

Treason by Public Officials©2001

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Treason by Public Officials?

Based upon the following research and upon researching the plethora of laws on the books today, it is obvious that many current laws and in some cases, the laws they were based on are blatantly unconstitutional. I make no interpretations myself but let the founding documents speak for themselves with highlighting and underlining done for the sake of clarity.

The following excerpts from founding documents will clearly show:

1. The Constitution of the United States is the “Supreme Law of the Land” and any law that strays outside the boundaries enumerated in it are undeniably unconstitutional.
2. The undisputable fact that acts passed by Congress or by State legislatures which do not conform to the Constitution of the United States have been found by the Supreme Court to be “null and void and have no effect”.
3. The enactment of unconstitutional laws by legislators clearly violated their Oath to “support and defend the Constitution of the United States of America”.
4. The violation of this Oath by an elected official/public officer could therefore be construed as a “Treasonable Act”.

It is important to note that the wording of Article 3 Section 3 of the Constitution regarding the definition of treason has been an area of debate as to its interpretation and implementation in law as mentioned below. Whether legislators who pass unconstitutional acts are committing the crime of treason or, just “treasonous acts” where they may be charged with lesser offenses is the question at hand.

Note: At the end of this document I put forth possibilities for a solution and would welcome comments or suggestions.

First, the Constitutional requirements for an Oath supporting the Constitution:

Article 2, Sec 1 "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Article 6. “The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States .”

Second, the areas of the Constitution regarding treason:

Article 1, Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other place.

Article 2, Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article 3, Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article 4, Section 2. A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

Definitions of Treason:

Tucker's Blackstone Vol. 1 Appendix Note B [Section 3] 1803- If in a limited government the public functionaries exceed the limits which the constitution prescribes to their powers, every such act is an act of usurpation in the government, and, as such, treason against the sovereignty of the people.

Bouvier's Law Dictionary 1856- TREASON, crim. law. This word imports a betraying, treachery, or breach of allegiance. 4 Bl. Com. 75.

Black's Law 6th Edition – A breach of allegiance to one's government, *usually* committed through levying of war against such government or by giving aid or comfort to the enemy.

(**Note:** The "*usually*" above is obviously due to the fact that the current interpretation being used in U.S. jurisprudence does not coincide with traditional definitions, it excludes other specie of treason such as "constructive treason", traitorous conspiracies and insurrections meant to alter the established law, or to render it ineffectual. All of which are mentioned in the founding documents below.)

I. Research regarding Treason and treasonous acts.

Tucker's Blackstone Volume 1 — Appendix Note D [Section 3 — Structure and organization of the federal government]

I. The powers *exclusively* granted to the federal government. Of these,

1. The legislative: or those vested in congress; that body being empowered,
2. To borrow money on the credit of the United States.
3. To regulate commerce:
 - a. With foreign nations;
 - b. Among the several states; and
 - c. With the Indian tribes. The commerce between the individuals of the same state, being reserved to the state governments.
4. To coin money, regulate the value thereof, and the value of foreign coin.

5. To fix the standard of weights and measures. These last powers seem to be a necessary appendage to that of regulating commerce.
6. To provide for the punishment of counterfeiting the securities and current coin of the United States.
7. To constitute tribunals, under the federal government, inferior to the supreme court
8. To define and punish,
 - a. Piracies;
 - b. Felonies on the high seas;
 - c. Offences against the law of nations.
- 9. And to declare the punishment of treason against the United States.**
10. To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water.
11. To provide and maintain a navy, [in time of peace.]
12. To make rules for the regulation and government of the land and naval forces.
13. To raise and support armies, [in time of peace.]

In America the Senate is not a distinct order of individuals, but the **second branch** of the national legislature, taken collectively. **They have no privileges**, but such as are common to the members of the house of representatives, and of the several state legislatures: We have seen that these privileges extend only to an **exemption from personal arrests**, in certain cases, and that it is **utterly lost, in cases of treason**, felony, or breach of the peace.

Commentaries on American Law – James Kent Vol 1. LECTURE XII. [OF JUDICIAL CONSTRUCTIONS OF THE POWERS OF CONGRESS.]

The majority do not go further into the expediency of the measure than to show that it was not improper under the circumstances, but devote themselves more to showing that it was not inconsistent with the spirit of the Constitution and to overthrowing the argument stated above. **Mr. Justice Strong suggests, as an answer, that the grant of power to punish counterfeiting, treason, &c., has been held not to exclude an implied power to make other offences punishable** (citing *United States v. Marigold*, 9 How. 560). See also *United States v. Dewitt*, 9 Wall. 41, 44, *post*, 439, n. 1.

Tucker’s Blackstone Volume 1 — Appendix Note B [Section 3 — Of the several forms of government]

If the constitution be founded upon the previous act of the people (the creation of the U.S. Constitution), the government is **limited**. If it have any other foundation, it is merely constructive, and the government arrogates to itself the sole right of making such a construction of it, as may suit with its own views, designs, and interests: and when this right can be successfully exercised, the government becomes absolute and despotic. In like manner, **if in a limited government the public functionaries exceed the limits which the constitution prescribes to their powers, every such act is an act of usurpation in the government, and, as such, treason against the sovereignty of the people, which is thus endeavored to be subverted, and transferred to the usurpers .**

Inseparably connected with this distinction between limited and unlimited governments, is the responsibility of the public functionaries, and the want of such responsibility. **Every delegated authority implies a trust; responsibility follows as the shadow does its substance. But where there is no responsibility, authority is no longer a trust, but an act of usurpation. And every act of usurpation is either an act of treason, or an act of warfare.**

In case of treason ... the power of pardon is taken away from the governor by the act of 1794, c. 168, nor can the executive now remit any fine or amercement assessed by a jury, or imposed by any court of record, court martial, or other power or authority authorized to assess or impose the same.

If he (the executive) concurs in an unconstitutional act, he is guilty of usurpation, and contempt of the sovereign authority, which has forbidden him to pass the bounds prescribed by the constitution. He has violated his oath, and the most sacred of all duties. To omit him at the next election is not an adequate punishment for such a crime. Abuse of power is despotism, and the democracy that does not guard against it, is defective. **If in any department of government, a man may abuse, or exceed his powers, without fear of punishment, the right of one man is at the mercy of another, and freedom in such a government, has no existence.**

It is indispensably necessary to the very existence of this species of democracy, that there be a perfect equality of rights among the citizens: the unqualified use of the term equality has furnished the enemies of democracy with a pretext to charge it with the most destructive principles. By equality, in a democracy, is to be understood, equality of civil rights, and not of condition. Equality of **rights necessarily produces inequality of possessions**; because, by the laws of nature and of equality, every man has a right to use his faculties, in an honest way, and the fruits of his labour, thus acquired, are his own. **But, some men have more strength than others; some more health; some more industry; and some more skill and ingenuity, than others; and according to these, and other circumstances the products of their labour must be various, and their property must become unequal. The rights of property must be sacred, and must be protected; otherwise there could be no exertion of either ingenuity or industry, and consequently nothing but extreme poverty, misery, and brutal ignorance.**

In this species of democracy, it is further indispensably necessary to its preservation, that the constitution be fixed, that the duties of the public functionaries be defined, and limited, both as to their objects, and their duration; and that they should be at all times responsible to the people for their conduct. The constitution, being the act of the people, and the compact, according to which they have agreed with each other, that the government which they have established shall be administered, is a law to the government, and a sacred reverence, for it is an indispensable requisite in the character and conduct of every public agent. **A profound obedience to the laws, and due submission to the magistrate entrusted with their execution, is equally indispensable on the part of every citizen of the commonwealth, in order to preserve the principles of this government from corruption. Neglect of the principles of the constitution by the public functionary is a substitution of aristocracy, for a representative democracy: such a person no longer regards himself as the trustee, and agent of the people, but as a ruler whose authority is independent of the people, to whom he holds himself in no manner accountable; and he so degenerates into an usurper and a tyrant.**

Thus while a democracy may be pronounced to be the only legitimate government, and that form of government, alone, which is compatible with the freedom of the nation, and the happiness of the individual, we may perceive that it is on every side surrounded by enemies, ready to sap the foundation, convulse the frame, and totally destroy the fabric. In such a government a sacred veneration for the principles of the constitution, a perfect obedience to the laws, an unremitting vigilance on the part of the people over the conduct of their agents, and the strictest attention to the morals and principles of such as they elect into every office, legislative, executive, or judiciary, seem indispensably necessary to constitute, and to preserve a sufficient barrier against its numerous foes.

Tucker's Blackstone Volume 1 — Appendix Note D [Section 10 — Powers of Congress (cont.)]

13. Congress have power to declare the punishment of treason, against the United States; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted. C. U. S. Art. 3. Sec. 3. The act of 1 Cong. 2 Sess. c. 9. accordingly declares, that the punishment shall be death, by hanging; and that no conviction or judgment for treason, shall work any forfeiture of estate. The constitution. itself declares, that treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort: and that no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The precise definition of treason, and the limitation of it to two cases, only, both of which are clearly and explicitly described, at once evince the prudence, caution, and wisdom, of the framers of the constitution, by shutting the door (as far as human prudence, and human foresight, could provide the means of doing so), against all possible cases of **constructive treason**.

The abolition of forfeiture, and of the corruption of blood, in cases of treason, is moreover a happy expedient for lessening the incentives, to prosecutions for treason, in corrupt governments.

Tucker's Blackstone Volume 1 — Appendix Note D [Section 15 - Executive Powers (cont.)]

31. The privileges both of the federal and state legislature, so far at least as respects the members, appear to be few and definite. "They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to, and returning from the same: and for any speech, or debate in either house, they shall not be questioned in any other place. C. U. S. Art. 1. §. 6. V. L. 1705, c. 1. §. 13. Edi. 1769 1785, c. 55. Edi. 1794, c. 17. 1798, c. 11.

The president of the United States may be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors: and the chief justice of the United States shall preside at his trial. C. U. S. Art. 2, Sec. 4. Art. 1, Sec. 3.

Tucker's Blackstone Volume II Chapter 2 Section 1

12. It is otherwise in the United States; the president is the *chief* magistrate, but he is not the *sole* magistrate of the nation. He may nominate, but he cannot make a permanent appointment, to office (except in some particular instances) without the concurrence of the senate. Many of those who are nominated and commissioned are not responsible to him, or removeable by him; but are responsible only to the people, and to the law, and removeable only upon impeachment by their representatives, and upon conviction of treason, bribery, or other high crimes and misdemeanors. C. U. S. Art. 2, 3.

United States v. Burr

25 Fed. Cas. 55, no. 14,693 C.C.D.Va. 1807

Marshall, Chief Justice, delivered the opinion of the court as follows (regarding what constituted treason under the U.S. Constitution):

But the term is not for the first time applied to treason by the constitution of the United States. It is a technical term. It is used in a very old statute of that country whose language is our language, and whose laws form the substratum of our laws. **It is scarcely conceivable that the term was not employed by the framers of our constitution in the sense which had been affixed to it by those from whom we borrowed it.** So far as the meaning of any terms, particularly terms of art,

is completely ascertained, those by whom they are employed must be considered as employing them in that ascertained meaning, unless the contrary be proved by the context. It is, therefore, reasonable to suppose, unless it be incompatible with other expressions of the constitution, that the term ... is used in that instrument in the same sense in which it was understood in England, and in this country, to have been used in the statute of the 25th of Edw. III. from which it was borrowed.

It is said that this meaning is to be collected only from adjudged cases. But this position cannot be conceded to the extent in which it is laid down. The superior authority of adjudged cases will never be controverted. But those celebrated elementary writers who have stated the principles of the law, whose statements have received the common approbation of legal men, are not to be disregarded. **Principles laid down by such writers as Coke, Hale, Foster, and Blackstone, are not lightly to be rejected.**

It is not deemed necessary to trace the doctrine, that in treason all are principals, to its source. Its origin is most probably stated correctly by **Judge Tucker** in a work, the merit of which is with pleasure acknowledged. (regarding whether it was necessary for someone to have weapons or implements of war to constitute treason) ... If the party be in a condition to execute the purposed treason without the usual implements of war, I can perceive no reason for requiring those implements in order to constitute the crime.

United States v. Hoxie

26 Fed. Cas. 397, no. 15,407 C.C.D. Vt. 1808

Treason, not only holds a conspicuous, and generally the first place in every catalogue of crimes, but is almost universally punished with death. Government is so high a blessing, and its preservation and support are so essential to the welfare of every member of the body politic, that to attempt its subversion, has ever been regarded a most aggravated offence.

James Wilson, Of Crimes Immediately against the Community, Lectures on Law

1791 Works 2:663--69

Treason is unquestionably a crime most dangerous to the society, and most repugnant to the first principles of the social compact. ... the famous statute of treasons was made in the reign of Edward the third, on the application of the lords and commons. This statute has been in England, except during times remarkably tyrannical or turbulent, the governing rule with regard to treasons ever since. Like a rock, strong by nature, and fortified, as successive occasions required, by the able and the honest assistance of art, it has been impregnable by all the rude and boisterous assaults, which have been made upon it, at different quarters, by ministers and by judges; and as an object of national security, as well as of national pride, it may well be styled the legal Gibraltar of England.

The great and the good Lord Hale observes upon this clause, "the great wisdom and care of the parliament, to keep judges within the bounds and express limits of this statute, and not to suffer them to run out, upon their own opinions, into constructive treasons, though in cases which seem to have a parity of reason"--cases of like treason--"but reserves them to the decision of parliament. This," he justly says, "is a great security as well as direction to judges; and a great safeguard even to this sacred act itself."

It is so. And it was all the safeguard which the parliament, by the constitution, as it is called, of England, could give. It was a safeguard from the arbitrary constructions of courts: it was a shelter from judicial storms: but it was no security against legislative tempests.

In this manner, the citizens of the Union are secured effectually from even legislative tyranny: and in this instance, as in many others, the happiest and most approved example of other times has not only been imitated, but excelled. This single sentence comprehends our whole [law] of national treason; and, as I mentioned before, is transcribed from a part of the statute of Edward the third.

"Treason consists in levying war against the United States." In order to understand this proposition accurately and in all its parts, it may be necessary to give a full and precise answer to all the following questions. 1. What is meant by the expression "levying war?" 2. By whom may the war be levied? 3. Against whom must it be levied?

I begin with the second--by whom may the war spoken of be levied? It is such a war as constitutes treason. The answer then is this: the war must be levied by those who, while they levy it, are at the same time guilty of treason. This throws us back necessarily upon another question--who may commit treason against the United States? To this the answer is--those who owe obedience to their authority. But still another question rises before us--who are they that owe obedience to that authority? I answer--those who receive protection from it.

In the United States, the authority of the nation is the sole object on one side. An object strictly corresponding to that, should be the only one required on the other side. The object strictly corresponding to authority is, obedience to that authority. I speak, therefore, with propriety and accuracy unexceptional, when I say, that those who owe obedience to the authority, are such as receive the protection, of the United States.

I now proceed to another question--what is meant by the expression "**levying war?**" From what has been said in answer to the former question, an answer to this is so far prepared as to inform us, that **the term war cannot, in this place, mean such a one as is carried on between independent powers.** The parties on one side are those who owe obedience. All the curious and extensive learning, therefore, concerning the laws of war as carried on between separate nations, must be thrown out of this question. This is such a war as is levied by those who owe obedience--by citizens; and therefore must be such a war, as, in the nature of things, citizens can levy.

But this question will receive a farther illustration from the answer to the third question; because the fact of levying war is often evinced more clearly from the purpose for which, than from the manner in which, the parties assemble. I therefore proceed to examine the last question--against whom must the war be levied? It must be levied against the United States.

Insurrections in order to ... alter the established law, or to render it ineffectual--insurrections to accomplish these ends, by numbers and an open and armed force, are a levying of war against the United States.

In England, the punishment of treason is terrible indeed. The criminal is drawn to the gallows, and is not suffered to walk or be carried; though usually a hurdle is allowed to preserve him from the torment of being dragged on the ground. He is hanged by the neck, and is then cut down alive. His entrails are taken out and burned, while he is yet alive. His head is cut off. His body is divided into four parts. His head and quarters are at the disposal of the king.

**Joseph Story, Commentaries on the Constitution 3:§§ 1292, 1294--96, 1791--94, 1796
1833**

§ 1792. Nor have republics been exempt from violence and tyranny of a similar character. The

Federalist has justly remarked, that newfangled, and artificial treasons have been the great engines, by which violent factions, the natural offspring of free governments, have usually wreaked their alternate malignity on each other.

§ 1793. It was under the influence of these admonitions furnished by history and human experience, that **the convention deemed it necessary to interpose an impassable barrier against arbitrary constructions, either by the courts, or by congress, upon the crime of treason.**

II. Research regarding the Oath to preserve, protect and defend the Constitution of the United States Tucker's Blackstone Volume II Chapter 2 Section 2 (Precedent to Oath)

2. By the act of May, 1777, c. 3, all free male inhabitants of the state, above sixteen years, were required to give assurance of allegiance to the state; which consisted in taking the following oath I do swear [or affirm], that I renounce and refuse all allegiance to George the third, king of Great Britain, his heirs and successors, and that I will be faithful and bear true allegiance to the commonwealth of Virginia, as a free and independent state, and that I will not at any time do, or cause to be done any matter or thing that will be prejudicial to the freedom and independence thereof as declared by congress; and also that I will discover and make known to some one justice of the peace for the said state, **all treasons, or traitorous conspiracies** which I now or hereafter shall know to be formed against this or any of the United States of America." This oath was to be tendered by the justices of the peace to all persons required to take it, and all such as refused were to be disarmed. But this act seems to have been merely temporary. The title only is retained. Edi. 1785, p. 50.

From Jefferson's Opinion on the Constitutionality of a National Bank, 1791.

I consider the foundation of the Constitution as laid on this ground: That " all powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people." [XIIIth amendment.] To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

Tucker's Blackstone Volume I Chapter 10 Section 2 (Regarding the Oath)

The members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, and all members of congress shall be bound by oath or affirmation to support the constitution of the United States. C. U. S. Art. 6, which oath must be taken by all persons, chosen or appointed after the first day of August, 1789, before they proceed to execute the duties of their office. L. U. S. 1 Cong. 1 Sess. c. I.

The formal profession, therefore, or oath of subjection, is nothing more than a declaration in words of what was before implied in law. Which occasions sir Edward Coke very justly to observe, that "all subjects are equally bounden to their allegiance, as if they had taken the oath; because it is written by the finger of the law in their hearts, and the taking of the corporal oath is but an outward declaration of the same." The sanction of an oath, it is true, in case of violation of duty, makes the guilt still more accumulated, by superadding perjury to treason: but it does not increase the civil obligation to loyalty; it only strengthens the *social* tie by uniting it with that of *religion*.

Tucker's Blackstone Volume I Chapter 1 (As the Oath applies to the judiciary...)

But here a very natural, and very material, question arises: how are these customs or maxims to be known, and by whom is their validity to be determined? The answer is, by the judges in the several courts of justice. They are the depositaries of the laws; the living oracles, who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land (the U.S. Constitution).

Now this is a positive law, fixed and established by custom, which custom is evidenced by judicial decisions; and therefore can never be departed from by any modern judge without a breach of his oath and the law. For herein there is nothing repugnant to natural justice;...

Tucker's Blackstone Vol I – Appendix A

"This constitution" is "the supreme law of the land." This supreme law "all judicial officers of the United States are bound, by oath or affirmation, to support."

[91] 20. "... in America, the Constitutions, both of the individual States, and of the federal Government, being the acts of the people, and not of the Government, and the powers of Government being by those Constitutions, respectively, distributed into three distinct, and coordinate, branches; viz: the legislature, the executive, and the judiciary; all which are equally bound by Duty to their Constituents, the people; and by Oath, also, to support the Constitution; it follows, as has been already shewn [Appendix, Note A.] that the legislature can possess, no power, or obligation over the other Branches of Government, in any case, where the principles of the Constitution, may be in any degree infringed by an acquiescence under the authority of the legislative department. The examples supposed, and the authority cited in that note, sufficiently evince the Justice of the position here contended for; and will warrant us in extending the rule here laid down by the learned commentator, by adding thereto, That all acts of the Congress of the United States, impairing, infringing or violating the principles of the federal Constitution; and all acts of the legislature of this Commonwealth, which violate, infringe or impair the same, or any law of the United States made pursuant to the powers granted to the Congress by the federal Constitution, or any Treaty made under the authority of the United States, or the Bill of Rights, and Constitution of this Commonwealth, are not binding upon any other branch of the federal or State-government: and **any Citizen of the Commonwealth, who may be aggrieved by any such unconstitutional Act, hath an undoubted right to redress, by application to the judicial Courts of the State, or of the United States according to the nature of the case.**" "The constitution and its laws," as Vattel justly observes, "are the basis of the public tranquility, the firmest support of the public authority, and pledge of the liberty of the citizens. But this Constitution is a vain phantom, and the best Laws are useless, if they are not religiously observed. The nation ought then to watch very attentively, in order to render them equally respected by those who govern, and by the people destined to obey. **To attack the Constitution of the State, and to violate its laws is a capital crime against the society, and if those guilty of it are invested with authority, they add to this crime a perfidious abuse of the power with which they are entrusted.** The nation ought constantly to suppress these abuses, with its utmost vigor, and vigilance, as the importance of the case requires. It is very uncommon to see the Laws and Constitution of the State, openly and boldly opposed; **it is against silent and slow attacks that a nation ought to be particularly on its guard.**" Vattel's Law of nations B: 1. 3. act: 30. See also, the Federalist; vol: 2, no: 78.

Tucker's Blackstone Commentaries 1:App. 151--53, 378--79, 412--13, 416--17, 418--26, 428--33; 5:App. 3--10

The people are not only not bound by them, but the several departments and officers of the governments, both federal, and state, are bound by oath to oppose them; for, being bound by oath to support the constitution, they must violate that oath, whenever they give their

sanction, by obedience, or otherwise, to any unconstitutional act of any department of the government.

1 Hayw. 28 N.C. 1794

The judges of the land are a branch of the government, and are to administer the constitutional laws, not such as are repugnant to the Constitution. It is their duty to resist an unconstitutional act. In fact, such an act made by the General Assembly, who are deputed only to make laws in conformity to the Constitution, and within the limits it prescribes, is not any law at all. Whenever the Assembly exceeds the limits of the Constitution, they act without authority, and then their acts are no more binding than the acts of any other assembled body.

But what end is an equivalent for a precedent so dangerous as that where the Constitution is disregarded by the Legislature, and that disregard sanctioned by the judiciary? Where, then, is the safety of the people, or the freedom which the Constitution meant to secure? One precedent begets another, one breach will quickly be succeeded by another, and thus the giving way in the first instance to what seems to be a case of public convenience in fact prepares the way for the total overthrow of the Constitution--the surest palladium of our rights.

"No man is to be deprived of his property or rights, but according to the law of the land, or the common law."

I would like to suggest the following possibility of a solution for comment:

I would suggest that, in order to correct the problem in a manner that would be amenable to the general populace and Congress, there would need to be two separate amendments to the Constitution and an Act passed as follows:

1. Amend the Constitutional Article 3, Section 3 currently:

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

Amended:

Treason against the United States, shall consist in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort, committing constructive treason, involvement in traitorous conspiracies or insurrections, or performing acts meant to alter the Supreme Law, or, through either their actions to render the Supreme Law ineffectual. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

Note: As current and past legislators could not be convicted of this violation due to the "Ex Post Facto" clause, they would simply be forced to adhere to the Constitution from the point of ratification forward. Also, as Congress is already given the right to dictate punishment for treason, it would not necessarily require capital punishment, as was traditionally the case. The general public, who almost unanimously will agree to adherence to the Constitution would favor its passage.

2. Amend the Constitutional Article 6, currently:

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...

Amended, adding the following stipulating clause:

All Amendments to this Constitution, and the Laws of the United States, prior to their passage shall require proofs of Constitutional Authority and that they violate no rights, either inalienable or those enumerated in the Bill of Rights. These proofs must be performed by a Council of Constitutionality in the House.

Note: As “committees” are a standard procedure in the Congress, this should not be an issue.

3. An Act should be created that would mandate to Congress that they review all prior Acts and Resolutions passed by Congress for Constitutionality and adding the required proofs of Constitutional Authority and assuring that it violated no rights, either inalienable or those enumerated in the Bill of Rights or, if the Act or Law will not pass these requirements, to be declared null and void. This should be performed in a reasonable timeframe of 5 years.

The real strengths of these Amendments and Act would be threefold:

- 1. It would enforce the Constitutionality of Acts as the founders clearly intended from the point of ratification forward.**
- 2. It would either correct or remove unconstitutional Acts, which could easily be rationalized as “improper or misinterpretation” by earlier legislators and leaving the current legislators free from political suicide.**
- 3. The members of the committee, being from multiple parties and now obliged under the threat of treason to follow their oath, would necessarily be more likely to follow a strict interpretation of the Constitution.**