

Violations of Fundamental Rights of All U.S. Citizens and Lawful Resident Aliens By The “National Defense Authorization Act For Fiscal Year - 2012” Require State Nullification

On December 15, 2011, on the 220th anniversary of the Bill of Rights, the United States Senate passed the Conference Report to House of Representative Bill H.R. 1540, the "NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012 (NDAA)", and

On Dec. 31, 2011, President Barack Obama signed the Conference Report to House of Representative Bill H.R. 1540, the NDAA, into “law”.

The Constitution for the United States of America and the Constitution of the Commonwealth of Pennsylvania are infringed and/or usurped by provisions in the “National Defense Authorization Act for Fiscal Year 2012” (NDAA) which authorize the application of: military force (including assassination), indefinite military detention without trial, military trial, and rendition to foreign countries and entities of any person, including American Citizens and lawful resident aliens, at the discretion of the President or a subordinate within the Department of Defense,

*“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

At a minimum consider the following:

Section 1021 of the NDAA directly violates Article III, Section 2, Clause 3, and Article III, Section 3 of the Constitution for the United States of America by authorizing military trial, before a military commission, of American Citizens and lawful residents accused of levying war against the United States or adhering to their enemies, giving them aid and comfort, which are the elements of the crime of treason as defined in Article III, Section 3, “*levying war against [the United States] or adhering to their enemies, giving them aid or comfort...*” thus denying United States Citizens and lawful resident aliens their right to a trial by jury and also denying them the additional evidentiary protections of Article III, Section 3, such as the requirement of two witnesses to the same overt act or confession in open court before they can be found guilty, by a jury of their peers, of having levied war against the United States or adhering to their enemies, giving them aid and comfort, which constitute the crime of treason.

Section 1021(c) (1) of the NDAA, directly violates the right of the people against unreasonable seizure by allowing them to be snatched up (kidnapped) by the United States military, on the say-so of the military itself, and taken to a military detention facility at Guantanamo Bay, Cuba, or to some other location, to be held in “(1) Detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force,” or, under Section 1021(c) (4) to be turned over to the custody or control of “*any other foreign country, or any other foreign entity,*” all of which are the epitome of an unreasonable seizure, as the American people are thereby treated exactly the same as any person captured on a foreign battlefield (such as Iraq or Afghanistan), where anyone who is suspected of being an unlawful belligerent in the war on terrorism, or of aiding belligerents, is simply picked up by the military and taken away to wherever the U.S. military sees fit, with no involvement whatsoever by the civilian courts. A government which does the above to its own people is consistent with the behavior of every despotic and totalitarian regime in world history.

Section 1021(c)(2) of the NDAA directly violates the clear mandates of the 6th Amendment by authorizing United States Citizens and lawful residents to be tried before a military commission “under chapter 47A of title 10, United States Code (as amended by the Military Commissions Act of 2009 (title XVIII of Public Law 111–4 84)), for supposed crimes against the “law of war,” rather than before a jury of their peers, and further violates the 6th Amendment by authorizing such trial outside of the State and district wherein the

crime shall have been committed, to include transporting them beyond seas for pretended offenses against the “law of war” (such as not bearing arms openly, not wearing a uniform or an insignia recognizable at a distance, or not serving under an established chain of command – all of which are absurd to apply to an American civilian in civilian life), and without the 6th Amendment guarantee of the right to be confronted with the witnesses against them, and to have compulsory process for obtaining witnesses in their favor.

The NDAA, in direct violation of the 8th Amendment of the Bill of Rights, authorizes “cruel and unusual punishments” in the form of “indefinite detentions,” and the transfer of American Citizens and lawful residents to “foreign nations,” and/or unnamed foreign “entities” for unspecified purposes, and for trial and punishment for pretend offenses against the “law of war,” which can result in the absurdity of Americans suffering the punishment of being executed because they do not wear an insignia recognizable at a distance in their daily lives as civilians, or because they carry a handgun concealed as millions of Americans legally do in daily life, or because they are not subject to an established chain of command, all of which are perfectly legal under the laws of the United States and are only “crimes” under the international “law of war” as applied to a foreign enemy, which has no jurisdiction over Americans who are not in the Armed Forces of the United States.

“The accumulation of all powers, legislative, executive, and judiciary, in the same hands ...may justly be pronounced the very definition of tyranny.”

-James Madison, Federalist 47

The execution of parts of the NDAA may require members of the armed forces to violate their oath to support and defend the Constitution of the United States.

The NDAA is deceptive in that it purports to merely “Affirm” the authority granted to the President under the Authorization for the Use of Military Force (AUMF) as signed into law on September 18, 2001, when in fact, it does expand the temporal scope and the entities to whom that act applies, which can be targeted under the AUMF.

Sen. Lindsey Graham (R-S.C.), who backed the bill, indicated that the bill “**basically say(s) in law for the first time that the homeland is part of the battlefield,**” and that people can be imprisoned without charge or trial “**American citizen or not.**” Another supporter, Sen. Kelly Ayotte (R-N.H.) also declared that the bill is needed because “**America is part of the battlefield.**”

For all of the reasons presented herein above, and much more, the “National Defense Authorization Act for Fiscal Year 2012” must be immediately “**Nullified**” by the States. Pennsylvania must lead this effort to preserve the constitutionally protected, secured and guaranteed rights of Pennsylvanians.

Each State Senator and State Representative, and Governor Tom Corbett have taken the following “oath of office”:

“I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity.” (Article VI, Section 3 of the Pennsylvania Constitution)

Article IV, Section 2 of the Pennsylvania Constitution begins with: “The supreme executive power shall be vested in the Governor, **who shall take care that the laws be faithfully executed;** ...”

It is past time for the General Assembly and/or the Governor to “interpose” Pennsylvania between the “federal” government and the People to provide the “Rightful Remedy” of **NULLIFICATION** of all unconstitutional “laws”! We sincerely instruct all those in government to strictly follow their “oath of office” and thus do their primary duty to protect the freedom and liberty of all Citizens.