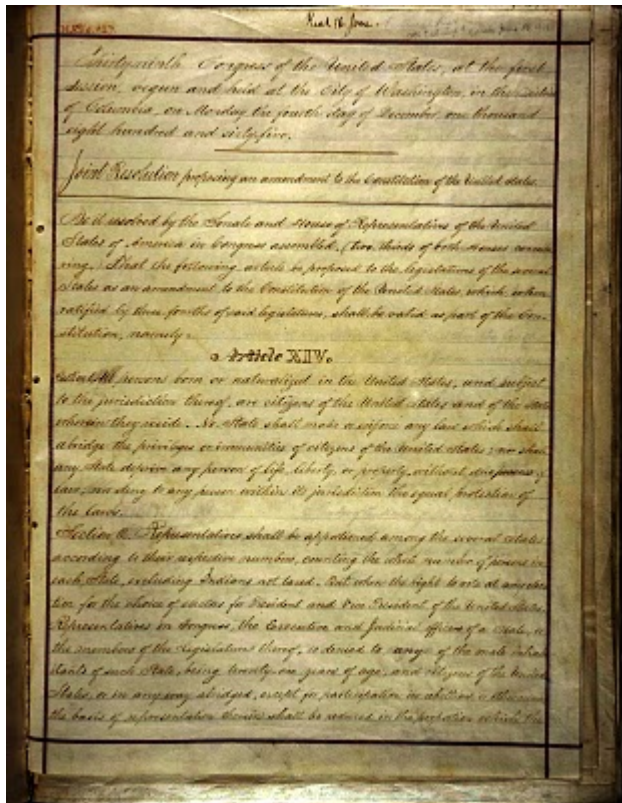




The 14th Amendment and the Debt

The topic of the 14th Amendment of the United States Constitution is continuing to stir debate in Washington, with those who favor increasing the debt limit at any cost raising the specter of President Obama simply overruling Congress and authorizing the issuance of new debt without the consent of lawmakers. According to this storyline, the president need only invoke Section 4 of the 14th Amendment, which states that “the validity of the public debt of the United States, authorized by law ... shall not be questioned.” If Congress refuses to abide by its constitutional obligation to ensure government debts are paid, argue certain of Obama’s supporters, then the president would be justified in simply imposing his will on Congress to ensure that the 14th Amendment’s prohibition of government default is honored.



The amendment was one of several Reconstruction Era amendments that sought to address issues stemming from the abolition of slavery and a federal government newly empowered by its victory over the Confederacy. Section 4 of the 14th Amendment was intended specifically to reassure holders of U.S. government debt incurred during the ruinous conflict that all obligations would be met (except for those incurred by the Confederacy). Whether the section’s provisions even apply to current circumstances and the wrangling over the “debt ceiling” is a vexed question at best.

Among the latest to weigh in on this issue is the venerable Judge Andrew Napolitano, who [told](#) Fox News commentators:

If the government owes a debt, it has to pay it. [The 14th Amendment] doesn’t say how it has to pay it or who has to pay it. There’s another part of the Constitution [Article 1, Section 7] that says that only Congress can raise taxes, borrow money, and pay bills. So to argue that the 14th Amendment permits the president to supersede the Congress and raise money, borrow money, and pay bills on his own not only is without historical precedent, but there isn’t even the remotest authority in the 14th Amendment for that.

This is a ruse perpetrated by the Big Government crowd that is basically saying, “If the Congress doesn’t let the president raise the debt ceiling, he’ll just go out and borrow the money on his own.” Who would lend money to the United States of America if the bonds were not sold pursuant to law, or just sold because the president wanted to sell them?

Judge Napolitano might have added that, in point of fact, the 4th Amendment makes it perfectly clear who is to carry out the provisions in the amendment, including the matter of debt service. The fifth and



Written by [Charles Scaliger](#) on July 12, 2011

final section in the amendment states — in boilerplate language similar to that found in a number of amendments from the 14th onward: “The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.”

Case closed, President Obama.

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