

WHY THERE IS NO JUSTICE IN AMERICA

The Congressional Judicial Hoax

A California Case Study

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Introduction

Judge Andrew P. Napolitano recently wrote a book that rips the government up one side and down the other. In the book, *Constitutional Chaos*, he laments the fact that federal, state and local governments are not bound in absolute obedience to the law. His first sentence in his first book is: “It should be against the law to break the law.” What is his remedy for such lawless government? He concludes his book by saying: “Congress and the state legislatures should enact legislation simply requiring that the police and all law enforcement personnel, and everyone who works for or is an agent of the government, be governed by, subject to, and required to comply with all the laws.”

Now, why wasn't that thought of before? If the people have to obey the laws, then why shouldn't the government? If he succeeded at nothing else, Judge Napolitano has put the focus exactly where it should be. How has government been able to commit all the wrongs he so ably detailed in his book? Judge Napolitano acknowledges on page 18 that he has no answers, when he states on page 18 of his book: “It is anyone's guess why employees of the federal government can lie to private citizens without penalty, but citizen can go to jail for lying to the federal government even when they are innocent.”

The answer will confound everyone. Congress has managed by legislative stealth to make the people of the states believe federal law applies to them. The Constitution and all laws enacted pursuant to the Constitution is the supreme law of the land for—**government**. The English common law is the law for the people in 49 of the 50 states. Judge Napolitano has not noticed that government over the course of more than 200 years has managed to get the people to believe that government law applies to them. If government fails to obey the Constitution, it is the people who must correct government. Judge Napolitano has accurately documented government on a lawless rampage, but he has failed entirely in understanding the basis of our government and the

origin of our laws. He may have been a very fair and compassionate judge, but he certainly did not learn much employment law. Government employees like private employees are not responsible for what they do on the job the employer is. Which of the three branches is the employer?

Judge Napolitano, like most people with legal training or experience, has missed that part of our history where Congress substituted itself for His Britannic Majesty. Not to understand what the federal government has done with the law after independence from the United Kingdom is to completely ignore that the English common law is the law in 98% of the states. In only a very short time, the United States Congress was able to take the legislative power granted in the first sentence of the Constitution and create the democracy, which is responsible for all the evil Judge Napolitano has unearthed. Democracies are not based on laws they are based on voting and elections. The candidates who get votes make laws and the people are made to obey them. The ultimate democratic law or code is the rule of the majority. Republics are based on the rule of law. Natural law was called upon to free the fledgling republics known as the United States. The common law jury was no match for a full time Congress determined to enact whatever legislation might be necessary to correct the people in what Congress perceived to be their errant ways.

Judge Napolitano makes reference to Natural law, but he does so in such a way that warns us that he has not found it in our most revered public document—the Declaration of Independence. The first sentence of that great document explains that the Laws of Nature and of Nature’s God establish the rules by which free people shall live. The Declaration of Independence proclaims that “it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security.”

The unalienable right of the people to dissolve former political bands and to alter or abolish government precludes the solution to constitutional chaos offered by Judge Napolitano. Neither Congress nor the state legislatures have the power to enact a legal duty to obey government laws. The clearly recognized and fundamental right and duty in the people to throw off despotic government prevents the imposition of a legal duty to obey American governments. After July 4, 1776, government cannot enact laws that establish a legal duty to obey government

law. The Constitution imposes limitations on government actors and punishments are clearly limited to certain specified violations of law. Once American Patriots who had fought for freedom against the British got a little power they, of course, became American politicians. Now in politics, these newly minted politicians had to overcome the Constitution and lack of authority over the people.

The Congress overcame these problems, almost immediately, by legislating for federal territory where the Constitution has limited application. The United States is an ambiguous term that can mean many things including, in its most restricted sense, just the federal territory subject to the dispositive power of Congress under Article IV. The former American Patriots decided to act territorial and think and talk nationally. However, even their idea of national was obscure. They reasoned that since the Constitution provided for the purchase of places for the erection of needful buildings in all the states, a nation of federal territory located in every state was a real possibility if not a reality. The United States district courts serve as the governing authority for this territory and for the state governments. This idea of the United States is quite different from the one in the heads of the people, but the written law will resolve any dispute, or so it was thought. It was only after painstaking and persistent effort that the truth was teased out of the United States Code and confirmed by the United States Statutes at Large.

Congress has not used its power under Article III to create federal trial courts that would have some independence from the legislative and executive branches; instead it created district courts under Article IV of the Constitution for the ostensible purpose of managing federal territory and other federal property. Congress created decoy district courts to create an illusion of a genuine federal government. Since Congress never created any law other than law for federal territory and for the disposition of other property belonging to the federal government, the Article III part of the Supreme Court rarely acts. There are, therefore, two Constitutions—a Federal Constitution for federal territory and State governments and one for show and school children—the real Constitution. The Constitution was never intended to replace the states, state constitutions and laws or the English common law, but the clever men in Congress have always found a way to increase their power by making it appear that federal law applies to all the people in all places. Present federal and state government laws present a plausible alternative to the

common law because no one, till now, has been able to unravel the secret to restricting federal law to federal territory.

To understand how the former Patriots managed to replace His Britannic Majesty with an oligarchy of Founding Fathers, we have to look at some old documents. The Articles of Confederation created a perpetual confederacy of the 13 states called the United States of America. The purpose of the Articles was to guide the states in achieving a united defense and to answer the problems of 13 English-speaking states without fenced borders. Operating under the Articles convinced the patriot politicians that the states needed a military minded leader for their mutual defense and a Supreme Court for a system of American justice. The Constitution created a federal government with a chief executive who was also to its military commander in chief and a court system that was separate from the states, but which would be created by Congress as needed. In Article IV the Constitution conferred upon Congress the power over lands that had not been incorporated into any of the states. Constitution of the United States created a government of three separate branches and set down principles that were to be followed in creating more law for those three branches though the Constitution specifically says that Congress shall have power to make rules for government.

In the Judiciary Act of 1789, Congress created a court system of district courts for the lands it was to dispose of and manage under Article IV. District court judges were required to be residents of the district for which they were appointed. There was no provision for a judicial appointment for life during good behaviour, so it was just assumed that that courts and judges were of the third branch of government. To support the false belief that district court were judicial officers appointed for life, Congress impeached District Judge John Pickering of New Hampshire in 1804. The impeachment was pure show as Congress would not enact lifetime appointments for district courts judges until 1948 and the first quasi Article III district court in a state would not be established until 1959 when Hawaii was admitted into the Union. Because of a dearth of early cases and other skillful legislative moves, Congress has managed to keep their origins and limitations secret till now. What Judge Napolitano and others perceive to be Constitutional chaos is congressional conniving sustained by a judicial conspiracy to hide the true nature of the federal courts and federal laws.

Constitutional chaos has always existed because the federal trial courts have always operated under territorial law. The Constitution appears to have functioned without too many incursions into personal freedoms because federal territorial law did not extend into private lives. Federal judges were scarce while there was federal territory to make ready for statehood, but as soon the last great territories became states Congress was ready to maintain and use the secret of the federal courts to create a national democracy that would rival the emerging European fascist states.

The Declaration of Independence has always been a first line of defense against fascism, but the growth of the federal government and its federal Constitution have relegated it to an excuse for fireworks and barbeques. The Constitution like the Articles of Confederation was always meant as a guide for government and not as a source of authority for punishment for those in opposition to government even if the opposition came from within the government. Federal politicians have proven themselves adept at enlarging their power by manipulation of the documents that are revered by Americans. There should be a special hell for what they have done, but it is for God to conceive and populate it.

It should be apparent to all that the Constitution recognizes that it is only a guide for government and not the imposition of another layer of law for the people. That great document expressly identifies four instances where the Congress may prescribe punishment for violations of law. Rampant law breaking by government or the people was never a problem the Constitution was meant to correct.

My research has proven that all the horror stories of a government out of control are a result of the application of federal territorial law outside of federal territory. It is there where the answer to any constitutional chaos may be found. This misapplication of the law has gone on for so long that hardly anyone knows there is a separate law for government and a law for the people. Judge Napolitano himself fails to recognize that the English common law is always available in 49 states to handle the most serious violations of government lawbreakers. Like so many legal scholars, who are victims of legal specialization, Judge Napolitano has forgotten that the common law is inapplicable on the federal territory subject to the power of Congress under Article IV of the Constitution. Congress can never forget and now employs its own attorneys to

carefully review all legislation so new laws will fit into the federal territorial scheme. It has become so dependent on these legal specialists that members of Congress don't read or can't read the laws they enact.

The United States Congress decided very quickly that if it didn't fudge in the creation of the federal trial courts it would never be able to gain the kind of control it thought it should have. Now that it has this control it is very unlikely that Congress will be willing to admit what past Congresses have done to create the belief that the jurisdiction of United States district courts extended beyond the federal territory located in the counties that comprise the districts and divisions of those courts. This world would be an entirely different place had the Congress created legitimate trial courts pursuant to authority of Article III rather than Article IV of the Constitution.

As a constitutional scholar Judge Napolitano, should know that the federal territories are places where the Constitution is not in full force. This revelation would help him account for all the evil that he has found and reported in his book. The scale of the problem Judge Napolitano has carefully documented can only be possible where the participants can act under color of law or can knowingly consent to a loss of rights and freedom. No matter how limited it might be federal territorial law is still law. I am sure, however, that when Judge Napolitano becomes aware of its severe territorial limitations he will not want it enforced outside of federal territory. I am also sure that everyone who reads this will make an effort to inform him of the truth about Congress and the federal courts. We anxiously await his report to the nation on the Fox News. By fooling the people, Congress has made fools of intelligent men. Knowing that the 50 state governments are republics, he makes the inane statement that: "Ultimately, the fate of American liberty is in the hands of American voters." Fortunately, unalienable rights will never be put to a vote where the American voters can get a hold of them.

Voters in any democracy can vote themselves out of their rights. This is why the Constitution guarantees every state a republican form of government. That American liberty is in the hands of American voters is an astonishing statement coming from a man that has dedicated his book to Sir Thomas More. Judge Napolitano is dead wrong. More was found guilty of treason against Henry VIII by a jury upon perjured testimony and condemned to death. The

English common law could keep him alive only so long. Perversion of the law killed Sir Thomas More just as perversion of the law is killing American freedom.

Judge Napolitano's prescription for a cure is far worse than the problem. In fact, the very idea that Congress and the state legislatures should make laws that are to be unquestioningly obeyed by the people displays a naiveté that is alarming in a person of his education, training and experience. Government legislatures only have power to make administrative laws for government personnel. To be guilty of a crime there must be a violation of a legal duty. The wholesale creation of such duties were never intended to be left to governments in America. This was the function of the common law juries. The vast government bureaucracy consists of employees whose job duties can never be confused with legal duties. Judge Napolitano has confused work with a legal duty. Since the United States district court judges obtain whatever authority they have pursuant to Article IV of the Constitution, they are accurately employees rather than officers of the United States. A close examination of the United States Code will reveal them to be the federal government employees around which most federal laws revolve.

Judge Napolitano's training and experience have done nothing to prepare him to offer solutions to the problem, but we should thank him for his accurate depiction of the problem. Present legal education is the problem. Like every government-trained lawyer he believes that government legislatures can make laws for people. This is an ancient but corrupt understanding of the law responsible for the statement in Shakespeare's play Henry II, Act IV, Scene II: "The first thing we do, let's kill all the lawyers." Well, lawyers become judges.

Judge Napolitano proposes that the solution to the tragic criminal justice system is to make the government obey its own laws. That is definitely not the solution to the problem. The problem with American criminal justice is that the government is successfully imposing government law on the people. If Judge Napolitano thinks the solution to the lack of criminal justice lies in making those in government subject to government law, he's not alone, but that does nothing to correct a corrupt criminal justice system. The real problem is the pernicious thought that government can make laws for people outside government and can establish punishment for violations of those laws.

Judge Napolitano is correct about governments breaking the rules, but unfortunately, he misses the importance of his own discovery. The judge has missed entirely the point of the Constitution as the supreme law of the land—for government. The Constitution and all the law enacted pursuant to the Constitution are law for government and are not for the people. The people have their own set of laws called the common law. He has forgotten that all the “repeated Injuries and Usurpations” and “Oppressions” set forth in the Declaration of Independence resulted in no criminal punishment for the British. History records that many signers of that great document suffered grievously for their stand against the King. The Declaration of Independence provides all the reasons needed to alter or abolish government and the Constitution provides the means to carry it out, if government hands can be taken from the necks of the people. The lack of justice in America is the fault of the governments but the problem will not be remedied by suing the bastards, as the Judge suggests or even by defending the Constitution.

The American criminal justice system that is the subject of the Judge’s book is supposed to be built on a foundation whose bulwark should be Article III of the Constitution of the United States. Instead, we have the awful territorial substitute for justice that Judge Napolitano documents in his book. With all this good work to his credit, the good judge has missed the single most important fact of constitutional law—the Constitution is the supreme law of the land for—government. The Constitution and all law enacted pursuant to the Constitution follows government personnel wherever they can be found while they occupy a public office. We have the technology to track the evildoers and blacklist them so they will never hold another position of public trust or government employment again. Nixon one of the biggest crooks, despite vehement denials, never spent a day in custody for the evil that he did. Let’s get the politicians off a government payroll and in the workforce. Vengeance is not ours.

To his credit Judge Napolitano does prove the need to change forever the present criminal justice system. The good judge easily proves his case: the common man can’t get justice in America. The incidents of government injustice Judge Andrew P. Napolitano recounts are horrible and chilling. They are accurate depictions of recent incidents of prosecutorial and judicial abuse that can happen in federal territory. That they happened outside federal territory is our fault. The abuse began with the ratification of the Constitution and taking our eyes off Congress. Current societal problems stem from misapplication of government law to the people.

What the good judge perceives to be judicial malfeasance is actually good old-fashioned graft and political corruption that will plague mankind as long as we have public revenues and the desire to spend for an alleged public good. The easiest way to improve government is to register as electors and not voters and to refuse to be unqualified jurors in federal districts where we don't reside.

Judge Napolitano has courageously exposed the evil empire that is the American criminal justice system. I think that he is sincere and he is not part of the congressional and judicial conspiracy that will commit all the acts he describes in his book I do think that he belongs in that great group of intellectuals who have forgotten to heed the one duty of all free people—Question all authority. Now that he has opened the Pandora's box of government evils is he prepared to accept the awful truth about the government? I, for one, will do everything in my power to see that he is made aware of the great loophole in the Constitution through which Congress has stolen American justice.

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Ed. note: extracted from new book, circa October, 2005, visit website for details as available:

<http://www.edrivera.com/>

also see:

http://en.wikipedia.org/wiki/Andrew_Napolitano