

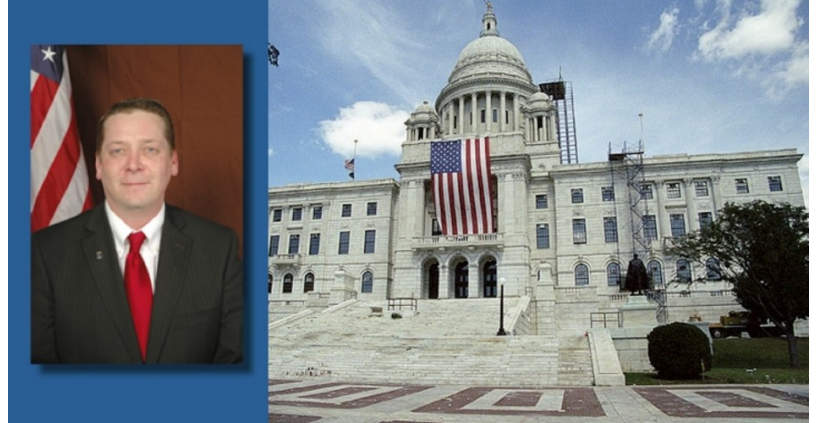


Written by [Joe Wolverton, II, J.D.](#) on June 13, 2012

## Rhode Island House Defends Constitution, Passes Anti-NDAA Resolution

After overcoming an attempted sandbagging by members of the Republican leadership, at about nine o'clock Tuesday night, the House of Representatives of Rhode Island [overwhelmingly passed a resolution](#) calling for the repeal of the indefinite detention provisions of the National Defense Authorization Act (NDAA) of 2012.

The measure's primary sponsor was state Representative Dan Gordon, Jr. In an interview with *The New American*, Representative Gordon said that at the last minute as the vote on his anti-NDAA resolution was about to be taken, the House Minority Leader, Representative Brian Newberry, called for the measure to be "resubmitted," claiming that it was inappropriate for the Rhode Island House to be considering federal matters.



Gordon reports that the move was orchestrated by Newberry and three cohorts, a "cabal," as Gordon calls them, that has experience in this type of legislative legerdemain.

Newberry's call to resubmit the resolution was rejected and the House went on to pass Gordon's bill (H. 7916) by a vote of 52-15.

For his part, Representative Gordon is accustomed to battling even those in his own party. In May, Gordon left the Republican Party Caucus over what he describes as "shenanigans" among party leadership, as well as his refusal to go along with unconstitutional measures sponsored by caucus leaders.

As readers likely already know, Representative Gordon is a steadfast constitutionalist who refuses to cower in the face of federal tyranny. Gordon explained his view of his responsibility to the Constitution in his interview with *The New American*:

My oath was to uphold the constitutions of the United States and Rhode Island. My first allegiance is to the Constitution and via the 9th and 10th Amendment all powers not given the federal government are reserved to the states and the people. The encroachment by the federal government on the power of states and people has given many people a call to action to preserve our inalienable rights.

Gordon's legislation certainly reflects his strong attachment to the timeless principles of liberty.

The text of the resolution pulls no punches in its recrimination of the Congress and President for their role in pushing our Republic closer to the precipice of tyranny:



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For the first time in our nation's history, the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) codifies indefinite military detention without charge or trial of civilians captured far from any battlefield, violating the Constitution and corroding our nation's commitment to the rule of law, which generations have fought to preserve....

Furthermore, citing specific constitutional violations, the resolution states that:

"The indefinite military detention of any person in the United States without charge or trial violates Article III and the 5th and 6th Amendments of the Constitution of the United States...."

When asked why an overwhelming number of congressmen in Washington would vote in favor of such an obviously noxious proposal, Gordon said he believed that it came down to a question of pure politics: "Even though they knew the language was a problem, these provisions were in the NDAA which also provides for the troops, so they don't want to be seen as anti-troop or anti-patriotic."

The purposefully vague language of the NDAA is certainly a major issue. Key terms are left undefined at worst or ill defined at best, leaving the federal government enough room to justify the apprehension and indefinite incarceration of American citizens it considers "belligerents." There is neither a clear description of what makes one a "belligerent," nor an indication of who will be tasked with making such a serious determination.

President Obama signed the NDAA 2012 into law on December 31, 2011. Since that date, the rule of law and our constitutional liberties have been on life support. With his signature on the bill, President Barack Obama granted himself absolute power to indefinitely detain American citizens suspected (by him) of being "belligerents." In the signing statement he appended to it, however, he assured Americans that he would never use it in an unconstitutional manner, however.

The President continued by explaining that to indefinitely detain American citizens without a trial on the charges laid against them "would break with our most important traditions and values as a nation."

Ironically, this very signing statement is itself violative of the Constitution, the separation of powers established therein, and ironically only serves to underline the President's proclivity for disregarding constitutional restraints on the exercise of power once those powers have been placed (albeit illegally) by a complicit Congress at his disposal.

As I have written before, once its development begins in the body politic, the muscle of tyranny never atrophies.

Perhaps the most invasive aspect of the mortal malady that is the NDAA is the fact that it places the American military at the disposal of the President for the apprehension, arrest, and detention of those suspected of posing a danger to the homeland (whether inside or outside the borders of the United States and whether the suspect be a citizen or foreigner). The endowment of such a power to the President by the Congress is nothing less than a de facto legislative repeal of the Posse Comitatus Act of 1878, the law forbidding the use of the military in domestic law enforcement.

It is this last bit of Stalinist-style authoritarianism wherein, as Shakespeare would say, lies the rub of the NDAA. The denial of habeas corpus comes later; it is the delirium, not the fever, in a manner of speaking.

Put simply, Americans would not need to worry about being held without charge if the President was not authorized in the same act to deploy the armed forces to round up the "suspects" and detain them indefinitely. Being apprised of the laws one is accused of having violated is important, but it's the



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detention and the manner of it that must be of more immediate concern to those who are noticing the body politic getting weak.

It is in response to this sustained and serious attack on the very foundations of freedom upon which our Republic was founded that Representative Gordon proposed his resolution.

The resolution “calls upon Congress to repeal Sections 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81)” and declares:

it is the view of this House of Representatives of the State of Rhode Island and Providence Plantations that the National Defense Authorization Act and the Authorization for Use of Military Force (Public Law 107-40) do not now, and should never, authorize the Armed Forces of the United States to investigate, arrest, detain, or try any person within the United States, or to militarily detain without charge or trial civilians not captured on any battlefield....

Representative Gordon is up for re-election in November and he told *The New American* that should he return to the Rhode Island legislature, he would “like to take the next step and draft a bill that would make enforcement of the NDAA’s indefinite detention provisions a felony in Rhode Island.”

This is precisely the sort of positive nullification of federal acts purporting to be laws that are necessary if the states are to remain sovereign and if the people are to remain free from kidnapping by armed American troops and permanent imprisonment at the will of the President.

*Photos: Rep. Dan Gordon, Jr.; the Rhode Island Statehouse*



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