



If We Had Our way: New Year's Resolutions for the New Congress

Now that the dust has settled on the elections, the time has come (or so some of the punditry in the media assure us) to set aside political acrimony and unite under the new leadership of President-elect Donald Trump and the new House and Senate. Although it's far from clear what President Trump will choose to prioritize, now that he will face the realities of entrenched political interests in Washington instead of his fired-up political base on the hustings, it seems at least possible that he will show much more sympathy for certain constitutionalist and Americanist causes — such as the Second Amendment and getting our borders under control — than his predecessor.



But in reality, if real change is to be enacted in Washington, it must start, as always, on Capitol Hill. It is Congress, after all, that holds the purse strings, and Congress (at least under the Constitution) in which the authority to go to war is vested. All of the legislative monstrosities of the Obama era, including ObamaCare, the bailouts, and the welter of new controls on the financial sector, could not have come into being without a cooperative Congress. As it has been under every president from Washington to Obama, so it will be under Donald Trump (his fiery populist, sometimes authoritarian rhetoric notwithstanding): Congress holds the keys to repealing bad laws and enacting new legislation. In the spirit of the New Year, therefore, we propose some New Year's resolutions for the incoming 115th Congress to consider.

1. Take steps to initiate the process for withdrawal from the United Nations, the World Trade Organization, NATO, and NAFTA.

Since the end of the Second World War, the United States has allowed itself to become entangled in a web of international organizations dedicated to the overthrow of the world's sovereign nations, including the United States. The very notion of sovereignty in the modern sense is comparatively new, dating from the Peace of Westphalia in the 17th century what came before that. No sooner was Westphalia concluded than elitist minds in Europe began scheming about international government, the "Parliament of man, the federation of the world," in the words of Tennyson. After several failed attempts, which included the Holy Alliance after the Napoleonic Wars and the League of Nations after World War I, the United Nations was set up at the end of World War II, with its headquarters in New York City and the United States as a proud member. But ever since the creation of the UN, the United



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States has been subject to constant and unrelenting pressure to surrender sovereignty to the United Nations system, a transparent attempt to create world government by the installment plan.

Of particular concern are subsidiary international organizations such as the World Trade Organization (WTO) and regional trade blocs such as NAFTA. In the 1990s the United States helped to set up the WTO, despite repeated warnings that the de facto global trade ministry would end up dictating trade policy to the United States. During our two-decade membership in the WTO, the United States has repeatedly been forced to change laws, both at the state and federal level, that have been ruled to be in conflict with the WTO's rules.

NAFTA, also a child of the '90s, was supported by Republicans and Democrats alike, touted as a deal for free trade and open borders. In reality, NAFTA has led to the rise of managed trade and selectively permeable borders; illegal immigrants from Mexico and points south encounter few impediments to entering the United States (and Canada), but Americans and Canadians now must possess passports to visit one another's countries or travel to Mexico (Americans cannot even drive into Mexico without purchasing expensive Mexican car insurance). It is also far more difficult now for Americans and Canadians to move and work across the international border than it was a few generations ago. In a word, NAFTA has delivered precisely the opposite of what it promised. The borders among Canada, the United States, and Mexico have never been as difficult to cross as they are right now (except for illegal migrants). The alleged benefits of "free trade" have been a one-way street, with American businesses relocating en masse to Mexico (an undeniable benefit to Mexico), but no Mexican businesses opening shop in El Norte.

But the architects and supporters of NAFTA appear to care little for any of this, because the point of NAFTA is not to deliver promised prosperity and cooperation, but to establish a precedent for international government in the guise of a regional trade bloc — exactly as has been accomplished in Europe.

As for NATO, the organization was founded after World War II as a defensive alliance against the Soviet Union, the communist superpower whose gigantic military occupied Eastern Europe, menaced Western Europe, and had thousands of nuclear weapons targeting the United States at the height of the Cold War. But when the Cold War ended and the overt communist menace in Moscow receded, NATO became the legal pretext for such operations as the war in Afghanistan, which have nothing to do with NATO's founding mission. More ominously, our continued membership would require us to come to the defense, not only of grand old allies such as Great Britain and Canada, were they attacked by Russia, but also the likes of Lithuania and Estonia, tiny Baltic states that rushed to join NATO after the Soviet breakup. Our continued membership in an organization that requires the United States to run the risk of nuclear war should Russia get involved in a border spat with a neighbor such as Estonia (as they have done with non-NATO allies Georgia and the Ukraine in recent years) is an unacceptable compromise of our national interests.

In general, America should begin re-orienting her foreign and trade policy back to the course recommended by the Founding Fathers, and largely adhered to until the First World War: avoidance of entangling alliances with foreign powers, be they of the military or economic variety.

We have high hopes, based on Donald Trump's anti-NAFTA and anti-TPP campaign rhetoric, that at least some of these objectives will find executive support during the next administration. Indeed, the



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strongest resistance to any program of disengagement from our modern-day web of “entangling alliances” is likely to come from neocon Republicans such as John McCain and former Speaker of the House Newt Gingrich, both of whom have always been strongly committed to the globalist ideology of maximal American entanglement in foreign broils and trade agreements. But President-elect Trump is apparently poised to jettison the TPP or Trans-Pacific Partnership, a trade deal championed by the Obama administration and the internationalist establishment, which Candidate Trump has criticized. In fact, on November 21, President-elect Trump indicated that on the first day of his administration he will “issue a notification of intent to withdraw from the Trans Pacific Partnership, a potential disaster for our country.” We await the fulfillment of that promise.

2. Withdraw our armed forces from the Middle East and Afghanistan, and close Gitmo.

The U.S. military is the lineal descendant of the Continental Army, created by the Second Continental Congress in 1775. Its purpose then was to vindicate and protect American independence, and for the next century and a half or so, it confined itself mostly to that purpose. But beginning with the Spanish-American war at the end of the 19th century, when the United States for the first time waged overseas war on the flimsiest of pretexts and seized substantial imperial territory from Spain, the trend toward more and more involvement in overseas conflicts has accelerated. The First World War became an American crusade to nowhere, which cost our country more than 100,000 lives and produced only another, even greater, world war a generation later. Since Pearl Harbor, whose 75th anniversary we recently celebrated, the United States has waged one overseas war after another, at enormous cost and with dubious benefits. South Korea we protected from communism, but a state of war persists on the Korean peninsula 60 years later, with the risk of nuclear conflict a growing threat. The Vietnam War we lost. The Persian Gulf War we won, but we have been waging war in the Middle East ever since, and the likes of Iraq, Yemen, and Syria are worse off than ever. 9/11 may have furnished some justification for the invasion of Afghanistan more than 15 years ago, but a decade and a half later, we are still enmired in the central Asian country with no end in sight. The best thing we can do to fight terrorism is to withdraw our forces from the Middle East and Afghanistan and bolster our border controls and appropriate, constitutional domestic countermeasures.

And in the longer term, we need to wind down the rest of our international military commitments, and refocus our military on defense of our own homeland and borders instead of vaguely defined “interests” in far-flung parts of the Earth that are not worth the expenditure of American blood and treasure.

3. Repeal ObamaCare, and replace it with... nothing. It is laudable that President-elect Trump and his Republican allies in Congress are planning to rid America of odious ObamaCare.

It is not so laudable that they plan to replace it with some other type of federal interference in healthcare. The entire healthcare crisis began when the federal government started interfering in the health sector, where it has neither a constitutional writ of authority nor any justifiable economic reason for so doing. There is nothing sacrosanct or special about healthcare that requires it to be managed by government. Left to its own devices, it will self-regulate under free market conditions like every other



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sector of the economy, just as it did for generations, until federal meddling in healthcare began in the second half of the 20th century. Healthcare was once convenient, affordable, and provided by healthcare professionals with a minimum of red tape — nothing like it is today. Absent the perverse anti-market incentives that government has fixed on the healthcare sector, costs would quickly align themselves with what consumers can realistically afford, as always transpires under free market conditions. But none of this will happen until enough congressmen and voters embrace true free market economics.

4. Audit the Fed.

Thanks to the tireless exertions of former Congressman Ron Paul, auditing the Federal Reserve has finally become a realistic political possibility, even though many establishment Republicans still oppose it on the spurious grounds of “keeping the Fed independent.” In reality, the Federal Reserve is — and always has been — the ultimate insiders’ tool, a central bank that is neither federal nor a reserve of any kind. It is, simply put, a device for manipulating the value of the dollar for the benefit of financial elites and to the disadvantage of the rest of us. The Fed does this by buying and issuing debt or by monkeying with interest rates, resulting in the creation of brand-new or “fiat” money backed by nothing. This process is called “inflation,” and its inevitable long-term effect is the devaluation of currency and its concomitant, rising prices. Inflation discourages thrift and savings and encourages debt and profligacy, distorting every sound economic policy and practice. For this reason, America needs to get rid of the Fed altogether. Since this would lead to economic calamity if embarked upon in one fell swoop, a measure of prudence is called for in designing an exit strategy. A congressional audit, which would expose to public view the corrupt inner workings of America’s central bank, would be an excellent first step.

5. Defund the IRS.

Like ObamaCare, the Internal Revenue Service needs to be terminated, not reformed or overhauled. This is because the regime of heavy, graduated income taxes that it oversees (as well as its newly acquired authority to penalize Americans who do not comply with ObamaCare’s mandate) is hostile to American liberty, if technically legal under a dubious constitutional amendment (the 16th). In fact, a heavy graduated income tax, like that endured by nearly all modern Western countries, is one of Marx’s “10 planks of Communism” articulated in the Communist Manifesto. The pre-16th Amendment Constitution forbade the federal government from levying any “direct or capitation tax,” and the federal government was mostly funded via tariffs on luxury imports.

The best way to eliminate the IRS, as with so many federal agencies, is simply to defund it. We suppose that, to ensure an orderly transition from the present system of legal plunder under the IRS to some means of funding more amenable to constitutional principles, a phase-out period may be required. During such a period, the size and cost of the federal government will be drastically reduced even as a different system to fund the remainder, based primarily on tariffs and indirect excises such as sales taxes, is phased in. In the longer run, we would hope to see the steady decrease in both the size of government and in tax rates lead to a federal government with the limited powers that the Constitution contemplates. But a very good start would be to put the IRS out of business permanently.



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6. Defund and close down the Department of Education.

Created by the Carter administration, the Department of Education has been corrupting American public education ever since. While there is nothing unconstitutional about state governments funding public schools if they wish, education is certainly not something the federal government is authorized to regulate under the Constitution. Moreover, the Department of Education is primarily responsible for the baneful changes inflicted on public education, including the introduction of counterproductive teaching protocols such as the notorious Common Core and the transformation of public schools from institutions of learning into indoctrination clinics dedicated to every subversive, politically correct conceit of the Left.

Candidate Trump promised repeatedly to end Common Core. The best way to do that would be to abolish the obnoxious federal agency that produced it.

7. Defund and close down the EPA, OSHA, and the FDA.

So-called alphabet soup federal agencies are almost all unconstitutional, and should all be wound down. In such a target-rich environment, and given the political realities in Washington, it is unlikely all can be ended immediately. But the best way to ensure that a program to systematically end all unconstitutional federal agencies does not stall after a year or two is to start with a few of the best-known and most widely detested. These would be the EPA, OSHA, and the FDA, which for decades have been beavering away at private property rights under blanket rationales such as environmental health, occupational safety, and food quality. In reality, the EPA has been one of the worst opponents of the free market in American history, having destroyed countless businesses, development projects, and other private initiatives in the name of protecting some endangered species or fragile habitat. OSHA, bane of employers everywhere, has been known to shutter businesses or hamstring them with fines for the most trivial of infractions. And the FDA is largely responsible for the immense time and cost required to bring any new drug onto the market. Its numerous controls over the food sector may be well-intentioned, but cause more harm than good, especially to businesses that have to bear heavy compliance costs. None of these three agencies has any coloration of constitutional legitimacy, and all are prime candidates for the budgetary chopping block. All are predicated on the false assumption that the real or claimed problems the agencies are supposed to address can only be remedied via federal intervention. And as for their legions of employees who will find themselves out of a job — their talents will be much better served in the private sector.

8. Secure America's southern border and end all unconstitutional welfare benefits for illegal immigrants and their families.

An argument can be made for more open immigration, particularly if early American history, when immigrants were welcomed to American shores almost without qualification, is taken into account. But to argue that modern America should not exert control over her borders, especially in an age of terrorism and international criminal enterprises such as human and drug trafficking, is dangerously naïve. It has been pointed out that, pace Trump's promises to purge America of all illegal immigrants, 12 million illegal residents pose an unsurmountable logistic problem. Possibly so; yet if unconstitutional



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welfare benefits — including the bizarre and comparatively modern legal doctrine of birth citizenship — were revoked, a large proportion of illegals would self-deport. In fact, eliminating the “welfare magnet” would go a long way toward eliminating the illegal immigration crisis, as would securing the border. Both should be done.

9. Ensure that a Supreme Court justice worthy of the mantle of the late Justice Scalia is nominated and confirmed.

Since the passing of Antonin Scalia, the Supreme Court has been virtually deadlocked, issuing a series of 4-4 rulings that have had no effect. When first formed, the Supreme Court also had an even number of justices (six), a circumstance that required a supermajority of 4-2 to reach any verdict. This was not an accident; as with all else in the Founding Era having to do with the federal government, the Founders seldom missed a chance to limit, balance, and offset the powers of the government they had created. Having a Supreme Court with an even number of justices made it much more difficult for the court to flex its judicial muscles. Over time, it was decided that the Supreme Court should have fewer impediments on its ability to issue rulings. The new requirement of a simple majority ruling in a court with an odd number of justices has proven an enabling factor for SCOTUS to legislate from the bench on virtually any issue. With nine justices, once the court decides what cases it will rule on, there is never any doubt that a ruling will be forthcoming. For this reason, replacing Justice Scalia with nobody is not an unattractive option, since it would greatly diminish the Supreme Court’s power to do further damage to the Constitution, as it has done with rulings validating same-sex “marriage,” ObamaCare, and abortion, among many other things.

That said, returning to an even number of justices is probably not politically feasible at this time. The Constitution, after all, does not stipulate the number of Supreme Court justices. The next best thing, in our opinion, would be the speedy appointment, after the election, of a justice worthy to wear the mantle of Justice Scalia. By every indication, president-elect Trump is strongly inclined to do just that, although the Democratic minority in the Senate will surely oppose any candidate he puts forth. But with the likes of Texas Supreme Court Justice Don Willett and Utah Supreme Court Justice Thomas Rex Lee reputedly on Trump’s short list, the prospects appear bright for a conservative, constitutionalist, originalist Supreme Court justice like Antonin Scalia to be nominated soon.

It is worth noting that Lee was identified in a paper published in 2016 by the Mercer University law school as being the Supreme Court nominee most similar to Scalia. If he is representative of the type of Supreme Court nominee we can expect over President Trump’s term or terms in office, the highest court in the land could be significantly reshaped for the better over the next four to eight years.

10. Pass legislation taking away the Supreme Court’s appellate jurisdiction over cases involving abortion and marriage.

“Jurisdiction stripping,” whereby Congress passes legislation denying the Supreme Court the right to hear and make rulings on a particular case or cases, is authorized by the lamentably underappreciated “exceptions” clause in Article III, Section 2 of the U.S. Constitution. A power exercised very seldom in U.S. history, this clause gives Congress in effect the authority to tell the Supreme Court to back off where its activity is deemed harmful to the body politic. The best-known example of such an action was



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Ex Parte McCordle, a case involving a Reconstruction Era newspaper editor named William McCordle, who had written articles advocating disobedience to Reconstruction laws that upheld the postwar military government in the conquered South. McCordle was jailed by the military, and in the course of appeal on grounds of habeas corpus, in which a circuit court found his imprisonment lawful, McCordle asked the Supreme Court to review the case. With postwar passions still at a fever pitch, the controversy attracted the attention of Congress, which passed legislation denying the Supreme Court appellate jurisdiction over McCordle's case.

While the particulars of Ex Parte McCordle may be repugnant to modern sensibilities (the imprisonment of a newspaperman for printing his opinions), the power that Congress exercised at the time showcased how the legislative branch was intended to check the Supreme Court's ambitions whenever deemed necessary. In that case, it was exercised over a particular case, but in theory, Congress could make an entire class of cases off-limits to the Supreme Court. In more recent years, it has very occasionally and unobtrusively done this, as with the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996, which denied the Supreme Court (and by extension, the entire federal judiciary inferior to it) the authority to review certain decisions by the INS.

There is therefore no impediment, save political inertia, to Congress' passing legislation to do the same with abortion, same-sex "marriage," or, for that matter, any other issue, such as gun laws, where the Supreme Court is deemed an unreliable or unnecessary adjudicator.

11. Begin rolling back existing unconstitutional federal gun-control legislation.

In President-elect Donald Trump, firearms owners will probably have a more sympathetic chief executive than has been the case for at least a half century. Trump is certainly better on guns, at least rhetorically, than President Reagan (who championed limitations on what are now commonly and incorrectly called "assault weapons") ever was. It seems very unlikely that Trump, a gun owner in anti-gun New York City, will champion any new restrictions on gun rights. We also expect him to undo various Obama-era presidential decrees that have sought to limit the right to buy and own firearms and ammunition.

At the same time, Trump has adopted the popular conservative posture that the gun laws already on the books are enough and should be better enforced. The problem is that the federal gun laws already on the books represent a substantial erosion of rights protected explicitly from federal encroachment by the Second Amendment. Private citizens no longer have the right to purchase or own a wide variety of modern firearms, including fully automatic firearms and true "assault weapons" manufactured after 1986, for example. But all of these are certainly suitable for militia use, and therefore should be accessible to private citizens. Prior to 1968, such weapons as M-2 machine guns, Browning Automatic Rifles, and military accessories could be purchased freely — yet America was not convulsed by violent crime, terrorism, and insurrection. That crime and terrorism are far more prevalent in a day when private citizens' right to defend themselves has become so severely curtailed is a testament to the ineffectiveness of gun-control laws — except as measures to restrict popular liberty.



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12. Repeal Dodd-Frank.

Anytime the word “sweeping” is used in connection with an act of Congress, beware. Dodd-Frank, passed in 2010 in response to the Great Recession, was such an act. Billed as the most sweeping set of financial reforms since the Great Depression, Dodd-Frank swept away a huge amount of financial freedom, imposing a suffocating web of regulations on every part of the financial sector, including insurance, investment banking, and even retailers who issue credit cards. As with all such legislation dating back to the 1930s, federal regulation of finance is not only unconstitutional but also a severe hindrance to the operation of the free market. Dodd-Frank has been an enormous factor limiting America’s ability to recover from the Great Recession. President Obama will leave office the first U.S. president since the Depression not to preside over at least one year with three percent growth, and he has had eight years to help mend the economy. But nearly every action taken by the Obama administration (and, in fairness, by the Bush administration before it) in response to the Great Recession — the bailouts, the tax hikes, and the new regulations, such as Dodd-Frank — has militated against a robust recovery, enlarging the size and power of the federal government at the expense of the private sector. In fact, the economy of the D.C. area has enjoyed strong growth throughout the Obama years, thanks to the thousands of new federal jobs created on his watch.

But if America is ever to fully recover from the economic body blows of ‘08 and ‘09, the power, prestige, and cost of the federal government must be significantly rolled back and the private sector reinvigorated. A full repeal of Dodd-Frank would be a step in the right direction. President-elect Trump has spoken of the need to revive American business, so he would likely be sympathetic with such a legislative initiative.

* * *

Many Americans are now placing their confidence in President-elect Trump to undo the follies of the Obama era, but it is to Congress that we must look for real reform. A president often proposes legislation and uses his “bully pulpit” to encourage its passage, but it is Congress that holds the constitutional keys for genuine reform. It is Congress that passes legislation, Congress that authorizes all spending, and Congress that not only determines who gets to serve on the Supreme Court, but whether the court may even exercise its jurisdiction.

We are encouraged that President-elect Trump has promised to put American interests before all others, words we have not heard from a president or president-elect for a very long time. Recently, he promised that “my agenda will be based on a simple core principle: putting America First.” But rhetoric aside, Republicans in Congress have yet to demonstrate the spine to stand up to the leftist establishment with any consistency, which is the reason that, no matter how many GOP-majority congresses voters elect, taxes never seem to be cut, illegal immigration never seems to be stemmed, and, in general, American — and particularly ordinary American — interests never seem to become a priority. Will the GOP, under the fiery new leadership of Trump, finally start putting the Constitution and American interests first?

The foregoing constitutes a very modest set of proposals to start a long and perhaps arduous reform process, a process necessary to salvage our great Republic from ruin. But we regard them as very realistic congressional resolutions to ensure a genuinely happy New Year.



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