



Congressional Constitutional Contempt

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Colaboraciones n° 2027

November 6, 2007

Here's the oath of office administered to members of the House and Senate: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." A similar oath is sworn to by the president and federal judges.

In each new Congress since 1995, Rep. John Shadegg, R-Ariz., has introduced the Enumerated Powers Act (HR 1359). The Act, which has yet to be enacted into law, reads: "Each Act of Congress shall contain a concise and definite statement of the constitutional authority relied upon for the enactment of each por-

tion of that Act. The failure to comply with this section shall give rise to a point of order in either House of Congress. The availability of this point of order does not affect any other available relief."

Simply put, if enacted, the Enumerated Powers Act would require Congress to specify the basis of authority in the U.S. Constitution for the enactment of laws and other congressional actions. HR 1359 has 28 co-sponsors in the House of Representatives.

When Shadegg introduced the Enumerated Powers Act, he explained that the Constitution gives the federal government great, but limited, powers. Its framers granted Congress, as the central mechanism for protecting liberty, specific rather than general powers. The Constitution gives Congress 18 specific enumerated powers, spelled out

mostly in Article 1, Section 8. The framers reinforced that enumeration by the 10th Amendment, which reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved for the States respectively, or to the people."

Just a few of the numerous statements by our founders demonstrate that their vision and the vision of Shadegg's Enumerated Powers Act are one and the same.

James Madison, in explaining the Constitution in Federalist Paper No. 45, said, "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."

Regarding the "general welfare" clause so often used as a justification for bigger government, Thomas Jefferson said, "Congress has not unlimited powers to provide for the general welfare, but only those specifically enumerated." James Madison said, "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."

Congressmen, openly refusing to live up to their oath of office, exhibit their deep contempt for our Constitution. The question I've not been able to answer satisfactorily is whether that contempt simply mirrors a similar contempt held by most of the American people. I'm sure that if founders such as James Madison, John Adams or Thomas Jefferson were campaigning for the 2008 presidential elections, expressing their vision of the federal government's role, today's Americans would run them out of town on a rail. Does that hostility reflect constitutional ignorance whereby the average American thinks the Constitution authorizes Congress to do anything upon which they can get a majority vote or anything that's a good idea? Or, are Americans contemptuous of the constitutional limitations placed on the federal government?

I salute the bravery of Rep. Shadegg and the 28 co-sponsors of the Enumerated Powers Act. They have a monumental struggle. Congress is not alone in its constitutional contempt, but is joined by the White House and particularly the constitutionally derelict U.S. Supreme Court.

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