to the large bulk of federally owned or operated real property in the several States and outside of the District of Columbia it is desirable that the Federal Government not receive, or retain, any measure whatsoever of legislative jurisdiction, but that it hold the installations and areas in a proprietorial interest status only, with legislature jurisdictions [sic] several States."[59]

The first point details that as exclusive legislative jurisdiction increases, problems *increase,* in direct relation.

The second point recommends the federal government only retain a "proprietorial interest" (interest as a proprietor/ landowner/ business owner])—in essence, that the federal government *should* retrocede exclusive legislative jurisdiction wherever and whenever possible (because it causes more problems than it solves).

Under the second point, it should be noted that the committee didn't examine or discuss the District of Columbia, since it had its own local form of government—then a three-member Board of Commissioners—that largely provided the services elsewhere provided by State and local governments.[60]

In regards to security, the military said exclusive legislation jurisdiction wasn't needed.

The formal opinion of the Department of the Navy, for instance, declared:

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59. *Ibid.*, Page 70.

60. But, considering the information in this book, obviously the author recommends retrocession of D.C., or, Statehood, if tied to repeal.

> "…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."[61]

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 to begin with. 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-governed lands).

The Department of the Navy, relying on an opinion of the Judge Advocate General of the Navy, gave its conclusions regarding exclusive legislation lands, declaring:

> "there is no connection between security of a base and the jurisdictional status of the site."[62]

Thus, the 65-year-old position of the U.S. Government has been to eliminate exclusive legislation jurisdiction whenever possible, as it typically causes more harm than it helps.

Considering the matters herein discussed, it is wholly inappropriate that some ~44,000 acres of land within the District of Columbia would ever be allowed to continue to jeopardize the remainder of 2.4 billion acres of land mass in the United States, that should set the standard.

The District Seat was established at a time when the States were powerful, and the federal government, minimal and weak. Like a baby, the federal government needed a little extra care in the beginning, when it could hardly protect itself.

Obviously, this is no longer the case.

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61. *Ibid.*, Page 93.

62. *Ibid.*, Page 47.

Take the words of the Attorney General of Kentucky, as he responded to an inquiry regarding "the most secret of all federal activities," at the Atomic Energy Commission at Paducah:

> "The transfer of jurisdiction to the Federal Government is as anachronism which has survived from the period of our history when Federal powers were so strictly limited that care had to be taken to protect the Federal Government from encroachment by officials of the all-powerful States. Needless to say, this condition is now exactly reversed. If there is any activity which the Federal Government cannot undertake on its own property without the cession of jurisdiction, we are unaware of it.
>
> "It is our hope that your Committee will be able to recommend a retrocession to Kentucky of all of the Federal enclaves in this State, so that our local governments, our law courts, our administrative agencies and our Federal officials themselves may cease to be vexed with this *annoying and useless anachronism*."[63]

But, Clause 17 exclusive legislation lands aren't simply an "annoying and useless anachronism"—instead, they are *the* home-base for tyranny allowing it to spread its evil throughout the Union, while effectively nullifying the fundamental laws of the Union and destroying society.

**Keeping Perspective, to avoid being Overwhelmed**

It is important that patriots keep in mind that they needn't be overly concerned at this early stage of the game, of picking long-term strategies, for proposing and ratifying amendments.

Patriots needn't be overly concerned with the *last* step of our mission, *only our next step*.

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63. *Ibid.*, Page 24. Italics added.

And, the next step is seeking to understand the problem and disseminating information on the available cures.

We simply take the next step in the right direction, and begin to build success, figurative battle-by-figurative battle, until the war on fundamental principles has been won.

Thankfully, we won the shooting war, some 240 years ago, against a foreign government which sought to bind the colonies, directly, in all cases whatsoever, without their consent and against their will, over every square foot of American land.

We won the shooting war and we instituted limited government, making it the supreme Law of the Land.

Tragically, we didn't realize until almost too late that our Constitution contained within it the seeds of our pending destruction, by giving tyranny the very small foothold it would need to grow and prosper. But, recognizing that mistake now, we may take a relatively simple step today, to eliminate the possibility of tyranny's final success, tomorrow.

Today, the war we face is one only of knowledge, since the Constitution is already the supreme Law. We don't need bullets; we need truth, adequately voiced.

We need only expose rogue agents who bend government for their own personal benefit, as they seek to bind the States in cases where they have no legitimate authority, whenever they intend.

This present battle is a battle to get out the truth. As far as battles go, that is a relatively easy battle to fight.

Please do your part—learn all you can about Hamilton's clever loophole and then pass along the information, to everyone you can possibly reach, in every way possible.

For further information, please see www.PatriotCorps.org.

God Bless these United States of America.

About the Author


Matt Erickson, past-proprietor of several failed businesses, works as an office clerk at a farm and packing shed. He lives in Quincy, Washington with his wife, Pam and has two step-children and eight grandchildren.

Erickson is the founder and president of the Patriot Corps and also the Foundation For Liberty (www.FundationForLiberty.org), the latter of which is a 501(c)(3) non-profit, tax-exempt organization.

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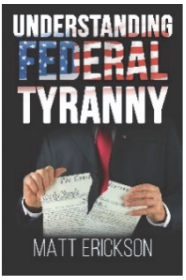



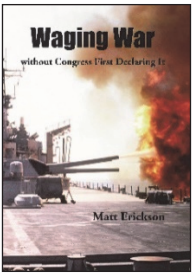


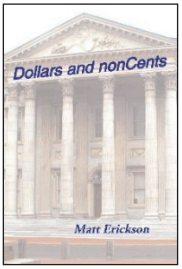


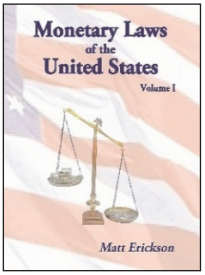


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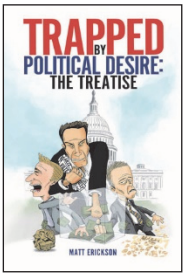


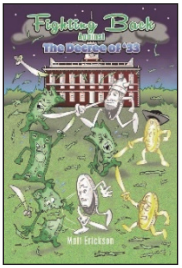


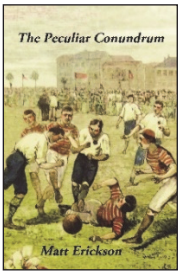



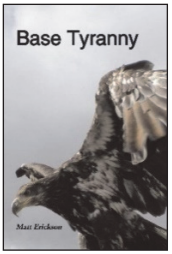


*Two Hundred Years of Tyranny* reveals the cunning mechanism Chief Justice John Marshall used to transform the limited federal government model the Framers gave us, to the all-powerful government model Alexander Hamilton had sought at the Constitutional Convention of 1787, but didn't get.

While Marshall laid the groundwork in 1803 with *Marbury v. Madison* and in 1819 with *McCulloch v. Maryland*, it was his obscure March 3, 1821 decision of *Cohens v. Virginia* that sealed America's fate, when Marshall simply wrote:

> "The clause which gives exclusive jurisdiction is, unquestionably, a part of the Constitution, and, as such, *binds all the United States*."

And, with these magic 21 words, the inherent power Congress may legally use within the District of Columbia was allowed to escape District boundaries and bind the States, *whenever Congress intended.*

Marshall merely exploited the inherent contradiction that currently exists between the letter and spirit of the Constitution. While the spirit would restrict exclusive legislation laws to the District Seat, Marshall held that the strictest letter (of Article VI, Clause 2) holds even Article I, Section 8, Clause 17 to be part of the supreme Law of the Land that bind the States.

Read *Two Hundred Years of Tyranny* to learn how Hamilton and Marshall pulled off their political coup, how we may throw off tyranny, overturn *Cohens* and permanently restore our lost American Republic.