

STI COMMENTS ON PUBLIC AFFAIRS

ASSAULT ON THE CONSTITUTION  
&  
MILLIONS FOR DEFENSE, NOT ONE CENT FOR TRIBUTE

By

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July 2012

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## **ABOUT THE AUTHOR**

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## ASSAULT ON THE U.S. CONSTITUTION

Historically, Americans have held two views respecting our Constitution, i.e., how its articles, sections and amendments are interpreted. One view is strict interpretation. Examples include Congresses authority to declare war (Article 1, Section 8), the right of the people to keep and bear arms (Amendment II) and powers not delegated to the United States are reserved to the states respectively or to the people. The other view is that the Constitution is a “living document” subject to interpretation in the context of a changing social, economic, and political environment constrained only by judicial review (Marbury vs. Madison 1803). When an act of Congress is inferior to the Constitution, judges are bound to disregard the inferior.

An example of the living document theory is Article 1, Section 8 that states the United States shall have the power to regulate commerce among the several states. The original meaning of “commerce” was limited to trade and exchange of goods and the necessary transportation. This clause, however, was cited when defending the constitutionality of the 2010 “ Patient Protection and Affordable Act,” better known as “Obamacare.” (Note: The U.S. Supreme Court rejected this interpretation in a June 2012 ruling on the Act).

Another “living document” example is the corruption of Article I, (Bill of Rights) that Congress shall make no laws respecting the establishment of religion, or prohibiting the free exercise thereof. “Establishment” being the operative word. Strong circumstantial evidence shows the founding fathers had it right. Note the multiplicity of religions in the United States—Catholic, Judaism, Baptist, Presbyterian, Muslim and Buddhism, among others. Today, however, the meaning of establishment has been stretched to the breaking point. No prayer in school or sports events, no Christmas lights in the town square, no prayer to open public events, the list being almost endless.

A somewhat earlier liberal interpretation of the Constitution occurred when a Supreme Court case in 1939 gave Congress the authority to delegate its powers.

“Our jurisprudence laws have been driven by a practical understanding that in our increasingly complex society, replete with ever changing and more technical problems, Congress simply cannot do its job absent an ability to delegate power under broad general directives.”

It is fair to note that for the first century and half there was no delegation of Congressional power. This delegation of Congressional power has spawned agencies such as the National Labor Relations Board (NLRB) and the Environmental Protection Agency (EPA). Conservatives argue that these and others, have abused the power granted to them and that their actions far exceed the intent of Congress.

For most of the last century the living document advocates have prevailed with respect to interpreting the Constitution. In the last decade, however, opponents of this interpretation have hardened their opposition, in effect, drawing a so-called line in the sand.

### **UNITED NATIONS CHARTER**

A more recent document affecting American sovereignty and individual and state rights is the United Nations Charter—essentially an international treaty that came into effect on October 24, 1945. Basically, the Charter is international in scope. As stated in Chapter I—to maintain international peace, develop friendly relations among nations, achieve international cooperation and solve differences among nations peaceably. Made clear, however, is that nothing in the Charter authorizes the UN to intervene in matters which are essentially within the jurisdiction of a member state. There is, however, no provision preventing different groups and states for using various sections of the Charter to advance their social and political agenda. In this respect, the General Assembly (one nation, one vote) may make recommendations on almost any subject under the pretense that the subject is of international interest. The Economic and Social Council (UNESCO) may authorize commissions and councils to inquire into a nation's domestic actions under the same rationale. The International Court of Justice, successor to the World War II war crimes tribunals patiently awaits other “war crimes” for it to adjudicate.

In the past nations and interest groups have used various articles and sections of the Charter to criticize America's economic, social and political systems. This mischief making has been tolerated by the United States, relying on its veto power in the Security Council to insure its national sovereignty and national interests.

As stated above, living document advocates have been content with general liberal interpretations of the Constitution but with the hardening of conservative opposition have turned to the UN Charter to advance and politicize their positions on essentially member state domestic issues. For example, various interests have urged the UN Council on Human Rights to condemn voter ID laws in several American states, have argued that our judicial system note and incorporate rulings by the International Court of Justice, and that UNESCO's reports be given consideration when making policy decisions. A recent challenge to state (United States) sovereignty is a suit filed by a dozen or more countries against the state of Georgia over a recently passed bill dealing with immigration. The latest assault of the Constitution was by Justice Ruth Bader Ginsburg who urged Egypt's constitution authors to look to South Africa's constitution, Canada's Charter of Rights and Freedom and the European Convention on Human Rights for guidance, rather than to the U.S. Constitution.

Generally being outgunned at the federal level conservatives have pressed their case(s) at the state and local level with some notable successes. In this respect, the

major issue in the 2012 general election will not be who is our next President but rather the degree of success for conservatives in reawakening interest in Amendment II of the Constitution, i.e., powers not delegated to the United States are reserved to the states respectively or to the people.

### **MILLIONS FOR DEFENSE, NOT ONE CENT FOR TRIBUTE**

Following the successful conclusion of the American Revolution, the United States in 1794 signed a treaty with Great Britain (Jay's Treaty) that, among other provisions, recognized 10 years of peaceful trade between the two nations. In effect, it asserted America's neutrality in the on-going war between Great Britain and France. This statement of neutrality angered The Directory, then governing France, citing French help toward the end of the Revolutionary War, i.e., the French naval blockade of Cornwallis' army at Yorktown and earlier loans to the American colonies. The end result was French navy and privateer attacks on American shipping.

In an attempt to end this undeclared war, President John Adams dispatched a delegation to France. The delegation was met with a demand for an American loan of \$10,000,000 together with other monetary considerations. Charles Pickney, a member of the delegation, is said to have responded "Millions for Defense, Not one cent (sixpence) for Tribute. This reply became a rallying cry of anti French sentiment. Later, the slogan was again a rallying cry against attacks on American shipping by the Barbary States of Tunis, Algiers, and Tripoli. An American naval force was dispatched to the area ending the demand for tribute and, at the same time, making known to the world that tribute was off the table as a tool of American diplomacy.

In these instances the tribute demanded was monetary. However, Webster's Third International Dictionary notes that the word tribute has a wider meaning..."an annual or stated sum of money or other valuable thing paid by one ruler or nation to another as a acknowledgement of submission as the price for peace..."

Today, and for many years past, the United States (and other nations) have paid tribute to different countries, not in money but in various things of value as a price for peace. Examples include food and humanitarian aid to North Korea in return forgoing its nuclear weapons program. With respect to Iran, various concessions and aid for not developing nuclear weapons. In the case of Palestine, almost anything of value in return for recognizing and concluding a peace treaty with Israel. Or the 1938 agreement giving the Sudetenland to Nazi Germany without the consent of the Czech government. In the words of British Prime Minister Chamberlain "assuring peace in our time."

Argued here is that in the above examples and many others, a tribute was paid as the price for peace. Historically, these tributes (bribes) have usually failed in their intended purpose. In forwarding America's interest now and in the future, the dictum of some 200 years past----"Millions For Defense, But Not One Cent For Tribute" is not that bad a starting point.