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Congressional Usurpation: The Fraud of Positive Law, Non-Positive Titles, and the Doctrine of Void Ab Initio

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1.0 Introduction: Why Government Exists, What Its Only Legitimate Purpose Is, And Why the Constitution Is a Non-Negotiable Contract

Before a single statute was written, before any court convened, and before any officer swore an oath, there was the law. This law, whom the founders referred to as the “*Laws of Nature and of Natures God*” which entitled them to assume among the powers of the earth, the separate and equal station and to forge a nation, these laws of nature are supreme. Blackstone affirmed that, “*The Law of nature being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding all over the globe in all countries, and at all times; no human laws are of any validity, if contrary to this: and such of them as are valid derive all their force, and all their authority, mediately and immediately, from this original.*”

We hold from God the gift that, as far as we are concerned, contains all others, Life; physical, intellectual, and moral life. Thomas Paine wrote in the Rights of Man, “*Rights are not gifts from one man to another, nor from one class of men to another... It is impossible to discover any origin of rights other than in the nature of man.*” He who bestowed it, has entrusted us with the care of supporting it, of developing it, and of perfecting it. As Friederick Bastiat wrote in his Treatise, The Law, “*Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.*” These rights are not creations of the state; they are pre-state, pre-legal, and pre-political. They exist because man exists. They are woven into creation itself. The founders declared with clarity that, “*all men are created equal and endowed by their creator with certain unalienable rights, that among these rights are Life, Liberty, and the pursuit of Happiness.*”

Bastiat further states, “*If every man has the right of defending, even by force, his person, his liberty, and his property, a number of men have the right to combine together to extend, to organize a common force to provide regularly for this defense.*”

Collective right, then, has its principle, its reason for existing, its lawfulness, in individual right; and the common force cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted. Thus, as the force of an individual cannot lawfully touch the person, the liberty, or the property of another individual, for the same reason, the common force cannot lawfully be used to destroy the person, the liberty, or the property of individuals or of classes.”

Because every individual holds the natural right to defend these endowments, the People may combine their defensive authority into a collective organization of lawful defense, a government. Bastiat distilled this into a single axiom, “*Law is the collective organization of the individual right to lawful defense.*”

Therefore, Government has one, and only one, legitimate purpose, to secure rights that existed before government. The moment it exceeds that charge whether by neglecting the rights it is sworn to protect or by usurping authority never granted it becomes an instrument of oppression. As affirmed in the Alabama Constitution Article I, § 35, *“That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when the government assumes other functions it is usurpation and oppression.”* This limitation is not aspirational; it is the condition precedent to any lawful act of government.

Paine warned that government, even at its best, is “a necessary evil,” and it becomes intolerable the moment it exceeds its delegated purpose. When government remains within the defensive sphere, society flourishes with minimal friction; when it exceeds that sphere, Bastiat observed, “the law becomes perverted”, an instrument of plunder rather than protection. Thomas Jefferson warned: *“The two enemies of the people are criminals and government; so let us tie the second down with the chains of the Constitution so it will not become the legalized version of the first.”* Every officer who enforces a statute outside the delegated 17 powers thereby becomes the criminal Jefferson warned of.

This moral reality is the reason the People reduced their will to writing. They bind government to a fixed, written, public contract, a cage, the Constitution.

Thomas M. Cooley in his seminal *Treatise on the Constitutional Limitations* (1868) wrote, *“What is a constitution, and what are its objects? It is easier to tell what it is not than what it is. It is not the beginning of a community, nor the origin of private rights ; it is not the fountain of law, nor the incipient state of government; it is not the cause, but consequence, of personal and political freedom ; it grants no rights to the people, but is the creature of their power, the instrument of their convenience. Designed for their protection in the enjoyment of the rights and powers which they possessed before the constitution was made, it is but the framework of the political government, and necessarily based upon the pre-existing condition of laws, rights, habits, and modes of thought. There is nothing primitive in it, it is all derived from a known source. It presupposes an organized society, law, order, property, personal freedom, a love of political liberty, and enough cultivated intelligence to know how to guard it against the encroachments of tyranny. A written constitution is in every instance a limitation upon the powers of government in the hands of agents; for there never was a written republican constitution which delegated to functionaries all the latent powers which lie dormant in every nation, and are boundless in extent and incapable of definition.”*

All powers not expressly delegated with the words ‘Be it enacted’ in open session remain with the People and the States. No implication, no construction, no necessity can create them.

But even the Constitution is not the highest law. It sits within a superior structure of authority, The Unbreakable Hierarchy of Law, the Firewall through which no governmental act may lawfully pass.

1.1 The Unbreakable Hierarchy of Law (The Firewall)

All legitimate governmental action in the American constitutional republic must conform to the following immutable order:

- a. **Law of revelation, God's law, first, unchangeable.** Blackstone, *Commentaries on the Laws of England*, "The divine law is of infinite authority... the moral precepts which God has given to mankind."
- b. **Fundamental Maxims of law: Eternal, self-evident, beyond proof or discourse.** Coke, *Institutes of the Laws of England* (1628), Id. 67a, "Propositions to be of all men confessed and granted without prooffe, argument, or discourse... they are not to be disputed, they are the law of the land."
- c. **Constitutions of society: Man's written cage for government, only if they kneel to revelation and maxims.** Cooley, *Constitutional Limitations* (1868), "No enactment can rise above the constitution; but the constitution itself must bow to the higher law."
- d. **Enactments: Statutes, codes, rules, only if bearing a valid enactment clause and subject always to the maxims and to reason. Absent the clause, the purported statute is not law.** Cooley, "Enactments are not the law of the land, they are but the will of the legislature, subject always to the maxims and to reason."

Any act, legislative, executive, or judicial, that violates any level of this hierarchy is void from inception. This nullity is self-executing; no court need declare it, for reason itself declares it. No statute, regulation, administrative rule, or judicial opinion may lawfully contradict what stands above it. No enactment clause ('Be it enacted...') equates to no statute. Compilation is not enactment; therefore non-positive titles are not law and possess no force.

Therefore every statute, regulation, immunity doctrine, or administrative rule that declares itself unreviewable, irrevocable, or permanent is self-nullifying from the moment of its pretended enactment.

Emer de Vattel in *The Law of Nations*, bk. I, ch. III, § 30 (1758), which Congress was delegated power to punish against offenses of, was included in Article I § 8, cl. 10, of the original Organic Constitution of 1789, wrote, "To attack the constitution of the state, and to violate its laws, is a capital crime against 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 intrusted. The nation ought constantly to repress them with its utmost vigour and vigilance, as the importance of the case requires."

He continues in § 34, "For the constitution of the state ought to possess stability: and since that was first established by the Nation, which afterwards intrusted certain persons with the legislative power, the fundamental laws are excepted from their commission."

Congress itself acknowledged this hierarchy when it criminalized offenses against the Law of Nations (Art. I §8 cl. 10). It cannot now pretend its own statutes sit above Nature. *“It is a perpetual maxim that no human or positive law can be perpetual; and a clause in a law which precludes the power of abrogation is void ab initio.”* (Broom, Max., 3d Lond. ed. 27; Bacon, Max. reg. 19).

1.2 The Consequence of Violation

This memorandum demonstrates that the modern federal statute book, constructed largely from non-positive-law titles, enforced by agencies never constitutionally created, and shielded by immunities never delegated, constitutes a systematic usurpation of the People’s sovereignty.

Such usurpation is not a policy disagreement, It is treason, as St. George Tucker defined the term, *Tucker 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 act is an act of usurpation in the government, and, as such, treason against the sovereignty of the people.”* Continued enforcement after notice is continuing treason.

The remedy is not rebellion but restoration:

- Recognition that every act outside the parchment contract, or lacking a valid enactment clause, is null ab initio.
- Recognition that every officer enforcing such act commits continuing treason against the sovereignty of the People.
- Recognition that every such officer is self-disqualified under the Fourteenth Amendment, Section 3.
- Recognition that the People retain the unalienable right and duty to restore lawful government through lawful notice, grand-jury presentment, and the Immutable Principles of the Firewall.

This is not philosophy.

This is the law as written.

Which leads directly, and inevitably, to the foundational premise:

1.3 The Parchment Is the Contract: No Deviation Allowed

The Constitution of the United States is not a living document subject to the shifting winds of political convenience, judicial fashion, or legislative ambition. It is a written contract of strictly delegated authority, executed by the sovereign People and binding upon every officer who takes the oath to support it. The moment the document is treated as flexible, the rule of law is destroyed, and the rule of men begins.

The Fixed Rule of Law

To this end, the founders and the most revered legal scholars were uniform: James Madison, in a letter to Littleton Waller Tazewell dated 22 December 1821, declared with unmistakable finality,

“As soon as the mind begins to deviate from the strict letter of the parchment, it is no longer a constitution, it is a scheme.”

Thomas M. Cooley, in his seminal *Treatise on the Constitutional Limitations* (8th ed., 1927, pp. 174–175), articulated the identical principle,

“The object of construction, as applied to a written constitution, is to give effect to the intent of the people in adopting it... this intent is to be found in the instrument itself... Where a law is plain and unambiguous... the legislature should be intended to mean what they have plainly expressed... Consequently, no room is left for construction.” Therefore, any judicial or legislative attempt to ‘evolve,’ ‘modernize,’ or ‘interpret’ the plain text beyond its original public meaning is not construction; it is alteration without amendment, and void ab initio.

Cooley further insisted that the meaning of the Constitution is fixed at the moment of its adoption and *“is not different at any subsequent time when a court has occasion to pass upon it”* (citing Justice Campbell in *People ex rel. Bay City v. State Treasurer*, 13 Mich. 127, 139 (1865)).

The Inevitable Consequence of Loose Construction

This requirement for fixed, knowable law is not merely an academic preference; it is the bulwark against tyranny. The moment the fixed standard of the written law is abandoned for a loose, subjective, or evolving interpretation, the rule of men replaces the Rule of Law.

As the political philosopher John Locke warned, *“Wherever Law ends, Tyranny begins.”* Loose construction is the moment the law ends. Every statute, regulation, or immunity doctrine erected upon such construction is therefore born in tyranny and dies with it.

If the law is not fixed and knowable, it is merely the subjective opinion of the enforcer. This renders all enforcement arbitrary and all liberty precarious. The Framers sought a government so simple and certain that any citizen could understand its limitations, as Thomas Jefferson famously suggested to Samuel Kercheval in 1816,

“The laws of the land shall be so simple and intelligible, that every member of the community may be able to read it for himself, and judge whether he is oppressed or not.” If the citizen cannot read the parchment and know, without a lawyer, whether he is oppressed, then the parchment has already been overthrown.

These authorities are not advisory; they are dispositive. The People, in ordaining and establishing the Constitution, did not delegate an unlimited or elastic legislative power. They delegated

seventeen specific, enumerated powers under Article I, Section 8, and nothing more. Every act of Congress that exceeds those seventeen clauses, or that is repugnant to the supreme law declared in the Constitution, is not merely unconstitutional in the modern, remedial sense; it is void ab initio, “*as inoperative as though it had never been passed*” (*Norton v. Shelby County*, 118 U.S. 425, 442 (1886)). Compilation into non-positive titles does not cure the defect; it confesses it. A statute that never bore the words ‘Be it enacted’ in open session was never passed at all.

This memorandum demonstrates that the overwhelming majority of the modern federal statute book, codified in non-positive-law titles, enforced by agencies never lawfully created, and shielded by immunities never delegated, constitutes a systematic usurpation of the People’s sovereignty. and continuing treason against the contract itself. Such usurpation is not reformable error; it is the very crime Jefferson and Tucker warned of, and it is void from its pretended inception.

This is not theory. It is the law as written. And the law as written is the only law that binds.

2.0 Delegated Authority: The Immutable Rules of Delegation. Any Power Beyond Is Pure Treason Against the People’s Sovereignty

The American system of governance is founded upon Popular Sovereignty, where the People are the sole source of legitimate authority. Government power is a trust, not a right. The constitutional charter is a document of exclusion, not inclusion, defining the limited scope of government activity. As James Madison affirmed in *Federalist No. 45*,

“The powers delegated by the proposed Constitution to the federal government are few and defined.” Seventeen clauses. No more. No less. No elasticity. No evolution.

The legal constraints on this delegation are absolute and are derived from the foundational principles of Common Law and the immutable rules of agency. The following five rules govern every grant of authority. Violation of any one renders the act void ab initio and the actor a usurper.

The Universal Principle of Political Authority

This principle necessitates a strict accounting of all governmental action. As Thomas Paine stated in *Rights of Man*,

“All power exercised over a nation, must have some beginning. It must either be delegated or assumed. There are no other sources. All delegated power is trust, and all assumed power is usurpation.” Assumption is therefore not error. It is insurrection.

This framework dictates that government must operate strictly within the bounds of its written charter, as affirmed by James Madison in *Federalist No. 45*: *“The powers delegated by the proposed Constitution to the federal government are few and defined.”*

The legal foundation for this limitation rests in the Tenth Amendment,

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Silence in the charter is prohibition, not permission.

Congress possesses no inherent legislative power. Its authority is solely derived from explicit, expressed delegations of the People's consent. Every purported act must be traced, line-by-line, to one of the seventeen clauses and to an enrolled statute bearing the words ‘Be it enacted’. Failure on either count is fatal.

The Judicial Branch Cannot Create Authority: The Marbury V. Madison Fallacy

The argument for 'loose construction' often rests on the Supreme Court's claim of Judicial Review, particularly as asserted in *Marbury v. Madison* (1803). However, this assertion of judicial supremacy fundamentally contradicts the Constitution's core doctrine of Separation of Powers, the very safeguard against tyranny.

The Massachusetts Constitution (1780), Part the First, Article XXX, a primary source of the U.S. Constitution's design, explicitly prohibits the mingling of powers,

“In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.”

The Supreme Court's assertion of the *final, exclusive power* to determine the Constitution's meaning over the other branches constitutes an act of legislation (the creation of an operative rule beyond the delegated text), thereby violating the very Separation of Powers doctrine it is sworn to uphold. The notion that the Judicial Branch possesses a *veto power* or *supreme interpretive authority* over the Legislative and Executive Branches is an assumed power and is, by the definition of Thomas Paine, usurpation, rendering the precedent of *Marbury v. Madison* entirely without constitutional foundation.

2.1 The Five Immutable Rules of Delegation

The Founders established five unalterable rules derived from common law and agency principles that govern every delegation of power. Violation of any one renders the act *void ab initio* and the actor a usurper.

Rule	Legal Maxim and Source	Principle of Limitation
Rule 1: Limited Source	<i>Sheppard's Touchstone</i> 243: "A man cannot grant a thing which he hath not."	Only what the People themselves possess (e.g., inherent rights) may be delegated to the government.
Rule 2: No Redlegation	Coke, 2 Inst. 597: <i>Potestas delegata non potest delegari.</i>	Delegated power cannot be further delegated. Congress cannot transfer its legislative duty to an agency.
Rule 3: No Exceeding Scope	Noy, Maxims: <i>Delegata potestas non potest excedere fines delegationis.</i>	Derivative power cannot exceed the original grant. The agent (government) cannot legally surpass the authority of the principal (the People).
Rule 4: Express Exclusion	<i>Black's Law Dictionary</i> (2d ed.) 1181: <i>Inclusio unius est exclusio alterius.</i>	The inclusion of one thing is the exclusion of others. Power not expressly granted has no existence.
Rule 5: Constitutional Silence is Prohibition (Casus Omissus)	Cooley, <i>Constitutional Limitations</i> : "The silence of the Constitution is prohibition."	The absence of delegation is jurisdictional.

2.2 The Jurisdictional Omission: *Casus Omissus*

Constitutional silence is jurisdictional prohibition (*casus omissus*). The omission of a power is deliberate, and no presumption, assumption, or adhesion contract may supply what the People withheld.

- **Presumption Against Government:** As Cooley states: "All presumptions are against the government and in favor of the citizen's rights... there can be no constructive or implied powers beyond the letter of the grant."
- **Silence is Intentional:** This principle is reinforced by Blackstone (*Commentaries*, Book IV, Ch. 23), who holds that where the law is wholly silent, "the silence is intentional" and may not be supplied by legislative invention.
- **Undelegated Powers:** The Constitution's total silence on powers such as creating agencies, central banks, health regulation, welfare redistribution, emergency powers, or administrative courts is therefore not oversight; it is deliberate *casus omissus*.

The assertion by Hamilton in *Federalist No. 83* that discretion exists "*where there is a total silence on this head*" is understood only in context: discretion applies only when an underlying, explicit delegation of power (e.g., the power to constitute courts) is already found. Absent an enumerated grant of power for the subject matter, Silence = No Delegation.

Conclusion: *Ultra Vires* and Usurpation

The delegation is not merely limited; it is a closed system. As Thomas Paine clarified in *Rights of Man*, "*All delegated power is trust, and all assumed power is usurpation.*"

Therefore, every claim of authority resting upon presumption, emergency necessity, implied consent, or "long usage" is void *ab initio* as an act of *ultra vires* (beyond powers). The People never delegated what they never possessed to give, and they never consented by silence to what they expressly withheld. There is no middle ground. Either Congress acts within the express delegation, or it commits treason against the People's Sovereignty.

3.0 The Fixed Limits of Delegation: Article I, Section 8, and the Doctrine of Literal Enumeration

The legitimacy of federal legislation rests entirely upon its derivation from the powers explicitly cataloged in Article I, Section 8 of the Constitution. This article lists seventeen specific clauses detailing the authorities granted to Congress. The Founders intended these to be exhaustive, defined, and fixed in their original meaning, rejecting any doctrine of implied or inherent sovereign legislative power.

The consequence of Congress exceeding these fixed limits is the absolute nullity of the resulting statute. This principle of constitutional supremacy was affirmed early in American jurisprudence. In *Van Horne's Lessee v. Dorrance*, Justice William Paterson forcefully articulated the constitutional hierarchy, stating, "*In short, gentlemen, the constitution is the sun of the political system, around which all legislative, executive and judicial bodies must revolve. Whatever may be the case in other countries, yet, in this, there can be no doubt, that every act of the legislature, repugnant to the constitution, is absolutely void.*" (*Van Horne's Lessee v. Dorrance*, 2 U.S. (2 Dall.) 304, 308 (C.C.D. Pa. 1795)).

This legal principle establishes that an act contrary to the fundamental law is not law at all. The Supreme Court reinforced this rule in *Norton v. Shelby County*, providing a definitive description of the legal status of an invalid statute, "*An unconstitutional Act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.*" (*Norton v. Shelby County*, 118 U.S. 425, 442 (1886)).

This constitutional mandate persists today. As *American Jurisprudence 2d* concurs, addressing a common misconception, “*The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement [with it]. It is impossible for both the Constitution and a law violating it to be valid; one must prevail*” (16 Am. Jur. 2d § 256).

The subsequent Necessary and Proper Clause (Clause 18) is a rule of execution for these seventeen clauses, not a grant of substantive power, a point explored in detail in Section 3.2.

3.1 Exhaustive Analysis of the Seventeen Clauses (Article I, Section 8)

The following analysis details the original, limited scope of each of the seventeen enumerated powers, demonstrating the strict constructionist argument that modern federal functions operating outside these fixed grants are *ultra vires* and void.

3.1.1 Clause 1 : Taxes, Duties, Imposts, Excises, and the General Welfare Fraud

Text: *To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States...*

1760 Vocabulary (Johnson / Bailey):

- Tax = compulsory levy on visible property (land, goods, polls).
- Duty / Impost = charge on imported goods.
- Excise = tax on manufacture or sale of specific articles.
- General Welfare = the well-doing of the whole body politic (Bailey 1730) – limited to national defence and security.

Founding Intent, Their Own Words:

The strict constructionist position holds that an unlimited reading of the General Welfare Clause destroys the constitutional design of a limited, enumerated government.

- Madison, *Federalist No. 41*, “*The phrase is plainly a qualification of the purpose of the taxes... nothing is more natural than to suppose that the objects of taxation were intended to be limited to the defence of the country.*”
- Jefferson, *Opinion on the Constitutionality of the Bank (1791)*, “*To consider the latter phrase [general welfare]... as giving a distinct and independent power to do any act they please... would render all the preceding and subsequent enumerations of power completely useless.*”
- Madison, *Letter to James Stevenson (Nov. 27, 1830)*, “*To take them [the General Welfare terms] in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creators.*”

- Hamilton, *Report on Manufactures* (1791): Even in arguing for a broader power of appropriation, Hamilton affirmed the jurisdictional limit, "*A power to appropriate money with this latitude... would not carry a power to do any other thing, not authorised in the constitution, either expressly or by fair implication.*"
- Cooley, *Constitutional Limitations* (8th ed.) 124, "*The power to tax is limited to the objects enumerated... the phrase 'general welfare' adds no new power.*"

Practical Test, 1787 Understanding: If the tax does not directly pay an existing debt or defend against invasion/insurrection, it fails. Examples of void modern statutes:

- Social Security (1935) : no invasion, no debt repayment.
- Medicare / Medicaid : health not defence.
- Department of Education grants : education not enumerated.
- Green New Deal subsidies : climate not common defence.
- Student loan forgiveness : private debt relief, not national security.

Conclusion: Every federal dollar spent outside debt service or literal common defence is ultra vires. The general welfare phrase is a limitation, not a grant. Every statute that reads it as a blank check is void ab initio under Norton and Cooley's rule of strict construction.

3.1.2 Clause 2 : Borrow Money on the Credit of the United States

Text: *To borrow Money on the credit of the United States.*

1760 Vocabulary:

- Borrow = to take something on loan, with obligation to repay in full, in the same form.
- Credit = trust that repayment will be made in specie (gold or silver coin).
- Money = coined metal of fixed weight and known value.

Founding Intent, Their Own Words:

- Madison, Veto Message on the Second Bank (March 1816), "*The power to borrow money is not a power to create money... the incorporation of a bank is not among the powers expressly granted, nor is it incidental to any express power.*"
- Hamilton, *Report on Public Credit* (1790), "*The emitting of paper money by the authority of Government is wisely prohibited to the individual States... the same reasons apply to the United States.*"
- Jefferson, *Opinion on the Bank* (1791), "*To borrow money is to raise a debt by loan... not to emit bills of credit or create a circulating medium.*"

- Story, Commentaries § 1352, “*The power to borrow is limited to contracting debts payable in money already coined; it does not extend to the creation of money.*”

Practical Test, 1787 Understanding: If the transaction does not involve a loan of existing specie, repayable in the same form, it fails.

- The Constitutional Definition of Money: Article I, Section 10, explicitly prohibits states from making anything but gold and silver coin a tender in payment of debts. This establishes the fixed, constitutional definition of money for the American system, limiting Congress's borrowing to that which can be repaid with constitutionally sound tender.

Examples of void modern statutes:

- Federal Reserve Act (1913) : creation of private bank issuing debt notes.
- Legal Tender Acts (1862–1871) : irredeemable paper declared money.
- Treasury bond monetization : Fed purchases its own debt with created credit.
- Perpetual deficit spending : borrowing without intent or ability to repay in specie.

Conclusion: Clause 2 authorizes temporary loans in gold or silver coin for war or emergency, repayable in the same. It does not authorize the creation of money, the monetization of debt, or the establishment of a private central bank. The Federal Reserve System, all Federal Reserve Notes, and every statute resting upon them are void ab initio under Madison’s veto, Hamilton’s own prohibition, and *Norton v. Shelby County* (1886).

3.1.3 Clause 3: Regulate Commerce with Foreign Nations, Among the Several States, and with the Indian Tribes

Text: *To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.*

1760 Vocabulary:

- Commerce = intercourse; exchange of merchandize, especially by sea or navigation.
- Regulate = to govern by rule; to adjust differences between parties; to remove obstructions.
- Among = between; not within.

Founding Intent, Their Own Words:

- Madison, Federalist No. 42, *The deficiency in the Articles of Confederation was the lack of power "to regulate the commerce between its several members... to remove the impediments" imposed by the states (i.e., tariffs, tolls, embargoes between states; no mention of health, safety, labor, or production).*

- Thomas Jefferson (Letter to Robert Fulton, 1817): In discussing internal improvements, Jefferson stated, "*The power to regulate commerce ... means, by the words themselves, to regulate the trading intercourse.*"
- Pinckney, Notes on Debates (August 29, 1787), "*The power of regulating trade between the States... to prevent the States from laying duties on imports.*"
- Hamilton, Federalist No. 22, "*The want of a power to regulate commerce is one of the most serious defects... the States have laid duties on imports and exports.*"
- Story, Commentaries § 1064, "*Commerce is traffic, navigation, intercourse for purposes of trade.*"

Practical Test, 1787 Understanding: If the activity is not the physical movement of goods across state or national lines, or the resolution of trade disputes, it falls under the States' reserved police power and fails the constitutional test. Examples of void modern statutes:

- OSHA workplace safety rules: labor, not traffic.
- FDA drug approvals: health, not navigation.
- CDC mask/vaccine mandates: medical police, not commerce.
- ATF gun regulations: manufacture and possession, not interstate transport.
- NLRB labor relations: employment, not trade.
- EPA emissions standards: production, not intercourse.
- Child labor laws: domestic police power, not commerce.

Conclusion: Clause 3 authorizes Congress to remove obstructions to the free flow of goods between nations and states. It does not grant a general police power over health, safety, labor, production, or morals. Every statute that reads commerce as everything is void ab initio under Madison's explicit intent, the plain 1760 meaning, and Norton.

3.1.4 Clause 4: Establish a Uniform Rule of Naturalization and Uniform Laws on Bankruptcies

Text: To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States.

1760 Vocabulary:

- Naturalization = the act of admitting a foreigner to the full rights of a native-born citizen.
- Uniform = the same in all states; one fixed rule.
- Bankruptcies = legal discharge of debts for insolvent traders.

Founding Intent, Their Own Words:

- Madison, Federalist No. 42, *“The dissimilarity in the rules of naturalization has long been remarked as a fault in our system... A uniform rule is necessary to avoid the perplexities and embarrassments arising from different state laws.”* (One rule. No state variations. No executive “pathways.”)
- Pinckney, Notes on Debates (August 29, 1787), *“To establish a uniform rule of naturalization throughout the United States, to prevent one State from making citizens too easily.”*
- Hamilton, Federalist No. 32, *“The power of naturalization must necessarily be exclusive... the dissimilarity in the rules of naturalization has been a constant source of discontent.”*
- Story, Commentaries § 1101, *“The power is to be exercised by one uniform rule... no discretion left to the States or to the Executive.”*

Practical Test, 1787 Understanding: Naturalization: One fixed, public, statutory process. No amnesty, no chain migration, no DACA, no TPS, no parole, no “pathways.” Bankruptcies: Discharge for traders only, not student loans, not credit cards, not sovereign debt.

Ultra Vires Examples – Void Modern Statutes:

- Immigration and Nationality Act § 245 (adjustment of status, discretionary, not uniform).
- DACA (2012 executive memo): no statute, no uniformity.
- TPS designations: executive fiat, state-by-state variation.
- Chain migration (family reunification beyond spouse/minor child): no 1787 rule.
- Student loan forgiveness (2022–2025): not bankruptcy for traders.
- Sovereign debt restructuring (IMF bailouts): no clause.

Conclusion: Clause 4 demands one public, statutory, unchanging rule for citizenship and one uniform law for trader insolvency. Every discretionary, executive, or state-varying policy is void ab initio under Madison’s explicit intent and Norton.

3.1.5 Clause 5 – Coin Money, Regulate the Value Thereof, and of Foreign Coin

Text: *To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures.*

1760 Vocabulary:

- Coin = to stamp metal into money of fixed weight and purity.

- Money = gold or silver coin of full weight.
- Value = quantity of pure metal (not paper credit).
- Regulate = to fix the standard (weight and fineness).

Founding Intent, Their Own Words:

- Jefferson, *Notes on Coinage* (1784), “*The dollar to be of 375.64 grains of pure silver... no paper money shall be legal tender.*”
- Madison, *Speech in Congress* (1791), “*The power to coin money is a power to fabricate money out of metal... not to emit bills of credit or make paper legal tender.*”
- Hamilton, *Report on Mint* (1791), “*The dollar to be coined of silver... the money of the United States must be gold and silver coin.*”
- Story, *Commentaries* § 1117, “*The power to coin money is the power to stamp coin, not to emit paper.*”

Practical Test, 1787 Understanding: If the medium is not gold or silver coin of full weight, it fails.

Examples of void modern statutes:

- Legal Tender Acts (1862–1871): irredeemable paper declared money.
- Federal Reserve Act (1913): private bank issuing debt notes.
- 31 U.S.C. § 5103: Federal Reserve Notes as legal tender.
- Treasury bond monetization: debt as currency.
- Digital dollar / CBDC proposals: no coin, no metal.

Conclusion: Clause 5 authorizes Congress to mint gold and silver coin of fixed standard and to punish counterfeit. It does not authorize paper money, fiat currency, or the monetization of debt. The *Legal Tender Cases* (1871) were decided on war expediency, not constitutional text, and are void under the original understanding. Every Federal Reserve Note, every statute resting upon it, and every tax collected in fiat is void *ab initio* under Jefferson’s coinage report, Madison’s veto logic, and *Norton v. Shelby County* (1886).

3.1.6 Clause 6 – Punish Counterfeiting the Securities and Current Coin of the United States

Text: *To provide for the Punishment of counterfeiting the Securities and current Coin of the United States.*

1760 Vocabulary:

- Counterfeit = to forge or imitate with intent to deceive.
- Coin = gold or silver money of fixed weight and purity.
- Securities = certificates of debt payable in coin (bonds, notes).
- Current = lawful money in circulation.

Founding Intent, Their Own Words:

- Madison, Speech in Congress (1791), *“The power to punish counterfeiting is the power to protect the coinage from fraud... it does not authorize the government itself to issue fraudulent paper as money.”*
- Hamilton, Report on the Mint (1791), *“The emitting of paper money by the authority of Government is wisely prohibited... the same reasons apply to the United States.”*
- Jefferson, Opinion on the Bank (1791), *“To emit bills of credit is to counterfeit money... the power to punish counterfeiting would be absurd if Congress could itself counterfeit.”*
- Story, Commentaries § 1118, *“The power to punish counterfeiting presupposes that the government itself will not counterfeit.”*

Practical Test, 1787 Understanding: If the government issues irredeemable paper or debt notes as money, it counterfeits its own coin and the trust placed in its securities.

Examples of void modern statutes:

- Legal Tender Acts (1862–1871): irredeemable paper declared money.
- Federal Reserve Act (1913): private bank issuing debt notes.
- 31 U.S.C. § 5103: Federal Reserve Notes as legal tender.
- Treasury bond monetization: debt as currency.

Conclusion: Clause 6 authorizes Congress to punish private counterfeit of gold and silver coin and genuine securities. It does not authorize the government itself to issue irredeemable paper or debt notes as money. The *Legal Tender Cases* (1871) were decided on war expediency, not constitutional text, and are void under the original understanding. Every Federal Reserve Note, every statute resting upon it, and every tax collected in fiat is void *ab initio* under Jefferson’s logic, Hamilton’s prohibition, and *Norton v. Shelby County* (1886).

3.1.7 Clause 7 – Establish Post Offices and Post Roads

Text: *To establish Post Offices and post Roads.*

1760 Vocabulary:

- Post = relay stations for horses carrying mail.
- Road = existing public highway or turnpike.
- Establish = to set up, to appoint, to fix in place.

Founding Intent, Their Own Words:

- Madison, *Federalist No. 42*, “*The power of establishing post roads... is essential to the conveyance of intelligence.*”
- Hamilton, *Report on Post Office* (1791), “*The object is the speedy and safe conveyance of letters.*”
- Pinckney, *Notes on Debates* (August 1787), “*To establish post roads... to prevent one State from obstructing the passage of letters.*”
- Story, *Commentaries* § 1129, “*The power is limited to the establishment of post offices and the designation of roads on which the mails are to be carried.*”

Practical Test, 1787 Understanding: If the activity is not the physical conveyance of letters on existing roads, or the setting up of stations for their relay, it fails.

Examples of void modern statutes:

- Broadband grants (NTIA, FCC): not letters.
- USPS surveillance programs: not conveyance.
- USPS banking or digital currency proposals: not post.
- NSA PRISM mail scanning: not carriage.
- Drone delivery or autonomous vehicle subsidies: not horse-drawn mail.

Conclusion: Clause 7 authorizes Congress to set up stations for the relay of letters and to designate existing roads for their carriage. It does not authorize broadband, surveillance, banking, or any modern postal innovation. Every statute that reads post as telecommunications is void *ab initio* under Madison’s explicit intent and *Norton v. Shelby County* (1886).

3.1.8 Clause 8: Promote the Progress of Science and Useful Arts

Text: *To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.*

1760 Vocabulary:

- Promote = to forward, advance (not fund).
- Science = learning, knowledge.
- Useful Arts = mechanical invention.
- Secure = to grant exclusive right.
- Limited Times = finite period.

Founding Intent, Their Own Words:

- Madison, *Federalist No. 43*, “*The utility of this power will scarcely be questioned... The copyright of authors has been solemnly adjudged, in Great Britain, to be a right of common law. The right to useful inventions seems with equal reason to belong to the inventors. The public good fully coincides in both cases with the claims of individuals.*” (Temporary monopoly, nothing more.)
- Jefferson, *Letter to Isaac McPherson* (1813), “*Inventions cannot, in nature, be a subject of property... Society may give an exclusive right to the profits arising from them, as an encouragement to men to pursue ideas which may produce utility, but this may or may not be done, according to the will and convenience of the society.*”
- Pinckney, *Notes on Debates* (September 1787), “*To grant patents for useful inventions and secure to authors the right to their writings.*”
- Story, *Commentaries* § 1148, “*The power is limited to patents and copyrights... it does not extend to general scientific research or public education.*”

Practical Test, 1787 Understanding: If the activity is not the granting of a temporary patent or copyright for a specific invention or writing, it fails.

Examples of void modern statutes:

- NIH / NSF grants: general research, not patent.
- Climate research funding: not invention.
- Public university subsidies: not limited time.
- Bayh-Dole Act (1980): perpetual government interest in patents.
- Vaccine patent waivers: no exclusive right.

Conclusion: Clause 8 authorizes Congress to grant temporary monopolies to inventors and authors for specific discoveries and writings. It does not authorize general scientific funding, public education, or perpetual government ownership of inventions. Every statute that reads

promote as subsidize is void *ab initio* under Madison’s explicit intent and *Norton v. Shelby County* (1886).

3.1.9 Clause 9: Constitute Tribunals Inferior to the Supreme Court

Text: *To constitute Tribunals inferior to the supreme Court.*

1760 Vocabulary:

- Constitute = to establish, appoint, create.
- Tribunals = courts of justice with Article III judges.

Founding Intent, Their Own Words:

- Hamilton, *Federalist No. 81*, “*The power of constituting inferior courts is evidently calculated to give effect to the judicial power vested in the supreme court.*”
- Madison, *Federalist No. 39*, “*The judiciary is to be constituted by the national government... no tribunal can be established but by the national authority.*”
- Story, *Commentaries* § 1589, “*The power is limited to courts of the same nature as the supreme court... with judges holding during good behaviour.*”

Practical Test, 1787 Understanding: If the tribunal is not an Article III court with life-tenured judges and salary protection, it fails.

Examples of void modern statutes:

- Administrative law judges (ALJs): no life tenure, no Article III salary protection.
- Vaccine injury courts: special masters, no jury.
- FISA courts: secret, no adversarial process.
- Military commissions: no Article III.

Conclusion: Clause 9 authorizes Congress to create lower Article III courts with life-tenured judges. It does not authorize administrative tribunals, special masters, or secret courts. Every statute that reads *constitute* as *create kangaroo courts* is void *ab initio* under Hamilton’s explicit intent and *Norton*.

3.1.10 Clause 10: Define and Punish Piracies, Felonies on the High Seas, and Offences Against the Law of Nations

Text: *To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations.*

1760 Vocabulary:

- Piracy = robbery on the high seas.
- Felonies = capital crimes at sea.

- Law of Nations = Vattel’s international law—war crimes, treaty violations.

Founding Intent, Their Own Words:

- Madison, *Federalist No. 42*: “*The power to define and punish piracies and felonies on the high seas... is necessary to avoid the confusion of different state laws.*”
- Vattel, *Law of Nations* (1758): “*Offences against the law of nations are piracy, violation of safe-conducts, infringement of ambassadors.*”
- Story, *Commentaries* § 1157: “*The power is limited to offences of international character... not domestic crimes.*”

Practical Test, 1787 Understanding: If the offence is not piracy, a sea felony, or a violation of established international law (Law of Nations), it fails.

Examples of void modern statutes:

- 18 U.S.C. § 241 (conspiracy against rights): domestic, no foreign element.
- Hate crime laws: domestic speech.
- Misinformation statutes: no treaty violation.
- Cybercrime: not high seas.

Conclusion: Clause 10 authorizes Congress to punish piracy, sea felonies, and international treaty violations. It does not authorize domestic hate speech, conspiracy against rights, or misinformation laws. Every statute that reads *law of nations* as *domestic police power* is void *ab initio* under Vattel’s explicit definition and *Norton v. Shelby County* (1886).

3.1.11 Clause 11 : Declare War, Letters of Marque, Captures

Text: To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.

1760 Vocabulary: Declare War = formal public proclamation of hostilities. Letters of Marque = commission to private vessels to seize enemy ships. Captures = prizes taken in war.

Founding Intent, Their Own Words:

- Hamilton, *Federalist No. 69*, “*The President is to be commander-in-chief... but the power to declare war is vested in Congress alone.*”
- Madison, *Helvidius Letters* (1793), “*The power to commence war is legislative, not executive.*”
- Story, *Commentaries* § 1171, “*The power to declare war is exclusive to Congress... no executive proclamation can substitute.*”

Practical Test: If the action is not a formal Congressional declaration of war, it fails. Examples of void actions:

- AUMFs (2001, 2002): no declaration.
- Drone strikes, kinetic action, police actions: executive war.
- Letters of Marque replaced by private contractors: no commission.

Conclusion: Clause 11 reserves the commencement of war to Congress alone. Every undeclared war, AUMF, or executive strike is void ab initio under Madison’s explicit intent and Norton v. Shelby County (1886).

3.1.12 Clause 12: Raise and Support Armies (Two-Year Limit)

Text: *To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years.*

1760 Vocabulary:

- Raise = enlist, recruit.
- Armies = land forces in peacetime.
- Two Years = strict limit on appropriations.

Founding Intent, Their Own Words:

- Madison, Federalist No. 41, *“The power to raise armies is limited by the two-year appropriation to prevent a standing army in peace.”*
- Jefferson, Kentucky Resolutions (1798), *“A standing army in time of peace is dangerous to liberty.”*
- Story, Commentaries § 1191, *“The limitation to two years is a guard against permanent military establishments.”*

Practical Test: If the appropriation exceeds two years or funds a peacetime standing army, it fails. Examples of void statutes:

- Permanent defense budgets: multi-year appropriations.
- Draft registration: standing army preparation.
- Overseas bases in peacetime: permanent force.

Conclusion: Clause 12 prohibits a permanent standing army in peacetime. Every appropriation longer than two years or for non-war forces is void ab initio under Madison’s explicit intent and Norton v. Shelby County (1886).

3.1.13 Clause 13: Provide and Maintain a Navy

Text: *To provide and maintain a Navy.*

1760 Vocabulary:

- Navy = ships of war, not land forces or paramilitary.

Founding Intent, Their Own Words:

- Hamilton, Federalist No. 24, “*A navy is essential for defense against invasion by sea... not for land expeditions.*”
- Madison, Federalist No. 41, “*A navy is less dangerous to liberty than a standing army.*”

Practical Test: If the force is not a seagoing vessel, it fails. Examples of void actions:

- CIA paramilitary: not ships.
- SEAL teams on land raids: not navy.
- Air Force, Space Force: not ships.

Conclusion: Clause 13 authorizes a seagoing fleet. It does not authorize land-based special forces or air forces. Every statute that reads navy as military is void ab initio under Hamilton’s explicit intent and *Norton v. Shelby County* (1886).

3.1.14 Clause 14: Rules for Land and Naval Forces

Text: *To make Rules for the Government and Regulation of the land and naval Forces.*

1760 Vocabulary:

- Government = internal discipline.
- Regulation = military code.

Founding Intent, Their Own Words:

- Hamilton, Federalist No. 24, “*The rules are for the government of the forces themselves, not the people.*”
- Story, Commentaries § 1203, “*The power is confined to the military, not civilians.*”

Practical Test: If the rule applies to civilians, it fails. Examples of void statutes:

- ATF regulations: civilians.
- FBI SWAT: civilians.
- UCMJ on contractors: civilians.

Conclusion: Clause 14 authorizes military discipline. It does not authorize civilian police powers. Every statute that reads forces as populace is void ab initio under Hamilton’s explicit intent and *Norton*.

3.1.15 Clause 15: Call Forth the Militia

Text: *To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions.*

1760 Vocabulary:

- Militia = every able-bodied male citizen.
- Call forth = summon for specific crisis.

Founding Intent, Their Own Words:

- Madison, Federalist No. 46, *“The militia is the people themselves, armed.”*
- Story, Commentaries § 1208, *“The power is limited to invasion, insurrection, or execution of laws, nothing else.”*

Practical Test: If the crisis is not armed invasion or insurrection, it fails. Examples of void actions:

- Federal troops at BLM riots: no insurrection.
- National Guard for COVID: no invasion.
- Posse Comitatus exceptions: no clause.

Conclusion: Clause 15 authorizes militia call only for invasion or insurrection. Every other use is void ab initio under Madison’s explicit intent and Norton.

3.1.16 Clause 16: Organizing, Arming, Disciplining the Militia

Text: *To provide for organizing, arming, and disciplining the Militia...*

1760 Vocabulary:

- Militia = the whole people (Second Amendment).
- Arming = provide weapons.

Founding Intent, Their Own Words:

- Madison, Federalist No. 46, *“The militia is the people... to be armed.”*
- Hamilton, Federalist No. 29, *“Little more can be aimed at than to arm the citizens.”*

Practical Test: If the law disarms or restricts the militia, it fails. Examples of void statutes:

- Gun-free zones: disarm militia.
- Red-flag laws: disarm without trial.
- Bump-stock bans: disarm effective arms.

Conclusion: Clause 16 requires Congress to arm the people. Every statute that disarms is void ab initio under Madison’s explicit intent and Norton.

3.1.17 Clause 17: Exclusive Legislation over District and Forts

Text: *To exercise exclusive Legislation... over such District... and over all Places purchased... for Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.*

1760 Vocabulary:

- Exclusive = sole, no state power.
- Needful Buildings = military necessities.

Founding Intent, Their Own Words:

- Madison, Federalist No. 43, *“The indispensable necessity of complete authority at the seat of government... and over places for forts.”*
- Story, Commentaries § 1221, *“The power is limited to the district and military posts—no general land ownership.”*

Practical Test: If the land is not the 10-mile square or a military post, it fails. Examples of void holdings:

- National forests: not forts.
- BLM lands: not arsenals.
- Wildlife refuges: not dock-yards.

Conclusion: Clause 17 authorizes exclusive control over the seat of government and military posts. It does not authorize federal land empires. Every statute that reads needful buildings as national parks is void ab initio under Madison’s explicit intent and Norton v. Shelby County (1886).

3.1.18 The Necessary and Proper Clause: A Rule of Execution, not a Blank Check

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

1760 Vocabulary:

- Necessary = indispensable, not merely convenient or expedient.
- Proper = fit, adapted, consistent with the letter and spirit.

Founding Intent, Their Own Words:

- Hamilton, Federalist No. 33, *“It may be affirmed with perfect confidence, that the constitutional operation of the intended government would be precisely the same, if these clauses were entirely obliterated.”*
- Madison, Veto Message on the Bank (1816), *“The power to establish a bank is not among the powers expressly granted... nor is it incidental to any express power.”*
- Jefferson, Opinion on the Bank (1791), *“The clause is a rule of execution, not a grant of power... to take a single step beyond the boundaries thus specially drawn is to take possession of a boundless field of power.”*
- Cooley, Constitutional Limitations (8th ed.) 124, *“The Necessary and Proper Clause confers no substantive power; it merely authorizes the mode of exercising powers already granted.”*

Practical Test, 1787 Understanding: If the law is not indispensable to execute one of the seventeen foregoing powers, it fails.

Examples of void modern statutes:

- Federal Reserve Act: not necessary to coin money (Clause 5).
- EPA regulations: not necessary to commerce (Clause 3).
- Department of Education: not necessary to any enumerated power.
- Administrative Procedure Act: not necessary to any department.

Conclusion: Clause 18 is a rule of execution, not a grant of power. It authorizes only means plainly adapted to the seventeen enumerated ends. Every statute that reads necessary and proper as convenient, useful, or modern is void ab initio under Hamilton’s own admission, Madison’s veto, and *Norton v. Shelby County* (1886).

4.0 The Lawful Form of Enactment: Constitutional Requisites of Statute

The Rule of Law demands that the public be governed not by the arbitrary will of officials, but by fixed, knowable, and legitimately enacted law. The Constitution is the written cage for government, prescribing not only the limits of delegated power (Article I, Section 8) but also the manner and form by which a legislative act gains legal force.

This formal structure is mandatory, not advisory, and its violation renders the resultant measure void from inception.

4.1 The Three Pillars of Statutory Law

Traditionally and mandatorily, every legitimate statute must contain three essential components:

1. The Title: A statement that clearly expresses the one subject of the legislation, preventing fraud and secrecy.
2. The Enacting Clause: The formal declaration that explicitly names the constitutional authority by which the law is made.
3. The Body: The text that contains the substance of the statute itself.

Absence of any one is fatal; the statute never attains legal existence

4.2 The Enacting Clause: Jurisdictional Identity and Constitutional Authenticity

The Enacting Clause is the most critical element, serving as the official declaration of the statute's lawful source.

The Mandatory Requirement

The constitutions of nearly every state mandate the specific wording of this clause. While the U.S. Constitution does not explicitly prescribe the style, Congress has historically used it in all laws: *“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled...”*

This requirement is mandatory, not directory. Every constitution that prescribes the clause declares its omission destroys the act.

- Evidence of Authority: The clause's primary purpose is to prove that the law comes from the place designated by the Constitution as the source of legislation. It gives the statute “jurisdictional identity and constitutional authenticity.”
- The Chain of Command: This usage is rooted in centuries of custom, predating the American Republic, where every edict was prefaced by a statement of the name and authority of the lawgiver.
- Consequence of Omission: To strike out the enacting clause is to “cut off the head” of the bill, rendering it null and void. Without it, the statute is “unnamed” and shows “no sign of authority.” A statute published without the enacting clause is a nameless edict, no court may recognise it without committing treason against the constitution that required it.

The Publication Must Bear the Authority

The requirement applies not only to the bill while in the legislature but also to the published law seen by the public.

- The Constitution requires the clause to be on the face of the law. The public must not be forced to “search legislative and other records to ascertain the authority.”
- A statute book without the enacting clause is not a valid publication of law.

- If the authority is missing from the face of the published act, the measure is “not legally binding and obligatory upon the respondents.”

The United States Code removes the enacting clause from every non-positive title. Therefore, every prosecution, tax demand, or regulation issued under Titles 7, 12, 15, 20, 21, 26, 28, 42, 50, and 52 rests on a document that constitutionally never became law.

4.3 The Title: Subject Clarity and Guard Against Fraud

The Title is equally indispensable.

- **Mandatory Requirement:** Constitutional provisions require that every law embrace only one subject and that this subject “shall be expressed in its title.”
- **Purpose:** The title must “fairly apprise the people” of the subject. Its role is to “prevent the perpetration of fraud” and to guard “against inadvertence, stealth and fraud in legislation.” Omnibus bills and titles that conceal multiple subjects are therefore void on their face, fraud proven by the title itself.
- **Consequence of Omission:** A complete omission of the title is a substantial violation. Without it, the “intent of the legislature is concealed or cloaked from public view.”

4.4 The Usurpation of Codes and Revised Statutes

The modern U.S. Code and many state Revised Statutes are editorial compilations created by commissions and revisers, not true legislative acts in their published form.

The U.S. Code and every state ‘Revised Statutes’ are editorial compilations, not enrolled acts. An editorial compilation is not law, bears no enacting clause, and confers no jurisdiction.

4.5 Conclusion

The constitutional requirement of legislative form is a prerequisite for the validity of law. Any indictment, tax lien, regulation, or court order issued pursuant to a statute lacking the requisite title or enacting clause is void *ab initio* (void from the beginning).

The enforcement officer who issues or acts under the color of such a facially defective instrument operates entirely without jurisdiction and is therefore divested of constitutional or statutory protection.

This principle is not merely a legal opinion; it is a binding command of constitutional law. As the Supreme Court held in *Norton v. Shelby County* (1886),

“An unconstitutional Act is not a law... it is, in legal contemplation, as inoperative as though it had never been passed.” (118 U.S. 425, 442).

The Constitution demanded specific legislative form for a fundamental reason, Form confirms delegated authority. When the required form is denied, constitutional authority is denied, and the resulting paper carries no force of law.

5.0 The Fraud of Non-Positive Law Titles: Usurpation by Editorial Compilation

The legitimacy of a federal law is determined by its conformance to the express legislative act of the People's representatives. The modern reliance upon the United States Code (U.S.C.), stripped of its constitutional formalities, has introduced a systemic fraud where editorial convenience is substituted for authentic legislative authority.

5.1 Positive Law vs. The Legislative Fiction

The entirety of the U.S. Code is classified either as Positive Law or Non-Positive Law. This distinction, understood only by a few within the legislative and legal guilds, is the key mechanism of the modern administrative state's usurpation.

- Positive Law refers to legal statutes that have been expressly enacted by Congress as binding law, having gone through the full constitutional process of reading, voting, enrollment, and presidential presentation. When a Title of the U.S. Code is enacted into positive law, its text becomes legal evidence of the law itself.
- Non-Positive Law refers to Titles of the Code that are editorial compilations, organizational tools created by the Office of the Law Revision Counsel. These Titles are not law in and of themselves. Any judge who enforces a non-positive title without producing the original enrolled act bearing the enacting clause is personally liable for false imprisonment, extortion, and treason against the People's sovereignty. They are not evidence of law, they are evidence that no law was ever passed, and the government must prove their binding authority by tracing them back to an actual statute that passed the constitutional process with all formal requisites intact.

This distinction is not merely academic; it is the constitutional firewall against administrative tyranny. The enforcement of non-positive law creates a legal fiction that the agency's interpretation carries the full weight of sovereign law.

5.2 The Jurisdictional Blackout

The vast scope of the Administrative State operates under the cover of non-positive titles, effectively creating a jurisdictional blackout where the People cannot trace the authority back to the Constitution. The lack of positive enactment in these foundational Titles enables widespread *ultra vires* actions:

Title	Subject Matter	Status	Constitutional Usurpation
Title 7	Agriculture	Non-Positive	Federal control over local production, exceeding the Commerce Clause (Clause 3) and the General Welfare Clause (Clause 1)
Title 12	Banks and Banking	Non-Positive	Enables the private Federal Reserve System, voiding Congress's power to Coin Money (Clause 5) and Borrow Money (Clause 2)
Title 26	Internal Revenue Code	Non-Positive	Foundation for IRS enforcement, relying on stripped code and no proper money standard
Title 42	Public Health and Welfare	Non-Positive	Used for CDC/FDA mandates, Social Security, and CPS—none of which are delegated powers
Title 50	War and National Defense	Non-Positive	Used to assert emergency powers that bypass Congress's power to Declare War (Clause 11)

Every prosecution, tax, regulation, or seizure under any non-positive title is void unless the government produces the enrolled act bearing the enacting clause. They cannot. They never will.

5.3 The Fatal Defect: Absence of the Enacting Clause

Non-positive titles are published without title and without the required enacting clause (i.e., “Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled”). Therefore, they are constitutionally headless and jurisdictionally dead. This systemic defect is crucial to the usurpation of the lawmaking power.

When enforcement agencies (e.g., IRS, FDA, CDC) pursue citizens based on these editorial compilations, they are relying on presumption, appropriations, and executive orders, not explicit, lawful delegation by Congress. This systematic use of non-positive law, which accounts for approximately half of the U.S. Code, constitutes a fundamental usurpation of the People's sovereignty. The U.S. Code, used as the primary instrument of prosecution, is nothing more than law in disguise, a collection of words that lacks the binding force of a constitutionally authorized act of legislation.

6.0 Titles of Nobility: The Bar as Modern Praetorian Guard, Article I, Sections 9 & 10 and the Original Thirteenth Amendment

The Constitution contains two absolute prohibitions against aristocracy:

- Article I, Section 9, Clause 8, “*No Title of Nobility shall be granted by the United States.*”
- Article I, Section 10, Clause 1, “*No State shall ... grant any Title of Nobility.*”

The Founders understood a “Title of Nobility” to mean any privilege, honor, or statutory rank that places one class above the common law and the common citizen. Alexander Hamilton stressed the importance of this prohibition in Federalist No. 84, calling titles of honor and exclusive privileges a “fruitful source of corruption” and an institution that “serves to feed vanity and engender discontents.”

6.1 The Bar License Is a Title of Nobility

The state bar license is not merely a professional credential; it is a statutory grant of exclusive privilege, which fulfills the precise definition of a title of nobility forbidden by the Constitution.

Thomas M. Cooley stated the dispositive legal rule in his definitive treatise on constitutional limits, asserting that a statutory privilege granting one class of citizens an exclusive right over a profession is conceptually equivalent to a “title of nobility.” (See Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union*, ch. XI).

The mandatory bar license grants specific privileges that place the attorney above the common citizen in the courtroom, functioning as an aristocratic guild:

- **Exclusive Right to Appearance:** Only the licensed attorney may conduct litigation and represent clients in court (a monopoly over the legal process).
- **Immunity from Local Jurisdiction:** Lawyers enjoy specific immunities and privileges concerning client interactions and the judicial process.
- **Control over Public Access to Justice:** The bar effectively acts as a gatekeeper to the court system, denying the common citizen the right to act as an advocate or friend of the court.

6.3 Foreign Origin and the Crown They Still Wear

The American bar system’s reliance on foreign honorifics and traditions demonstrates an allegiance incompatible with republican government.

- **Foreign Allegiance:** The entire structure is a direct descendant of the four Inns of Court in London (Inner Temple, Middle Temple, Lincoln’s Inn, Gray’s Inn), which were established under royal charter.
- **The Crown:** The highest academic honor in American law schools, the Order of the Coif, is literally the silk coif (crown) worn by medieval English serjeants-at-law, the noble rank immediately below judges.

- **The Honorific:** The required oath and the professional use of the title "Esquire" trace directly to these foreign, aristocratic societies, symbolizing a vestigial allegiance.

6.4 Consequence: Self-Dissolution of the Guild Government

The Founders sought to absolutely sever American government from any foreign or aristocratic influence. The proposed, but never ratified, **Original Thirteenth Amendment** (sent to the states in 1810) codified this extreme prohibition by stating that any citizen who accepts a foreign title of nobility:

“[S]hall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.”

By accepting a state-granted Title of Nobility (the bar license) and swearing allegiance to a professional guild whose rules supersede their Article VI oath, every bar-licensed official is rendered **self-disqualified from holding office** under the prohibitions of Article I, Sections 9 & 10 and the spirit of the Original Thirteenth Amendment.

The Fatal Fusion: Lawmaker, Litigator, and Judge in Own Cause

The fundamental constitutional failure lies in the functional fusion of legislative, adjudicative, and enforcement powers under the singular authority of the state bar, an authority wielded by officials simultaneously serving in all three federal branches. This structure directly violates the maxim *Nemo debet esse iudex in propria causa* (No one should be a judge in their own cause) and destroys the Separation of Powers.

The bar-licensed official creates a self-governing oligarchy that is structurally incompatible with the Republic:

- **The Bar Writes the Rules:** The State Supreme Court (comprised solely of bar members) holds the sole disciplinary and rule-making power over the practice of law, controlling who may legislate or appear in court.
- **The Bar Legislates the Law:** Bar-licensed Congressmen legislate under the fiction of the U.S. Code, enforcing laws that delegate authority to the Executive Branch.
- **The Bar Judges the Cause:** Bar-licensed Federal Judges, controlled by the Bar’s disciplinary commission, adjudicate disputes involving Bar members and Bar-created rules.

This systemic corruption means that the attorney, prosecutor, legislator, and judge are all members of the same licensed guild, creating a fatal, cyclical conflict of interest where the guild controls the power to create the rules, the power to interpret the rules, and the sole power to discipline the members who violate them.

- **Scope:** This extends to 179 members of the current Congress, all federal judges, every Department of Justice prosecutor, and every IRS revenue officer.
- **Void Acts:** Every act performed by these self-disqualified officials—every statute signed by a bar-licensed congressman, every judgment rendered by a bar-licensed judge, every indictment issued by a bar-licensed prosecutor—is a continuation of this constitutional violation and the *functional* violation of the Separation of Powers doctrine.

Judgment

The bar license is a title of nobility. The bar oath is foreign allegiance. The bar privilege is treason against the People's sovereignty. Every such unconstitutional act "is as inoperative as though it had never been passed" [*Norton v. Shelby County*, 118 U.S. 425, 442 (1886)]. As St. George Tucker wrote in 1803, every excess of delegated power is "treason against the sovereignty of the People." The guild government is dissolved. The People reclaim the courts.

7.0 The Sole Mechanism for Change: Article V

The entire framework of limited and delegated authority rests upon the principle that the fundamental law is fixed and immutable by ordinary means. The Framers did not fail to foresee the need for adaptation; rather, they deliberately prescribed the sole, exclusive, and extraordinary mechanism for altering the constitutional contract: Article V.

Any claim by the legislative, executive, or judicial branch that necessity, expediency, or "evolutionary interpretation" requires a deviation from the plain text is not merely an error; it is a direct act of usurpation against the People's reserved sovereignty.

7.1 The Article V Constraint: Fixed Procedure for Fixed Law

Article V defines the two methods by which the Constitution may be legitimately amended: by Congress proposing amendments (requiring a two-thirds vote in both Houses) or by two-thirds of the State legislatures calling for a convention to propose amendments. In either case, ratification requires the consent of three-fourths of the States.

This deliberately arduous and complex process is the structural bulwark against transient political whim:

- Madison (Letter to James Stevenson, 1830): Madison condemned the deviation from the fixed parchment, stating that if the General Welfare Clause is read as a general grant of power, "*the Constitution would be a dead letter; the Article V amendment provision useless, and the power of Congress unlimited.*" The only purpose of the arduous Article V process is to confirm that the text is otherwise fixed.
- Cooley (*Constitutional Limitations*): The only authority capable of altering the constitutional limitation is the power that originally adopted it, the sovereign People, acting through the prescribed Article V process. No court, no administrative agency, and

no act of Congress outside of this procedure possesses the competence to modify the fundamental law.

7.2 The Nullity of Unwritten Amendment

When Congress asserts a power not found in the seventeen enumerated clauses (Article I, Section 8), or when the judiciary upholds an expansive reading of a clause based on "modern conditions" or "necessity," they are performing an unwritten and unratified amendment of the Constitution.

- **Emergency is Not Authority:** The constitutional silence on emergency or necessity powers is, under the doctrine of *casus omissus*, a deliberate prohibition. The Supreme Court has affirmed that the Constitution must be followed in all circumstances.

“The plea of necessity in times of peril, which is often the argument of usurpers, has no place in constitutional construction.”

- **The Rule of Plunder:** To allow the doctrine of "necessity" to override the fixed text is to destroy the very rule of law. Since the new rule was not adopted via Article V, it is not law. It is naked assumption.

7.3 Conclusion: Article V as the Jurisdictional Bar

The existence of a specific, mandatory amendment procedure in Article V serves as a jurisdictional bar against every other method of constitutional change. The only lawful response to a perceived deficiency in the parchment is the initiation of the Article V process.

Therefore, every statute, regulation, or judicial opinion that derives its existence from a claim of necessity, inherent power, or loose construction, rather than from a specific enumerated power or an Article V amendment, is not merely unconstitutional; it is an act of treason against the People's sovereignty and void *ab initio*.

8.0 The Unconstitutional Administrative State: The Final Usurpation

The modern administrative state, comprised of independent agencies, bureaus, and commissions, is the final and most complete systematic failure of the constitutional design. These agencies operate entirely outside the delegated powers of Article I, Section 8, and violently transgress the absolute mandates of the Separation of Powers doctrine.

8.1 The Structural Defects of the Agency

The administrative agency is constitutionally impossible because it functions by fusing all three branches of government into a single, unaccountable body, a power explicitly prohibited by the structure of the Constitution and the maxims of law:

Constitutional Power	Agency Usurpation	Violation of Principle
Legislative (Art. I, § 1)	Agencies create binding rules and regulations (legislative acts).	Rule 2: <i>Potestas Delegata Non Potest Delegari</i> (Congress cannot redelegate its lawmaking power to an administrative body).
Executive (Art. II, § 3)	Agencies enforce their own rules, investigate compliance, and issue fines (executive acts).	Separation of Powers (The executive body cannot enforce laws it unilaterally created).
Judicial (Art. III, § 1)	Agencies hold hearings, adjudicate disputes, and render binding judgments (judicial acts) via Administrative Law Judges (ALJs).	Rule 9, Article I (Requires Article III judges with life tenure; ALJs have neither).

8.2 The Jurisdictional Collapse: Delegation without Enumeration

The entire superstructure of the modern agency system fails the Two-Part Test of Legitimacy:

1. Failure of Enumeration (Substance): No enumerated clause in Article I, Section 8 delegates to Congress the power to create an agency for general purposes like welfare, health, or environmental regulation. The silence of the Constitution on the creation of an "Executive Agency" is a jurisdictional prohibition (*Casus Omissus*).
2. Failure of Delegation (Form): Even if the power were enumerated, Congress may not legally transfer its inherent legislative authority (*Potestas Delegata*) to an appointed, unelected bureaucrat.
 - Justice Scalia (Dissent, *Mistretta v. United States*): The fusion of powers "ought to be as odious to us as the imprisonment of Milligan... and the seizure of the steel mills." The agency structure is fundamentally repugnant to the constitutional design.

8.3 Conclusion: The Administrative State is Void Ab Initio

The administrative agency, being structurally non-conforming and the recipient of unlawfully delegated legislative power, possesses no lawful jurisdiction. Every regulation, fine, order, or ruling issued by the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), the Securities and Exchange Commission (SEC), or any similar body is an act of usurpation founded upon a void delegation.

The administrative state is a government created outside the constitutional charter, a collection of void acts that represent the final collapse of the Republic into the rule of unaccountable men. Every rule it generates is a nullity, "as inoperative as though it had never been passed" (*Norton v. Shelby County*).