



238<sup>th</sup> anniversary of Patrick Henry's "Give Me Liberty or Give Me Death" speech. (March 23, 1775)

**Date:** March 23, 2013

**To:** North Carolina General Assembly

**From:** *The Intolerable Acts* **ACTION CENTER**

[Jeff Lewis](#), Co-founder, National Director, Patriot Coalition

[Richard D. Fry](#), General Counsel, Patriot Coalition

[Stewart Rhodes](#), President, Oath Keepers

[Dan Johnson](#), Founder, PANDA

**Re: INTOLERABLE ACTS BY THE FEDERAL GOVERNMENT IN VIOLATION OF THE U.S. CONSTITUTION AND BILL OF RIGHTS.**

**Honorable Members of the North Carolina Legislature,**

As proclaimed in the Declaration of Independence, our "unalienable Rights" are endowed by our Creator, not man, and as such, no man or government has the authority to usurp them. The U.S. and North Carolina Constitutions were ordained to protect these "unalienable Rights."

**The U.S. Constitution, Article III, Section 2, Clause 3, states:**

*"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."*

**The U.S. Constitution, Article III, Section 3 states:**

*"Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."*



On September 12, 2012, Federal Judge Katherine Forrest, placed a permanent injunction against the “indefinite detention” provisions of the 2012 NDAA as [unconstitutional](#) (Hedges v. Obama, Case 1:12-cv-00331-KBF), yet the Administration and the [bill’s architects in Congress](#) continue to argue in federal court to the contrary.

In Judge Forrest’s [ruling](#), she states,

*“A long line of Supreme Court precedent adheres to that fundamental principle in unequivocal language. Although it is true that there are scattered cases--primarily decided during World War II--in which the Supreme Court sanctioned undue deference to the executive and legislative branches on constitutional questions, those cases are generally now considered an embarrassment (e.g., Korematsu v. United States, 323 U.S. 214 (1944) (upholding the internment of Japanese Americans based on wartime security concerns)), or referred to by current members of the Supreme Court (for instance, Justice Scalia) as “[wrong](#)” (e.g., Ex parte Quirin, 317 U.S. 1 (1942) (allowing for the military detention and execution of an American citizen detained on U.S. soil)).”*

As legislators you have each taken an oath, as required by the [United States Constitution’s Article VI, Clause 3](#), to support the United States Constitution.

Having taken that oath, your duty is to actively defend our God-given Rights against all usurpations, be they of foreign or domestic sources.

We the People are gravely concerned about the overreach of the federal government as exemplified by the numerous usurpations of the U.S. Constitution through various provisions of the National Defense Authorization Act for Fiscal Year 2012 signed into law by President Barack Obama on December 31, 2011, to wit: sections 1021 and 1022.

**The Intolerable Acts ACTION CENTER** legal team has identified numerous provisions of the U.S. Constitution and Bill of Rights directly violated by sections 1021 and 1022 of the 2012 National Defense Authorization Act. (Visit The Intolerable Acts [NDAA Resolutions page](#) for your state for specific violations.)



In September, 2011, President Obama ordered the assassination of Anwar Awlaki, a U.S. citizen, by Predator Drone in violation of Mr. Awlaki's Constitutional rights. Two weeks later, Mr. Awlaki's son, also in Yemen, was assassinated by Predator Drone on order of President Obama. No charge. No trial - Just summary execution. These assassinations were carried out prior to the passage of the 2012 NDAA under plenary authority claimed by Presidents Bush and Obama.

The U.S. Supreme Court affirmed over 150 years ago that it is unconstitutional to use "indefinite military detention" and trial by military tribunal against a U.S. citizen who is not part of the armed forces of the United States, and not "*in the Militia, when in actual service in time of War or public danger;...*"

In [Enemy Combatant Status: No More Pernicious Doctrine](#), Yale Law grad Stewart Rhodes writes, "*The Article III Treason Clause provides the only constitutional trial remedy for those who make war against their own nation or give aid and comfort to its enemies. Up to the Civil War, in every rebellion, from [Shay's rebellion](#), to the [Whiskey Rebellion](#), to [Aaron Burr's attempt to raise an Army against the U.S.](#), to [John Brown's attack](#) on Harper's Ferry, each person tried for their actions of taking up arms against their nation or aiding the enemy were tried for treason, before a jury, in a civilian court. None of them were brought before a military tribunal. If the Founders had intended to give the military jurisdiction over such people, what was the point of the Treason Clause?*" ([The Warrior](#), the Journal of [Gerry Spence's](#) Trial Lawyers College, 2005 Summer edition)

Members of Congress that voted for granting the President dictatorial power in his capacity as Commander-in-Chief have argued that it was necessary in the interest of national security.

Although Congress has declared "[the whole world is the battlefield, including the homeland](#)," the U.S. Constitution doesn't permit applying military law, or the "law of war" against a U.S. citizen anywhere in the world, or against any person in the United States, its territories, or protectorates. What is authorized is to charge them with treason under Article III, Section 3.



Washington warned us against usurpations of the Constitution in his 1796 [Farewell Address](#):

*"If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."*

**The 5th Amendment in the Bill of Rights states,**

*"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;..."*

**The 6<sup>th</sup> Amendment in the Bill of Rights states,**

*"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."*

**U.S. Supreme Court Justice Davis, in [Ex Parte Milligan \(71 U.S. 2, Syllabus\)](#), stated,**

*"Time has proven the discernment of our ancestors, for even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper, and that the principles of constitutional liberty would be in peril unless established by irrevocable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of*



*men, at all times [p121] and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false, for the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.”*

**The U.S. Supreme Court ruled in [Ex Parte Milligan \(71 U.S. 2, Syllabus\)](#), that,**

*“Military commissions organized during the late civil war, in a State not invaded and not engaged in rebellion, in which the Federal courts were open, and in the proper and unobstructed exercise of their judicial functions, had no jurisdiction to try, convict, or sentence for any criminal offence, a citizen who was neither a resident of a rebellious State nor a prisoner of war, nor a person in the military or naval service. And Congress could not invest them with any such power.” ....It can serve no useful purpose to inquire what those laws [of war] and usages are, whence they originated, where found, and on whom they operate; they can never be applied to citizens in states which have upheld the authority of the government, and where the courts are open and their process unobstructed.” (Emphasis added)*

Article VI, Clause 2 of the U.S. Constitution clearly states that only those laws enacted in pursuance of the Constitution are to be considered “supreme Law of the Land.” The 2012 NDAA was not passed “in Pursuance” of the Constitution. Any state or local NDAA resolution or legislation should recognize the “indefinite detention” provisions of the 2012 NDAA as unconstitutional, just as acts of Congress to “infringe” upon the 2<sup>nd</sup> Amendment right to keep and bear arms would be. Interposition on behalf of the people is needed.



Alexander Hamilton writes in [Federalist 16](#),

*“If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional, and void.” (Emphasis added)*

Alexander Hamilton explained in [Federalist 78](#):

*“There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is executed, is void. No legislative act, therefore, contrary to the Constitution, can be valid.”*

***“When words lose their meaning, people lose their freedom.” -Confucius (551 BCE - 479 BCE)***

Honorable members of the North Carolina Legislature, either the Constitution says what it means, and means what it says, or our God-given Rights will become privileges to be given or taken away at the whims of those in power.

Former President Thomas Jefferson, advised in a [letter to Thomas Richie, Dec. 25, 1820](#),

*“...that against this every man should raise his voice, and more, should uplift his arm... That pen should go on, lay bare these wounds of our Constitution, expose the decisions seriatim, and arouse, as it is able, the attention of the nation to these bold speculators on its patience.”*

U.S. Supreme Court Chief Justice John Marshall explained in [Marbury v. Madison, 1803](#):

- *“It is also not entirely unworthy of observation that, in declaring what shall be the supreme law of the land, the Constitution itself is first mentioned, and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank.”*
- *“Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.” [Emphasis added]*





Samuel Adams, referred to as the ‘Father of the American Revolution,’ advised us,

*"If ever a time should come, when vain and aspiring men shall possess the highest seats in Government, our country will stand in need of its experienced patriots to prevent its ruin."*

We submit to you that such a time has come, and “We the People” need you to take any and all actions within your constitutional authority to interpose against these intolerable acts and restore constitutional governance within your respective jurisdictions.

*For God & Country,*

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The 2012 National Defense Authorization Act (NDAA) violates numerous provisions of the Constitution of the United States and the Constitution of North Carolina, including, but not limited to, the following:

**U.S. Constitution, Article I, Section 9, Clause 2**

**U.S. Constitution, Article II, Section I, Clause 8**

**U.S. Constitution, Article III, Section 2, Clause 3**

**U.S. Constitution, Article III, Section 3**

**U.S. Constitution, Article VI, Clause 2**

**U.S. Constitution, 1st Amendment**

**U.S. Constitution, 4th Amendment**

**U.S. Constitution, 5th Amendment**

**U.S. Constitution, 6th Amendment**

**U.S. Constitution, 8th Amendment**

**U.S. Constitution, 9th Amendment**

**U.S. Constitution, 10th Amendment**

**U.S. Constitution, 14th Amendment, Section 1**

**North Carolina Declaration of Rights, Article I, Section 19**

**North Carolina Declaration of Rights, Article I, Section 20**

**North Carolina Declaration of Rights, Article I, Section 21**

**North Carolina Declaration of Rights, Article I, Section 22**

**North Carolina Declaration of Rights, Article I, Section 27**

**North Carolina Declaration of Rights, Article I, Section 29**

**North Carolina Declaration of Rights, Article VI, Section 8**

*“In matters of power, let no more be heard of the confidence in man, but bind them down from mischief with the chains of the Constitution.”*

*- Thomas Jefferson*





## ***Give Me Liberty or Give Me Death!***

***Patrick Henry, March 23, 1775***

No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the house. But different men often see the same subject in different lights; and, therefore, I hope it will not be thought disrespectful to those gentlemen if, entertaining as I do opinions of a character very opposite to theirs, I shall speak forth my sentiments freely and without reserve. This is no time for ceremony. The question before the house is one of awful moment to this country. For my own part, I consider it as nothing less than a question of freedom or slavery; and in proportion to the magnitude of the subject ought to be the freedom of the debate. It is only in this way that we can hope to arrive at the truth, and fulfill the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time, through fear of giving offense, I should consider myself as guilty of treason towards my country, and of an act of disloyalty toward the Majesty of Heaven, which I revere above all earthly kings.

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth, and listen to the song of that siren till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the numbers of those who, having eyes, see not, and, having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth, to know the worst, and to provide for it.

I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging of the future but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years to justify those hopes with which gentlemen have been pleased to solace themselves and the House. Is it that insidious smile with which our petition has been lately received?

Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with those warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlement assign any other possible motive for it? Has Great Britain any enemy, in this quarter of the world, to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us: they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British ministry have been so long forging. And what have we to oppose to them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we



anything new to offer upon the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves. Sir, we have done everything that could be done to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne! In vain, after these things, may we indulge the fond hope of peace and reconciliation.

There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained—we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of hosts is all that is left us! They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak if we make a proper use of those means which the God of nature hath placed in our power. The millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come.

It is in vain, sir, to extenuate the matter. Gentlemen may cry, Peace, Peace—but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!

## REFERENCES AND SOURCE DOCUMENTS

NDAAs Resolutions for State Legislators, County Commissioners, Sheriffs, City Councils, etc...  
<http://theintolerableacts.org/wordpress/ndaa-resolutions/>

HR1540 Conference Report as Approved by the United States Congress  
<http://www.gpo.gov/fdsys/pkg/CREC-2011-12-12/pdf/CREC-2011-12-12-pt1-PgH8356-5.pdf>  
Alternate source: <http://patriotcoalition.com/docs/HR1540conf.pdf>

Authorization of Use of Military Force (See bottom of page 6 for final version as signed into law.)  
<http://patriotcoalition.com/docs/Authorization-of-Use-of-Military-Force.pdf>

President Obama's Signing Statement: Dec. 31, 2011  
<http://www.whitehouse.gov/the-press-office/2011/12/31/statement-president-hr-1540>

Declaration of Independence: (See Freedom Documents tab)  
[http://nccs.net/freedom\\_defined/index.htm?const.html&2](http://nccs.net/freedom_defined/index.htm?const.html&2)

Constitution of the United States of America: (See Freedom Documents tab)  
[http://www.nccs.net/freedom\\_defined/index.htm?const.html&2](http://www.nccs.net/freedom_defined/index.htm?const.html&2)

House Voting Record for final version of 2012 NADA  
<http://clerk.house.gov/evs/2011/roll932.xml>

Senate Voting Record for final version of 2012 NADA  
[http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=112&session=1&vote=00230](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=1&vote=00230)

2012 NDAAs, SECTIONS: 1021, 1022, 1023  
[http://patriotcoalition.com/docs/NDAAs FOR FISCAL YEAR 2012 \(1021-1022-1023\).doc](http://patriotcoalition.com/docs/NDAAs FOR FISCAL YEAR 2012 (1021-1022-1023).doc)

Judge Katherine Forrest places permanent injunction against NDAAs in Hedges v. Obama  
<http://theintolerableacts.org/docs/Hedges-v-Obama-Permanent-Injunction.pdf>



**The Intolerable Acts ACTION CENTER** is a joint project of [Patriot Coalition](#) and [Oath Keepers](#). The project logo is derived directly from [American history](#), particularly that relating to abuses of the colonists by King George. The "skull and crossbones" image is from a [1765 Stamp Act protest cartoon](#), which pre-dates the "Intolerable (Coercive) Acts" and is super-imposed over the actual hand-written Bill of Rights as proposed by the 1st Congress and sent to the States for ratification.