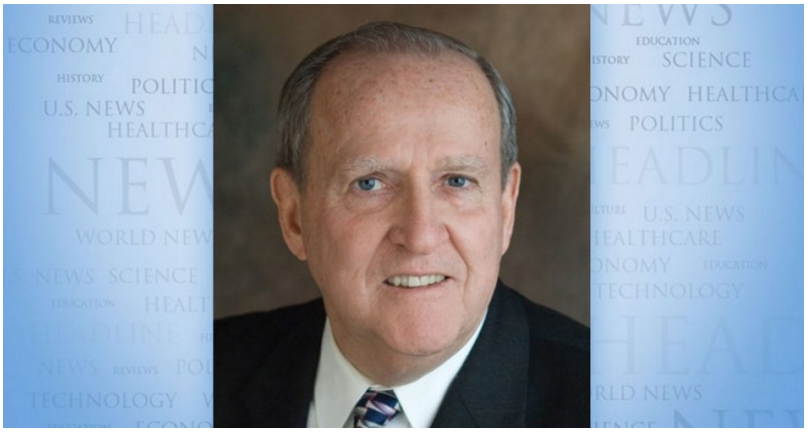
New American

Written by **John F. McManus** on May 8, 2015

Restraining the Courts on Marriage



While it is true that many Americans are woefully unfamiliar with the U.S. Constitution, it is also true that some members of Congress have a deficient appreciation of the document. They know when they have to stand for reelection. And they know the part about receiving compensation for their services. But many seem to have forgotten (or never knew in the first place) that only Congress — not the President and not the federal courts — has power to make law; only Congress can send the nation into war; and only Congress has power to coin money.

Also little known is the portion of Article III which states: "The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." In simple terms, this means that the only federal court required is the Supreme Court; all federal district courts could be abolished by Congress. Not only that, Section 2 of this Article gives power to Congress to limit the jurisdiction of all federal courts.

When forced busing of school children was ordered by federal courts in the 1970s, then-Congressman Larry McDonald introduced legislation to bar all federal courts from having anything to say about placement of youngsters in schools. He cited Article III, Section 2 as the authority for such a step. His measure didn't gather enough support in Congress to be enacted but many who served at the time were at least forced to recognize that Congress possessed such power and that it actually existed and could be employed.

On April 22nd of this current year, Congressman Steve King (R-Iowa) filed H. R. 1968, the "Restrain the Judges on Marriage Act of 2015." Relying on Article III, Section 2 of the U.S. Constitution, he seeks to remove jurisdiction of the Supreme Court and all lower federal courts to "hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, any type of marriage." Mr. King stated his belief that the Congress could put a halt to the possibility that the Supreme Court would actually redefine marriage in a decision expected in June.

Nine co-sponsors immediately announced their support for H. R. 1968. They are Babin and Gohmert of Texas, Duncan of Tenn., LaMalfa of Cal., Massie of Ky., Palazzo of Miss., Thompson of Penn., Walberg of Mich., and Yoho of Fla.

Commenting on his measure, Congressman King said that removal of federal jurisdiction over the definition of marriage would have no effect on the states, each of which could decide the matter for its own people. But he was especially concerned that a mere five judges at the Supreme Court level could overturn the definition of marriage for the entire country, a definition that has been held for millennia in which marriage is considered only to be between one man and one woman.

Texas Senator Ted Cruz has introduced an identical bill in the Senate (S.1080). As of this writing, no

Senate co-sponsors have been garnered.

Members of the House of Representatives should be contacted (call 202-225-3121 and e-mail) and asked to support H. R. 1968. Thanks should be sent to Rep. King and the co-sponsors of H.R. 1968. A companion bill in the Senate (S. 1080) has been introduced by Texas Senator Ted Cruz. No Senate co-sponsors have yet been enlisted. Contact (call 202-224-3121) your senators to get them to co-sponsor and support the bill. Utilizing the e-mail link above will send to both the House and the Senate, but be sure to call. Congressmen tell us that phone calls are more effective than e-mails.

John F. McManus is president of The John Birch Society and publisher of The New American. *This column appeared originally at the insideJBS blog and is reprinted here with permission.*