



Written by [Joe Wolverton, II, J.D.](#) on December 23, 2011

Rep. Landry Offers Amendment to NDAA to Protect Civil Liberties

The National Defense Authorization Act will be made law with the stroke of President Obama's pen (perhaps autopen from Hawaii?). With the enactment of the NDAA, Americans suspected by the President of having committed a "belligerent act" may be apprehended by the military and detained without recitation of charges and without access to an attorney until such time as the President decides that the "War on Terror" is over.



Majorities in both chambers of Congress voted in favor of granting the President this autocratic authority. In the Senate, [only 13 members of that body](#) stood up to defend the constitutionally protected civil liberties of Americans. In the House of Representatives, [283 of the people's representatives violated](#) their oath of office and voted to pass this legislation.

One of those who was true to his vow to protect the Constitution from all enemies, foreign and domestic, has now offered an amendment to the NDAA that would "clarify the language" of the measure so as to make it explicit that no American citizen could be detained under the provisions of that act without being provided the full panoply of due process protections.

[Freshman Representative Jeff Landry](#) (R-La., above) introduced [HR 3676](#), which would add the following qualification to the portion of the bill — Section 1021 — that provides for indefinite detention of Americans:

United States citizens may not be detained against their will without all the rights of due process afforded to citizens in a court ordained or established by or under Article III of the Constitution of the United States.

A [story from The Hill](#) reported, "[H]e [Representative Landry] has a commitment from House Armed Services Committee Chairman Buck McKeon (R-Calif.) to revisit the National Defense Authorization Act (NDAA) to ensure that language related to detainees does not give the U.S. government new rights to hold U.S. citizens without due process."

"We have assurances that they would work to clarify the language," Landry told *The Hill*. "I have a commitment from the chairman that the type of language I have is the type of language he would use to clarify that."

As has been [reported by The New American](#), A key component of the NDAA mandates a frightening grant of immense and unconstitutional power to the executive branch. Under the provisions of Section



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1021, the President is afforded the absolute power to arrest and detain citizens of the United States without their being informed of any criminal charges, without a trial on the merits of those charges, and without a scintilla of the due process safeguards protected by the Constitution of the United States.

Further, in order to execute the provisions of Section 1021 described in the previous paragraph, subsequent clauses in that section unlawfully give the President the absolute and unquestionable authority to deploy the armed forces of the United States to apprehend and to indefinitely detain those suspected of threatening the security of the “homeland.” In the language of this legislation, these people are called “covered persons.”

The universe of potential “covered persons” includes every citizen of the United States of America. Any American could one day find himself or herself branded a “belligerent” and thus subject to the complete confiscation of his or her constitutional civil liberties and nearly never-ending incarceration in a military prison.

It is this immeasurable cession of power to the executive that Representative Landry and others fear. Landry reports that prior to passage of the NDAA, he conferred with proponents to make sure that habeas corpus and due process would be left intact in the new bill. He was assured that such privations would not be permitted according to the applicable sections of the act. Despite these promises, Landry submitted his amendment in order to close securely any loopholes in the law that may yet exist that could be wrested by the President (Obama and his successors) and used to unlawfully and unconstitutionally arrest and imprison American citizens in violation of the due process requirements set out in the Constitution.

Landry was quoted in *The Hill* saying, “The problem we’ve had is that Congress over the last 30 years has just not done a good job of basically telling the administration through legislation what the confines of its power are. All we’re trying to do is say look, this is what Congress is trying to intend.”

In a [statement released by his office](#), Representative Landry explained the impetus behind his proposed alterations:

The Founding Fathers granted Congress specific duties; and as a representative of the people, it is my duty to pass laws that protect the Constitutional rights of all American citizens. Toward this end, any statute that could possibly be interpreted to allow a President to detain American citizens without charge or trial is incredibly alarming and should be cautiously scrutinized.

This effort on the part of Congressman Landry is noble and he should be lauded for his commitment to the Constitution and its core civil liberties by which the God-given freedom of all Americans is protected from the frequent attempts at alienation made by the federal government.

Unfortunately, the language does not go far enough and the only solution at this point is for a courageous block of constitutional congressmen to recall the words of their oath of office and absolutely repeal the entire act as soon as President Obama signs it into law.

Furthermore, as all constitutionalists are aware, no half-measures, even well-intentioned ones, will ever serve to restrain a federal authority determined to protect its empire on the Potomac by having the congressional oligarchy hand a crown to a monarchical president.

As Alexander Hamilton warned in [The Federalist Papers](#), such legislative attempts to reduce the scope of federal influence as a matter of course...

contain various exceptions to powers which are not granted; and, on this very account, would



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afford a colorable pretext to claim more than were granted. For why do we declare that things shall not be done which there is no power to do?

Now that Congress has agreed on a payroll tax compromise, Washington, D.C. will soon be a ghost town and consideration of the Landry Amendment will likely be put on ice until Congress returns to the Capitol in January.

Landry said that he hopes to present the bill to the House Armed Services Committee as soon as possible. On his website he provides a link to a colloquy (a formal, on-the-record discussion) with House Armed Services Committee Chairman Buck McKeon (R-Calif.) during which Landry was told that the matter would be given a fair hearing and the freedom would be preserved.

Ostensibly the debate in committee on Landry's bill would shine the bright light of inquiry onto the parts of the underlying legislation that deprive Americans of their most basic of civil liberties. Furthermore, such deliberations might serve to ultimately restrict any malingering mandate of despotic power to the President.

As of the time of publication of this article, Congressman Landry is joined by 30 co-sponsors of his bill including representatives of both political parties.

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