



Congress Must Follow Constitution to Limit Government

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.



This is the proper delegation of power in the Constitution as defined by James Madison in [Federalist 45](#).

A recent piece [published by Cato](#) echoed Madison's description.

Roger Pilon, the author of the article, recounts events in American history when the president in one case and Congress in another refused to fund endeavors that were not exercises of constitutionally enumerated powers.

The first example of federal frugality provided by Pilon is Grover Cleveland's veto of a bill seeking an \$100,000 appropriation to help farmers in Texas suffering the effects of a drought. "I can find no warrant for such an appropriation in the Constitution," Cleveland wrote in explanation of his veto.

Pilon tells of two times in the early years of Congress that the people's representatives refused to spend the people's money on programs not provided for in the Constitution's grant of legislative powers:

In 1791, for example, Treasury Secretary Alexander Hamilton unveiled his *Report on Manufactures* — an early industrial policy scheme. Congress promptly shelved it. And in 1794, the Constitution's principal author, James Madison, finding before him a bill for the relief of French refugees fleeing to Baltimore and Philadelphia from an insurrection in San Domingo, rose on the floor of the House to declare, unremarkably, that he could not "undertake to lay his finger on that article of the Federal Constitution which granted a right to Congress of expending on objects of benevolence the money of their constituents."

Where has that spirit gone? There was a man named Ron Paul who once earned the nickname "Dr. No" for his consistent commitment to oppose any bill with an object not placed within Congress's purview.

Today, Representative Justin Amash (R-Mich.) publicly announces and explains every vote on his Facebook page, giving constituents and other citizens a chance to comment on his record.

In January, Amash demonstrated his old-school austerity by voting against [a bill authorizing a nearly \\$10-billion increase](#) in the borrowing authority of the Federal Emergency Management Agency (FEMA). The extra funds were to be used for the relief of victims of Hurricane Sandy.



Written by [Joe Wolverton, II, J.D.](#) on October 15, 2013

Amash's fidelity in the face of what many would call a charitable vote in favor of helping the suffering is reminiscent of another maverick congressman.

After being called on the carpet by a constituent for a vote in favor of a bill appropriating money for the widow of a deceased naval officer, Representative David Crockett of Tennessee delivered [the following remarks from the floor of the House in 1831](#):

Mr. Speaker — I have as much respect for the memory of the deceased, and as much sympathy for the sufferings of the living, if suffering there be, as any man in this House, but we must not permit our respect for the dead or our sympathy for a part of the living to lead us into an act of injustice to the balance of the living. I will not go into an argument to prove that Congress has no power to appropriate this money as an act of charity. Every member upon this floor knows it.

We have the right, as individuals, to give away as much of our own money as we please in charity; but as members of Congress we have no right so to appropriate a dollar of the public money.

And Crockett concluded:

Mr. Speaker, I have said we have the right to give as much of our own money as we please. I am the poorest man on this floor. I cannot vote for this bill, but I will give one week's pay to the object, and if every member of Congress will do the same, it will amount to more than the bill asks.

When it comes to spending money for the relief of victims of natural disasters, Amash understands as David Crockett did that it isn't the amount, it's the principle. As individuals, members of Congress (and all Americans) may donate as much money as they desire to help those in need. Congress, however, has no right to spend a single cent of the people's money on charitable endeavors, no matter how worthy the cause, as that authority is not given in the Constitution.

In the piece published by Cato (Pilon's article originally appeared the Jewish Policy Center's [inFocus Quarterly](#)), three constitutional clauses are listed as being the levers with which the burden of an out-of-control federal government has been foisted on the backs of the American people.

Constitutions have two main functions: to authorize, institute, and empower the governments the people create through them; and then to limit that power. In the *Federalist Papers* we see how the Framers struck that balance. In particular, in *Federalists* 41, 42, and 44 Madison explains how the General Welfare, Commerce, and Necessary and Proper Clauses, respectively, were meant to be read — the very clauses the New Deal Court turned on their heads.

On their heads and inside out. Rather than being the necessary means for carrying out specifically enumerated ends, the so-called Necessary and Proper Clause of [Article I, Section 8](#) has earned its "Elastic Clause" nickname. The General Welfare Clause has fared no better and has been used as the justification for innumerable unconstitutional expansions of the welfare state.

Neither of these clauses would ever have been ratified had the Founders any notion that they would become the tools of tyranny they are today in the hands of the Congress they created.

in [Federalist No. 44](#):

What is to be the consequence, in case the Congress shall misconstrue this part [the necessary and proper clause] of the Constitution and exercise powers not warranted by its true meaning, I answer the same as if they should misconstrue or enlarge any other power vested in them ... the success of the usurpation will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in a last resort a remedy must be obtained from the people,



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who can by the elections of more faithful representatives, annul the acts of the usurpers.

In his [Report of 1800](#), Madison wrote:

Money cannot be applied to the General Welfare, otherwise than by an application of it to some particular measure conducive to the General Welfare. Whenever, therefore, money has been raised by the general Authority, and is to be applied to a particular measure, a question arises whether the particular measure be within the enumerated authorities vested in Congress. If it be, the money requisite for it may be applied to it; if it be not, no such application can be made.

And lastly, as Madison wrote in a letter to Edmund Pendleton in 1792, “If Congress can do whatever in their discretion can be done by money, and will promote the general welfare, the Government is no longer a limited one possessing enumerated powers, but an indefinite one subject to particular exceptions.”

Pilon’s solution? “The heavy lifting will have to be done by the political branches — the very branches that propelled us into this situation,” he says. “That speaks volumes about how difficult it will be to check this spiral, as we see when we look around the country at states, cities, and counties caught up in it, staring bankruptcy in the teeth,” he adds.

States are bankrupt because they have become mere administrative units of the federal government. They have allowed themselves to become such. They may occasionally pull at the leash or nip at the hand that feeds them, but they slaver over the scraps handed them by their federal masters.

As the states have become servants, they may yet regain their proper role as masters. In this there is hope, in fact.

The states, through the exercise of the Tenth Amendment and their natural right to rule as sovereign entities, may stop the advance of the forces of federal consolidation at the state borders by enacting state statutes nullifying every unconstitutional act and regulation and criminalizing state participation in administering or executing their myriad mandates.

Nullification is the “rightful remedy” and is a much more constitutionally sound method of checking federal usurpation and is quicker and less complicated than an attempt to have unconstitutional laws repealed by Congress or overturned by a future federal bench more respectful of the Constitution. That said, there is no reason that concerned citizens should not use every weapon in the constitutional arsenal to, as Pilon recommends, “extract ourselves from that course.”

This includes working to convince Congress to repeal the violations already on the books and adhere to their oaths not to add to them.

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