The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 12: Words of Tyranny—"in all Cases whatsoever"

Four simple words—"in all Cases whatsoever"—who knew they could describe something so powerful?

Treasury Secretary Alexander Hamilton, in his 1791 opinion on the bank of the United States, said, regarding this most important of political phrases:

> "language does not afford a more complete designation of sovereign power than in those comprehensive terms."[1]

Powerful words indeed—no stronger words may be found to signify available governing power.

Before examining this phrase's continuing political relevance in the United States, its significance may be appreciated by learning its history.

In 1765, Great Britain imposed her infamous Stamp Act upon the American colonists as the first noteworthy tax imposed upon them other than by a legislative body of their choosing. Without a voice in British Parliament, the colonists understandably protested against "Taxation without Representation."

Their protests fell on deaf ears.

The American colonists proved the seriousness of their opposition of being denied legislative representation by implementing non-importation agreements with one another. With the colonists refusing to land and buy British imports, British trade merchants began posting significant losses. As the merchants' losses mounted, they increasingly began to complain about the dire situation to their representatives in Parliament.

The colonists' willingness to withstand self-imposed deprivation to make their point heard ultimately forced Parliament to repeal the oppressive Stamp Act, and did so, on March 18, 1766. However, to save face, on the same day, the king and Parliament also issued their cruel Declaratory Act (a.k.a., The American Colonies Act), nevertheless asserting an absolute rule over the American colonies, saying:

> "The King's majesty…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."[2]

In every case, the king and Parliament claimed the divine right and absolute power to bind the colonists against their will and without their consent, in all cases whatsoever.

Turmoil grew over the next turbulent decade as Britain ruthlessly carried out this domineering mindset.

Given the ramifications of this obstinate British assertion, it isn't surprising that the phrase found express mention in the American Declaration of 1776.

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1. avalon.law.yale.edu/18th_century/bank-ah.asp
2. avalon.law.yale.edu/18th_century/declaratory_act_1766.asp

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The phrase "in all cases whatsoever," as listed in our Declaration of Independence, points to Britain's Declaratory Act as one of the "Acts of pretended Legislation" that had "in direct object the establishment of an absolute Tyranny over these States."

Indeed, one could easily assert that the British declaration of absolute power in all cases whatsoever was the single political problem the colonists faced, even as its symptoms played out in any number of different settings. After all, what are any of the particular injuries listed in the Declaration of Independence but the differing ways that the colonists could be bound without their consent and against their will "in all cases whatsoever?"

Given its central cause of America's early political difficulties, it is undoubtedly surprising to learn that this oppressive phrase nevertheless found its way into our own Constitution—the framework that otherwise sought to establish limited government of enumerated powers—in the clause enumerating the District Seat.

The Framers used these same four domineering words to describe the available power that members of Congress could exercise in what would later become the District of Columbia (rather than list within that brief Constitution—which detailed the few federal powers for the Union—also an extensive, State-like local Constitution for only a highly usual exception).

But, once Patriots realize that this merciless phrase is indeed found within our U.S. Constitution, perhaps they shouldn't be surprised, given its history, to learn that it lays at the very foundation of ever-escalating federal intervention into American lives yet today.

So powerful is this phrase "in all Cases whatsoever" that it allows inherent discretion on everything except the few things expressly prohibited, even as it incessantly seeks ways to escape its limited legal boundaries by any means necessary.

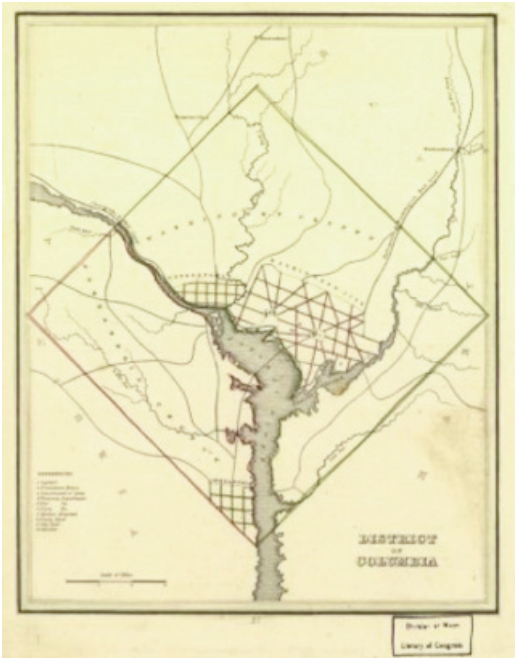
Article I, Section 8, Clause 17 of the U.S. Constitution reads, in pertinent words, that:

> "Congress shall have Power…To exercise exclusive Legislation in all Cases whatsoever, over such District…as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States…"

These words of Clause 17 demarcate a special place—a federal District Seat—where normal constitutional principles simply do not apply. The District of Columbia is the highly unusual exception to all the normal rules of the U.S. Constitution and within its unusual roots lays all of federal tyranny witnessed today throughout the Union.

While the U.S. Constitution expressly allows for the creation of an exclusive-jurisdiction District Seat, neither the Constitution itself nor its later-ratified amendments actually created it.

Instead, in December of 1791, in conformance with Clause 17, "particular" States (which ended up being Maryland and Virginia), "by Cession," voluntarily enacted State legislation to cede respective parcels of land to Congress and the U.S. Government for use as the District Seat.



Upon "the Acceptance of Congress," the cessions of land and transfers of *the ability to govern* by particular States were complete, even though only two States—two "particular" States—were involved.

Indeed, normal transfers of power via the amendment process take three-fourths of all the States to ratify.

Clause 17, however, uniquely allows the transfer of every ounce of remaining governing authority not expressly reserved—by single States of the Union—for allowed special purposes.

Once Congress accepts a tract of land ceded by a particular State for special named purposes (including also for "Forts, Magazines, Arsenals, dock-Yards and other needful Buildings," where "like Authority" [exclusive legislation] may also be exercised), the ceded land and the exclusive *ability to govern* thereafter become vested in Congress.

While governing power is normally divided by the U.S. Constitution into federal and State authority (by enumerating specified federal powers and reserving unto the States the remaining authority that wasn't expressly prohibited them), in the Government Seat, however, all power is federal—exclusively—in all cases whatsoever.

In no case did Maryland or Virginia (or any other State) retain any governing authority in the District Seat. While State laws remain in force in D.C. until Congress changes them, the fact of the matter is that Congress may change them. Congress may also enact new laws (but the States no longer may) while exercising a great deal of inherent discretion.

Indeed, the whole purpose of the federal District Seat was to withdraw—completely—continued State authority, so Congress could thereafter govern the unique federal city, exclusively, in every case.

A number of important ramifications follow:

1. Since Maryland and Virginia in 1791 transferred *their ability to govern* the ceded parcels of land to Congress (not simply the enumerated powers that they respectively had under their own State Constitutions), their State laws or State Constitutions thus do not in like manner bind Congress (any more than British laws today bind American governments);

2. Since the U.S. Constitution is not structured like a State Constitution (delegating numerous named local powers to a legislature [Congress] for a given area [the District Seat]) and since no District, State or State-like Constitution therein or thereafter exists or remains relevant, members of Congress (or their delegates) must necessarily make up all of their own local rules for the District Seat, within the discretion of Congress, as they go along. Members and officers need essentially only avoid a few express prohibitions, such as provided in the later-ratified Bill of Rights;

3. The U.S. Constitution's express prohibitions against "States" (found in Art. I, Sect. 10) do not apply in the "District" which is not a "State;"

4. Without Maryland, Virginia or any other State reserving powers over the District Seat, normal Tenth Amendment concerns do not and cannot apply therein (no powers are reserved to the States that may yet be exercised in the District of Columbia under the Tenth Amendment). This means that members of Congress may indeed enact normal, State-like laws in D.C., without violating the Tenth Amendment;

5. Since the "District" Seat is not a "State," then its residents are not represented in Congress—Article I, Sections 2 and 3 only allow "States" to elect U.S. Representatives and U.S. Senators to Congress—even though legislative representation is the fundamental building block of the Union;

6. Since the "District" is not a "State," then the Article IV, Section 4 guarantee to every "State" of the Union of a "Republican Form of Government" does not apply in the District of Columbia;

7. Without legislative representation nor its guarantee, then there is no crime nor foul if members of Congress delegate local legislative powers (for the District Seat) to unelected bureaucrats of the alphabet agencies who may thereafter issue regulations held as law;

8. Nor is it any offense if judges "legislate from the bench" in the District Seat. Further, there is no crime or foul if members of Congress or supreme Court judges "re-interpret" new meanings of old words otherwise found in the Constitution *differently* for exclusive use in the District Seat (which reinterpreted meanings for the District do not change the meanings for the Union);

9. Since Article I, Section 10 prohibitions do not apply in the "District" that is not a "State," then constitutional restrictions of local (State) actions from affecting international relations do not apply to the District (meaning Congress may use these local powers [that do not have binding constitutional parameters] internationally, separate and apart from their enumerated federal powers for the Union [that have binding parameters]);

10. Therefore, it is not an offense if members of Congress delegate to foreigner dignitaries the exclusive legislative powers for the District (such as delegating to the United Nations Security Council the final decision for committing U.S. [D.C.] troops in foreign lands [only "States" are prohibited from keeping troops, engaging in war or entering into agreements with foreign powers {and the "District" is not a "State"}]);

11. Thus, members of Congress have available for exercise TWO sources of authority, including, for example, committing troops, engaging in war or making treaties (one source [with restrictions] for the Union and a separate, distinct power for the District Seat [the latter source essentially without restrictions]); and

12. 435 House members and 100 Senators have much greater difficulty coming to agreement in deciding how and when to exercise inherent discretion on so many available topics, so it isn't necessarily surprising when the decision-making authority (for the District Seat) becomes increasingly exercised by nine supreme Court justices, one American President, or the latter's many administrative agency or department delegates.

The legitimate source of inherent federal power, expressly delegated, has been found.

Members of Congress and federal officials do have the enumerated constitutional power to exercise inherent discretion on most any topic imaginable—it is just that this omnipotent power was supposed to be limited to the District Seat otherwise prohibited from exceeding ten-miles-square (100 square miles).

Therefore, necessarily, the oft'-repeated conservative assertion that members of Congress or federal officials may never exceed normal constitutional constraints or exercise State-like powers is absolutely wrong!

Whenever conservatives assert that some "federal" action is "unconstitutional," chances are that it may easily be allowed under the District Seat power (unless it contravenes a few named prohibitions [such as, "Congress shall make no law respecting an establishment of religion"]).

The simple truth of the matter is that oppressive laws and regulations on every topic imaginable are supposed to be limited to the District of Columbia (and exclusive legislative jurisdiction "Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings"), but are being cleverly extended throughout the Union.

The source of unlimited federal powers being found, the only piece of the puzzle awaiting discovery is to learn how this unlimited power meant for a special place ever came to affect the whole Union.

Thankfully, learning the true source of inherent authority makes it easier to discover how it ever "leaked" out of its rightful confines.

In the 1821 case of *Cohens v. Virginia*, the supreme Court examined a controversy created when Virginia proprietors sold lottery tickets authorized by Congress under Clause 17 for the District Seat, in Virginia, in contravention to State law.

The third and final point of the opinion is here relevant—whether laws enacted by Congress in pursuance of Clause 17 are actually laws "of the United States" or, if they are laws of the United States, if they are yet laws "within the second clause of the sixth article."[3]

In other words, the fundamental question (regarding the improper extension of local power beyond D.C.) is whether an Act of Congress made in pursuance to Clause 17 for the District Seat is part of the "supreme Law of the United States" under Article VI, Clause 2 of the U.S. Constitution that binds the nation.

Ever the opportunist for increasing federal powers, Chief Justice John Marshall ruled from his self-created throne and stated:

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

Further, Marshall wrote that opponents who argued otherwise needed to prove their point (because he could not find expressly-stated written constitutional support for that position), saying:

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

> "Those who contend that Acts of Congress, made in pursuance of this power, do not, like Acts made in pursuance of other powers, bind the nation, ought to show some safe and clear rule which supports their contention."[5]

To support expansive federal powers, Marshall simply upheld the Constitution's letter, even when it surprisingly clashed with its spirit.

As long as no one else understood what was actually occurring, clever scoundrels exploiting a devious loophole could manipulate government to their decided advantage—thus, the extensive proliferation of unbounded federal action supported by obtuse legislative enactments and convoluted court rulings.

By the strictest letter of the strictest interpretation of the Constitution possible, the supreme Court declared that laws enacted by Congress even in pursuance of Clause 17 also form part of the supreme Law of the Land that bind Judges "in every State" since Clause 17 is necessarily part of "This Constitution" which Article VI, Clause 2 pointedly declares is "the supreme Law of the Land."

Marshall further asserted that: "Congress…unites the powers of local legislation with those which are to operate through the Union" and, thus, that members "may use the last in aid of the first."[6]

Marshall justified his perhaps understandable yet tenuous position by showing that the Crime Act (of 1790, as amended) imposed criminal punishments not only for treason, piracy and counterfeiting (the only [judicially-punishable] federal crimes explicitly listed in the Constitution), but also listed local crimes, such as murder, in exclusive legislative areas that were outside the jurisdiction of the several States (which was appropriate).

But, then he pointed out that in carrying out the Crime Act, federal marshals directly-chased throughout the Union alleged suspects who were suspected of committing local crimes in exclusive federal areas but who had fled into the States. Federal marshals, Marshall noted, did not have to extradite through State action alleged criminals who were charged with breaking exclusive legislation but had fled into the States. Instead, marshals could directly chase even these suspects throughout the Union to bring them to justice (showing that local laws enacted by Congress had long been enforced throughout the Union by federal personnel [and if local criminal laws could be enforced throughout the Union, then so could civil laws]).

In other words, nominally to avoid placing the mildest of administrative burdens on federal marshals chasing a few local suspects who fled exclusive legislative boundaries, the supreme Court has allowed Congress and federal officials to turn upside-down (if not nullify) the remainder of the U.S. Constitution.

Of course, the real reason for this holding is so that members of Congress and federal officials may do as they see fit, allowing them and their anointed friends to accumulate inherent power and massive personal wealth that perhaps would have made King George III blush.[7]

But, Marshall is right, the words of the Constitution do indeed read what they do—at least until we change them (which this author strongly recommends doing, as soon as possible).

In the 198 intervening years since Marshall's 1821 opinion, his intellectual heirs have managed, inch by precedent-setting inch, to extend this omnipotent power to make it routinely appear that local D.C. laws enacted by Congress (and regulations issued by bureaucrats) apply *directly* (not just enforced indirectly) throughout the Union, even for State residents who never set foot in D.C.

Today, members of Congress enact obtuse new laws and federal bureaucrats issue draconian regulations, all to obscure the fact that all these federal decrees only pertain directly to the District Seat and like-authority federal areas.[8]

5. *Ibid.*, Page 434-425.
6. *Ibid.,* Page 427.

7. At least the king had enough integrity to openly assert inherent discretion and absolute authority.

8. Please see the author's public domain book, *Patriot Quest* (Chapter 6), for a hypothetical step-by-step conversion of a local law made to appear national in scope (see *Understanding Federal Tyranny*, Chapter 4, for an actual example).[9]

Thankfully, the existing words of the Constitution needn't remain as they are found, as they currently allow effective bypass of the Constitution beyond two clauses (except during election seasons and when filling national posts [when much more of the Constitution becomes temporarily operational]).

Two different amendment strategies offer routes forward to right this wrong, irrespective of the mode taken for proposing them (Congress or a Convention).

The first route forward is to *contain* tyranny to D.C. (allowing inherent discretion to continue, but finally confining it to its proper geographical limits).

No local legislation of any State ever binds the Union; neither should local legislation enacted by Congress bind the nation either, just because members of Congress are involved.

To contain tyranny to its rightful confines, the Patriot Corps' "Once and For All Amendment" would simply and formally exempt Article I, Section 8, Clause 17 from being any part of the supreme Law of the Land under Article VI, Clause 2.[10]

9. Please note that none of the author's works examine possible forms of "entrapment" that may inadvertently "volunteer" State citizens to become bound by D.C.-based laws, even if they never step foot in D.C.

It is the view of this author that if entrapment exists, then its various forms are likely so numerous that one cannot be readily assured one may discover them all. Therefore, to individually attempt to remove oneself from the exclusive legislative authority of D.C. while remaining in the States, by winning confrontational court battles after "poking the bear"—individually challenging D.C. jurisdiction when in the States—would seem to be a high-risk proposition.

Thus, the author's tactic—to educate Patriots to work toward a constitutional amendment to either contain or eliminate tyranny for all people, Once and For All or Happily-Ever-After (the two nicknames of his two amendment proposals).

10. Extradition procedures would also need be provided, so people who allegedly broke D.C. laws but fled to neighboring States could be brought to justice in D.C. (similar to Article IV, Section 2, Clause 2, for the States).

Of course, laws truly-national in origin would not need this federal extradition process, because laws truly-national in scope would yet be enforced by federal marshals as they combed the Union for alleged suspects to bring them to justice.

While the vast federal bureaucracy would remain (at least initially), all D.C.-based actions under Clause 17 would necessarily be limited to D.C. borders (and exclusive legislative jurisdiction forts, magazines, arsenals, dockyards and other needful buildings).

The second option to Restore Our American Republic is to *eliminate* tyranny from every square foot of American soil, by simply *repealing* Clause 17 entirely (with what Patriot Corps calls its "Happily-Ever-After Amendment").

The tyranny of inherent discretion exercised in all cases whatsoever is so powerful that this option should be thoroughly investigated, even given its harshness (it would immediately and forever end all of the federal government operating beyond strict construction of the U.S. Constitution everywhere [permanently brushing aside and repealing all federal laws and regulations rooted in the District Seat power]).

No member of Congress, President, or supreme Court judge may ever change the U.S. Constitution in any manner whatsoever (they absolutely cannot change what they must swear an oath to "support" [or "preserve, protect and defend"]).

None of the harm they have done over the centuries has ever *changed* the Constitution—thus all their leftist legislative Acts, bureaucratic regulations and court opinions (rooted in Clause 17) would all be swept away, repealed and overturned with the Happily-Ever-After Amendment.

The many forts, magazines, arsenals, dock-yards and other needful buildings now scattered throughout the Union would be retroceded back to the State which originally ceded them.[11]

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11. Approximately one-third of military bases are already sited on Clause 17 grounds, proving there is no loss of security in this retrocession proposal (which key military personnel admitted long ago [See: *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 93. April, 1956. United States Government Printing Office, Washington: 1956. {KF 4625 A86}]).

In the District Seat—due to it already having a large extent of local government—there remains another option besides retrocession to Maryland (Virginia's lands of Alexandria were already retroceded back to that State, as unnecessary, in 1846), which is allowing D.C. residents to vote on independent statehood.

The new State—New Columbia, perhaps—if formed, would enter the Union on equal footing with the original States in all respects whatsoever.[12]

With the first option—*containment*—no longer could local laws enacted by Congress under Clause 17 bind the nation (irrespective of when the laws were enacted [before or after the amendment]).

With the second option—*repeal*—no longer could Congress ever again enact local laws (and all old local laws under Clause 17 would be repealed when Clause 17 was repealed).

With repeal, every square foot of American soil would finally be split into federal or State jurisdiction and nowhere would there be any special exceptions to all the normal rules of the whole Constitution. The entire federal apparatus apart from absolutely-strict construction of the U.S. Constitution would be forever eliminated.[13]

There is, and only has ever been, strict-construction of the U.S. Constitution. Progressive "interpretation" is but a lie, as words found in the Constitution were simply redefined as they pertained exclusively to the District Seat.

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12. There is no danger today—like there was initially—that the Congress and U.S. Government could not stand up against a powerful State even where the bulk of its buildings were located (although that doesn't preclude the State having difficulty today exercising its proper authority [which would favor simple retrocession to Maryland—an established State which should be better able to withstand federal encroachment into valid State authority]).

13. With repeal of Clause 17, the 23rd Amendment (D.C.-residents voting in presidential elections) would also necessarily be repealed.

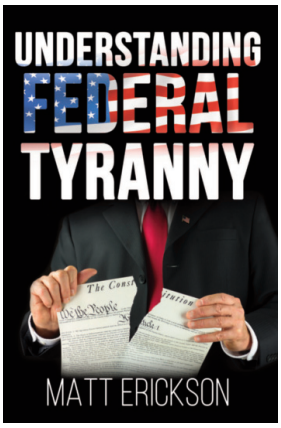
The dirty little liberal secret is that two clauses of the Constitution have been held so strictly that conservatives and strict-constructionists didn't even recognize what their opponents were doing.

Instead, Patriots have foolishly believed their opponents' lies, that progressive government servants may become political masters for the whole Union. Proponents of omnipotent government will never willingly admit the true source of their inherent authority, instead they seek to hide and protect it at all costs (to the extent they even realize how their inherent power works).

The Patriot Corps recommends a two-pronged approach forward—using a Convention for proposing Amendments (Convention of States) type of process to push toward repeal, as a hammer to provide effective leverage to encourage members of Congress to propose the containment amendment on their own accord.

If ratification of the containment amendment moved forward first, but ultimately proved insufficient by some devious new means of legislative or judicial override not hereinbefore devised, then repeal should be (again) pushed. After all, with repeal, nothing dastardly remains behind to ever be possibly exploited by any means whatsoever.

For further information on this important topic, please see any of Matt Erickson's ten public domain books, including his latest, *Understanding Federal Tyranny*, freely-downloadable at: **www.PatriotCorps.org.**



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