

# NDAА RESOLUTION FOR PENNSYLVANIA STATE LEGISLATORS

**From: Patriot Coalition National Director Jeff Lewis & Oath Keepers founder Stewart Rhodes.**

The below draft resolution was prepared by Mr. Stewart Rhodes, Founder of Oath Keepers ([oathkeepers.org](http://oathkeepers.org)) a Yale Law Graduate who specializes in the application of military law to civilians, and Mr. Richard D. Fry, a constitutional law attorney and General Council for Patriot Coalition ([patriotcoalition.com](http://patriotcoalition.com)). Legislators who choose to endorse or adopt this (Patriot Coalition / Oath Keepers) “**P.C./O.K. NDAА RESOLUTION**” are requested to notify Stewart and Richard of your intent, and to identify it as such in any accompanying public statements or press releases.

We have also prepared a tutorial video which explains, clause by clause, the contents of this resolution, which can be viewed at the Patriot Coalition’s Livestream Channel here: <http://livestream.com/WRCG>. (See: NDAА State Resolution)

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*“...I am committed against every thing which, in my judgment, may weaken, endanger, or destroy [the Constitution]... and especially against all extension of Executive power; and I am committed against any attempt to rule the free people of this country by the power and the patronage of the Government itself...”*

**-Daniel Webster**

# RESOLUTION OF THE PENNSYLVANIA LEGISLATURE

## STANDING IN OPPOSITION TO THE PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012 WHICH AUTHORIZE MILITARY DETENTION AND TRIAL OF U.S. CITIZENS AND LAWFUL RESIDENTS IN DIRECT VIOLATION OF THE UNITED STATES CONSTITUTION AND THE CONSTITUTION OF PENNSYLVANIA.

**WHEREAS**, on Dec. 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),"

**WHEREAS**, on Dec. 31, 2011, President Barack Obama signed the Conference Report to House of Representative Bill H.R. 1540, the NDAA, into law,

**WHEREAS**, the NDAA contains provisions repugnant to, and destructive of, the constitutions and Bill of Rights of the United States of America, and this state,

**WHEREAS**, the United States Constitution and the constitution of this state are infringed and/or usurped by provisions in the 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,

### Fundamental Rights of All U.S. Citizens and Lawful Resident Aliens

***“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

**WHEREAS**, the Preamble to the U.S. Constitution states:

***“W E THE PEOPLE** of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution **for the United States of America.**”*

**WHEREAS**, the Preamble to the Constitution of the Commonwealth of Pennsylvania declares:

***“WE**, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this Constitution.”*

**WHEREAS, the Pennsylvania Declaration of Rights, Article I, Section 1, states:**

**[Inherent Rights of Mankind]** *“All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.”*

**WHEREAS, the U.S. Constitution, Article I, Section 9, Clause 2 states:**

*“The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”*

**WHEREAS, the Pennsylvania Declaration of Rights, Article I, Section 14 states:**

*“All prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.”*

**WHEREAS,** there has been no Suspension of Habeas Corpus by Congress, purporting to authorize detention without Grand Jury Indictment for such time as Congress has specified during a “Rebellion,” or an “Invasion.”

**WHEREAS,** instead of Suspending Habeas Corpus, Congress has unconstitutionally authorized indefinite military detention, under the “law of war,” of persons, including United States citizens and lawful resident aliens, a power nowhere granted to government within the United States Constitution,

**WHEREAS, 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.”*

**WHEREAS, the Pennsylvania Declaration of Rights, ARTICLE I, Section 6 states:**

*“Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case. Furthermore, in criminal cases, the Commonwealth shall have the same right to trial by jury as does the accused.”*

**WHEREAS, 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.”*

**WHEREAS,** the U.S. Constitution, Article III, Section 2, Clause 3, and Article III, Section 3 together clearly and plainly set forth what manner of trial must be used against a United States Citizen or lawful

resident who is alleged to have waged war against the United States or to have aided the enemy in wartime, requiring a trial by a jury of their peers, in an Article III, civilian court, for the crime of Treason, with the extra evidentiary burden of two witnesses to the same overt act, or confession in open court,

**WHEREAS**, Section 1021 of the NDAA directly violates Article III, Section 2, Clause 3, and Article III, Section 3 of the United States Constitution 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,

**WHEREAS, the U.S. Constitution, 4<sup>th</sup> Amendment states:**

*"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."*

**WHEREAS, the Pennsylvania Declaration of Rights, Article I, SECTION 8 states:**

*"The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant."*

**WHEREAS**, 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.

**WHEREAS, the U.S. Constitution, 5th Amendment 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; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a*

*witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation," (emphasis added)*

**WHEREAS, the Pennsylvania Declaration of Rights, Article I, Section 9 states:**

*"In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land. The use of a suppressed voluntary admission or voluntary confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself." (emphasis added)*

**WHEREAS,** claiming authority under the laws of war and the AUMF, President Barack Obama has, on his direction alone, targeted U.S. citizens for killing by the U.S. military, and has in fact ordered the successful killing of several U.S. citizens, based on secret evidence, pursuant to a secret criteria for deciding such targeting, while refusing to present any evidence whatsoever, and while proclaiming the intent to target other U.S. citizens for such extra-judicial, extra-constitutional killing with no due process whatsoever before placing U.S. citizens on a secret assassination list, and depriving them of their lives without due process of law, directly in violation of the Fifth Amendment, all under the fiction that he can treat Americans like foreign enemy soldiers during war and simply kill them on sight. Again, such a claimed power to arbitrarily kill its own citizens, on the mere say-so of "the Leader" is the hallmark of every despotic and totalitarian regime in world history. Under our Constitution, a citizen or lawful resident must be tried for treason and found guilty by a jury of his peers before being executed. Summary execution at the discretion of the President is nowhere enumerated in our Constitution.

**WHEREAS,** by enacting the NDAA, and thus affirming the power of the President to use military force against any person – including U.S. citizens and lawful resident aliens - that "he determines" are part of the enemy or has aided the enemy in the "war on terror," with the full knowledge that the current President has engaged in assassination of U.S. citizens, Congress has knowingly authorized the continuation of President Barack Obama's program of extra-judicial killing of Americans who he has placed on his secret hit list, pursuant to secret evidence that he will not present to any court. Congress has thus given its assent to the President to hold the power of life and death over all persons within the United States, as if he were a Roman emperor, or as if he were Hitler, Mussolini, Stalin, Mao, Pinochet, Pol Pot, or Papa Doc.

**WHEREAS, the U.S. Constitution, 6th Amendment 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."*

**WHEREAS, the Pennsylvania Declaration of Rights, Article I, Section 9 states:**

*“In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land. The use of a suppressed voluntary admission or voluntary confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself.” (emphasis added)*

**WHEREAS,** Section 1021(c)(2) of the NDAA directly violates the clear mandates of the 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> Amendment guarantee of the right to be confronted with the witnesses against them, and to have compulsory process for obtaining witnesses in their favor,

**WHEREAS, the U.S. Constitution, 8th Amendment states:**

*“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”*

**WHEREAS, the Pennsylvania Declaration of Rights, Article I, Section 13 states:**

*“Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.”*

**WHEREAS,** 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,

**WHEREAS,** the punishment of being arbitrarily killed by a Hellfire Missile fired from a Predator drone, after the President “determines” – based on secret evidence and secret criteria - that a U.S. citizen or lawful resident alien is guilty of levying war against the United States or aiding its enemies, or is guilty of pretend violations of the “law of war,” is truly cruel and unusual (at least for now), and thus violates the 8th Amendment,

*“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*

**WHEREAS, the U.S. Constitution, 14th Amendment, Section 1 states,**

*"...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."*

**Requirements of Oaths of Office to Protect the Constitution and U.S. Citizens**

**WHEREAS, our oath of office creates an active duty, not a passive duty,**

**WHEREAS, the U.S. Constitution, Article VI, Clause 3 states,**

*"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."*

**WHEREAS, the Constitution for the Commonwealth of Pennsylvania, Article VI, Section 3 states:**

*"Senators, Representatives and all judicial, State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths. "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." The oath or affirmation shall be administered to a member of the Senate or to a member of the House of Representatives in the hall of the House to which he shall have been elected. Any person refusing to take the oath or affirmation shall forfeit his office."*

**WHEREAS, the United States Constitution, Article II, Section I, Clause 8 states:**

*"Before he enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."*

**WHEREAS, enlisted members of the armed forces of the United States are bound by the following oath:**

*"I, (NAME), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God."*

**WHEREAS, commissioned officers of the armed forces of the United States are bound by the following oath:**

*"I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and 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."*

**National Defense Authorization Act for Fiscal Year 2012**

*"It will be of little avail to the people that the laws are made by men of their own choice, if the laws be so voluminous [NDAA is 1844 pages] that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man who knows what the law is today can guess what it will be tomorrow." -James Madison*

**WHEREAS,** 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,

**WHEREAS,** we believe the NDAA unconstitutionally infringes upon the fundamental rights of all persons, including U.S. citizens and lawful resident aliens of our Constitutional Republic, as noted above, and has other flaws, as noted below:

1. **The NDAA is deceptive** in that it purports to merely "Affirm" the authority granted 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.  
(See Subtitle D—Counterterrorism, SEC. 1021. AFFIRMATION OF AUTHORITY OF THE ARMED FORCES OF THE UNITED STATES TO DETAIN COVERED PERSONS PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE),
2. **The NDAA of 2012 is deceptive** in that, while it purports to not expand or limit the authority given the President under the subject AUMF, or the scope of the subject AUMF, it does in fact expand both in the following ways:
  - a. it expands the entities that could be targeted beyond those noted in the AUMF, and for a different time period (See §1021 (b)(2) "A person who was a part of or substantially supported Al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces." (Emphasis added),

- b. it expands the powers of the President that can be applied to “covered persons” by enumerating for the first time, the power of indefinite military detention under the “law of war” without trial, trial by military commission, and extraordinary rendition to “any other foreign country, or any other foreign entity.”

(See §1021(d) CONSTRUCTION.—Nothing in this section is intended to limit or expand the authority of the President or the scope of the Authorization for Use of Military Force), (See note 1)

3. **The NDAA is deceptive** in that it purports it does not affect existing law or authorities relating to the detention of United States citizens et.al, when in fact:
  - a. Congress could not agree on what the existing “law or authorities” were,
  - b. the NDAA does expand the entities and actions to which the AUMF applies,
  - c. the provision of the NDAA will result in a different law being applied to “United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States,” i.e., the “law of war,” (See Section 1021(e))
  - d. there are general provisions in the NDAA which purport to limit its application that are inconsistent with specific provisions in the NDAA that expand the AUMF. A court, in interpreting the NDAA, will most likely interpret the subject-limiting provision to read “Nothing in this section shall be construed to affect existing law or authorities... [except as otherwise provide in this section].”

(See §1021(e) AUTHORITIES.—Nothing in this section shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States.), (See Note 2.)

- e. the intent and purpose of the NDAA, as expressed by Senator Lindsey Graham on the Senate floor, is to create the legal fiction that the United States of America is a “**battlefield**,” thus providing justification for the unconstitutional application of the “law of war” to U.S. citizens and lawful resident aliens who are not serving in the U.S. armed forces,”

4. **The NDAA is deceptive** in that Section 1021 expands the authority of the 2001 AUMF, while asserting it does not expand the authority granted under the 2001 AUMF. Congress is pretending that it granted all of these newly listed powers in the 2001 AUMF, when in fact the original authorization makes no mention of the power to use military detention, military trial, or extraordinary rendition. This legalistic, sophistic, “time travelling” deception allows Congress to greatly expand the written scope of its AUMF, including adding, for the first time, written authorization to use military detention without trial, military trial, and even extraordinary rendition to foreign countries and unnamed foreign entities, to include against U.S. citizens and lawful residents, while telling the American people that nothing has changed. Such legalistic “time travel” is the height of deception.

**WHEREAS**, it is deceptive for the NDAA to assert it does not affect existing law or authorities in that:

- 1) there was no agreement within Congress as to what is the existing law on the relevant subject,
- 2) the “authorities“ on the subject issue are unclear at best,
- 3) provisions within Subtitle D of the NDAA do result in a different law, the “law of war,” being applied to “United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States...” outside the protections of civilian law pursuant to Article III and the Bill of Rights.
- 4) due to the fact there are general limiting provisions in the NDAA which are inconsistent with specific expanding provisions in the NDAA, a court, in interpreting the NDAA, will most likely interpret the general-limiting provisions to read “Nothing in this section shall be construed to affect existing law or authorities...[**except as otherwise provided in this section**],”  
(See Section 1021(e)) (See Note 2.)

**WHEREAS**, the NDAA would subject United States citizens and lawful resident aliens to “transfer to the custody or control of the person’s country of origin, any other foreign country, or any other foreign entity...”, which would violate the duty of allegiance owed to such persons by the United States of America as well as certain of their fundamental freedoms,

**WHEREAS**, the supporters of the NDAA have said the NDAA will have the effect, and we believe it will have the effect, of allowing the President to treat the United States of America as if it was a “*battlefield*,” placing it under the “law of war,” and its citizens as if they were foreign enemies on a foreign “*battlefield*” subjecting them to the “law of war” and martial law, exactly like the people of occupied Iraq and Afghanistan are treated,

**WHEREAS**, granting the President the authority he would have over a foreign “battlefield,” for use against the American people, is unconstitutional and a violation of the federal government’s duty of allegiance to protect U.S. citizens and lawful resident aliens,

**WHEREAS**, as the NDAA contains deceptive language in that it misrepresents what it does and it uses vague and ambiguous terms, usurps the Constitution, and sets the stage for the acceleration of a long train of abuses of the American people and their fundamental rights,

**WHEREAS**, no law is enforceable save those which are consistent with the “unalienable rights” given to all men by God, as declared in the Declaration of Independence and acknowledged in the U.S. Constitution,

**WHEREAS**, the above noted injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states, are nearly identical to many of the long train of abuses and usurpations that compelled our forefathers to take up arms and to separate from Great Britain, as enumerated in *The unanimous Declaration of the thirteen united States of America*, of July 4, 1776:

*“He has affected to render the Military independent of and superior to the Civil power.”*

*“He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:”*

*“For depriving us in many cases, of the benefits of Trial by Jury:”*

*“For transporting us beyond Seas to be tried for pretended offences”*

*“For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:”*

*“He has abdicated Government here, by declaring us out of his Protection and waging War against us.”*

**WHEREAS**, the similarities to our current circumstances are both shocking and obvious, with Congress and the President presuming to: affect the military independent of and superior to the civil power; subjecting us to a jurisdiction – the “law of war” – foreign to our Constitution and unacknowledged by our laws (with the Constitution being the supreme law of the land); depriving us of trial by jury; claiming a power to transport us beyond Seas for indefinite detention without trial, for rendition to foreign countries or entities, or to be tried for pretend offenses against the international “law of war;” taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our government by claiming that the law of war trumps our Constitution and Bill of Rights; and declaring themselves vested with the power to legislate for us in all cases whatsoever.

By doing so, Congress and President Obama, just as with Parliament and King George before them, are abdicating government here by declaring us out of the Protection of our Constitution and Bill of Rights and waging War against us, under the international law of war, as if we were a foreign enemy people.

**WHEREAS**, *“Any person having knowledge of any treasonable project is bound to disclose it to the President, or to a United States judge, or to a Governor of a State or a State judge, or he is guilty of misprision of treason, and may be fined one thousand dollars and imprisoned for seven years.”* (Treatise on Law of the American Rebellion, [page 20, Gard. Inst., 326; 1 U.S. St. L. 112, 119.](#))

## **THEREFORE, BE IT RESOLVED,**

**For the above and forgoing reasons, this Legislature expresses its belief that the NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012 (NDAA) is unconstitutional in authorizing the President to use war powers, the “law of war,” and/or martial law in the United States and its territories over any person, including citizens or lawful resident aliens of the United States not in the military forces, and over citizens or lawful resident aliens of the United States, who are not in the military forces, anywhere in the world.**

**FURTHER**, the Legislature expresses its sense that all provisions of the NDAA which are unconstitutional, including as noted herein above, were and are null and void from their inception and are not enforceable in this state, and it is the express policy of state’s Legislature that no officer, employee, or agent of the state will implement, enforce or otherwise support, directly or indirectly, any of the above noted unconstitutional provisions, and that a violation of such policy will be deemed a

violation of their oath of office and employment agreement, and will subject them to disciplinary action up to and including termination.

**FURTHER**, the Legislature recognizes its duty to interpose itself between unconstitutional usurpations by the federal government or its agents and the people of this state, as well as the duty to defend the unalienable natural rights of the people, all of which is consistent with the 9<sup>th</sup> and 10<sup>th</sup> Amendments to the Constitution of the United States, and with our oaths to defend the Constitution of the United States and the constitution of this state against all enemies, foreign and domestic.

**FURTHER**, the Legislature directs the Congressional delegation of this state to commence immediately efforts to repeal the unconstitutional sections of the NDAA, to-wit, sections 1021 and 1022, and any other section or provision which will have the same or substantially the same effect on the United States, its citizens, and lawful resident aliens.

**FURTHER**, the Legislature directs the Congressional delegation to introduce, support, and secure the passage of legislation which clearly states that Congress not only does not authorize, but in fact prohibits the use of military force, military detention, military trial, rendition, or any other power of the “law of war” against U.S. citizens and lawful resident aliens.

**BE IT FURTHER RESOLVED**, within ten (10) days from the passage hereof, a certified copy of this resolution shall be mailed, via certified mail with a return receipt, to each and every member of this state’s Congressional delegation by the [whomever it's their responsibility to send such documents], and, in compliance with federal law regarding acts of "*misprision of treason*," ([page 20, Gard. Inst., 326; 1 U.S. St. L. 112, 119.](#)), to the governor and Supreme Court Chief Justice of this state to effect notification of a possible “conspiracy against the United States,” to wit: the attempt by Congress and the President to arbitrarily and indefinitely suspend of the Bill of Rights outside the requirement of an invasion or rebellion as required by U.S. Constitution, Article I, Section 9, Clause 3, which states: “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.,” and by subjecting the American people to the “law of war,” including military force, detention, and trial, and/or the institution of martial law, rather than under the laws of the United States, pursuant to the detention and trial requirements of U.S. Constitution, Article III, and of the Fourth, Fifth, Sixth, and Eighth Amendments.

**BE IT FURTHER RESOLVED**, this Legislature, recognizing its oath-bound duty to defend the Constitution of the United States and the constitution of this state, to secure the people’s unalienable natural rights to “Life, Liberty, and the pursuit of Happiness,” as alliterated in the Declaration of Independence of July 4, 1776, adopts this resolution, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

## NOTES

1. Section 1021(d) CONSTRUCTION is meaningless for two reasons. First, in construing a statute the law gives a preference to a specific provision over a general provision, especially if they are in apparent conflict. Section 1021(d), a general limiting provision, is in conflict with Section 1021(b)(2) a specific provision, which expands the temporal scope and entities covered. Section 1021(b)(2), the specific provision also conflicts with Section 1021(a). The specific provision stands. Second, the court is required to construe a law so that all its provisions are given some meaning and that they are all consistent with each other if at all possible. Under this rule, a court would construe the general limiting provision to read (or mean):

*“Nothing in this section is intended to limit or expand the authority of the President or the scope of the Authorization for Use of Military Force [unless otherwise expressed herein].”*

As (b) (2) is expressed within the law it is consistent with the meaning of the limiting provision of 1021(d).

The courts assume that the laws are written by honest people who are trying to clearly convey their thoughts and purposes. They do not assume they are written by persons who are trying to trick or deceive the public by chicanery.

2. Section 1021(d) and (e) are meaningless, and or useless, and likely have the opposite effect of what they represented they were trying to convey. First, the proponents (Senators John McCain and Lindsey Graham) and the opponents (Senators Feinstein and Durbin) could not agree on what was the current law. Each side cited the same cases to support their respective positions. One side or the other was wrong, and as to that side, these provisions do no good.

Note that Section 1021(e) uses the term “capture” in contrast to “arrest.” This clearly indicates the bill anticipates the use of military custody. Generally, the military only has authority to take a person into “custody” if such person is subject to the “law of war,” such as a foreign enemy in wartime on a foreign battlefield (or is a member of the U.S. armed forces).

Also, note the law presumes Congress knows the laws. So like subsection 1021(d), to the extent this provision specifically changes the “existing law,” that change will very likely stand.

In essence, what the NDAA accomplishes is applying a legal fiction to the United States that it is a “battlefield,” under the authority of the military, and under the “law of war.” Battlefields are under the authority of the military and under the “law of war.” As we know, if our house catches fire, the fire department will kick in our door and put out the fire. Due to the immediate emergency they will not get a court order or even ask your permission. What the NDAA does is declares everyone’s house is on fire. This is of course unconstitutional.

Even if the United States were a battlefield, such as during “Rebellion or Invasion,” the “law of war” still cannot be applied to U.S. citizens and lawful resident aliens. The constitutional emergency powers are: calling forth the militia, suspension of Habeas Corpus by Congress, and jury trial for treason, in accordance with Article III.

## REFERENCES AND SOURCE DOCUMENTS

P.C.O.K. (SHORT VERSION) NDAA RESOLUTION FOR PENNSYLVANIA LEGISLATORS

<http://patriotcoalition.com/docs/NDAA-PA-SRES.pdf>

P.C.O.K. (FULL VERSION) NDAA SHERIFF RESOLUTION

<http://oathkeepers.org/oath/ndaa/ndaa-docs/NDAA-SHERIFF-RES.PDF>

P.C.O.K. (SHORT VERSION) NDAA SHERIFF RESOLUTION

<http://oathkeepers.org/oath/ndaa/ndaa-docs/NDAA-SHERIFF-SRES.PDF>

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)

Constitution of the Commonwealth of Pennsylvania

<http://www.duq.edu/law/pa-constitution/constitutions/current.cfm>

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 NDAA, SECTIONS: 1021, 1022, 1023

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

Video explanation of state resolution by Patriot Coalition general counsel Richard D. Fry

<http://livestream.com/WRCG> (See: NDAA State Resolution)