



Written by [Thomas R. Eddlem](#) on February 18, 2010

The Mount Vernon Statement and Ed Meese

All of the Washington/New York conservative establishment convened several days before the annual CPAC conference and came up with the “Mount Vernon Statement” of principles to which they subscribe. The Mount Vernon Statement is — with one glaring and incongruous exception — a worthy statement of adherence to constitutional principles.



That exception is [this](#):

“A Constitutional conservatism ... reminds ... national security conservatives that energetic but responsible government is the key to America’s safety and leadership role in the world.... It supports America’s national interest in advancing freedom and opposing tyranny in the world and prudently considers what we can and should do to that end.”

Unless one understands the phrase to mean leadership by example (and it clearly wasn’t written to mean that), nothing in the Constitution justifies U.S. “leadership” in the world. Moreover, an “energetic” government doesn’t mean a war-mongering government or a government that can lock people up without trial or charges (or, for that matter, torture).

But that hasn’t stopped the very worst of the leadership of the neo-conservative “war on terror” supporters from endorsing the document. Among those who have endorsed the Mount Vernon Statement are Kathryn J. Lopez of *National Review*, Edwin Feulner, Jr. of the Heritage Foundation, and Former Attorney General Ed Meese. Of these, Ed Meese is perhaps the most hypocritical of the bunch.

The Mount Vernon Statement explains that the signers accept the idea that “The conservatism of the Declaration [of Independence] asserts self-evident truths based on the laws of nature and nature’s God. It defends life, liberty and the pursuit of happiness.” But Ed Meese says that the unalienable rights guaranteed to all men by God are not guaranteed, [writing in a blog](#) late last year:

The U.S. Constitution protects American citizens and visitors from the moment they are suspected of criminal wrongdoing through a potential trial. These same protections are not, have never, and should not be granted to enemy combatants in war, since it is clear that regardless of the outcome of the trial, these detainees will likely remain in the custody of the United States.

Meese was not known for being the most scholastic Attorney General that the United States has ever had, but even he should know that such an argument has no basis in the U.S. Constitution. While Meese says that these amendments only apply to American citizens, that’s not what the language of the Bill of



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Rights says. The Fifth and Sixth Amendments clearly say “no person” and “all” with respect to the right to trial by jury, leaving no exemption for the law to oppress foreigners at its leisure:

[Fifth Amendment](#): “No **person** shall ... be deprived of life, liberty, or property, without due process of law.”

[Sixth Amendment](#): “In **all criminal prosecutions**, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”

Moreover, the right of foreigners under the jurisdiction of the U.S. government to the same justice system as American citizens is not only clearly worded in the Bill of Rights, it has long been [accepted by the U.S. Supreme Court](#).

This was most clearly explained by the Supreme Court in the [1841 Amistad case](#), where Africans had been kidnapped in Africa, traded to Spanish sailors, revolted and took over the ship *La Amistad*, and drifted to U.S. waters after the revolt. In that case, the Spanish government argued that foreigners in U.S. custody have no rights in U.S. Courts. The Spanish Minister to the U.S., Chevalier d’Argaiz, [argued](#):

They are morally and legally not in the United States, because the court of Connecticut has not declared whether or not it is competent to try them. If it should declare itself incompetent, it declares that they are under the cover of the Spanish flag; and, in that case, they are physically under the protection of a friendly government, but morally and legally out of the territory and jurisdiction of the United States; and, so long as a doubt remains on this subject, no judge can admit the complaint.

Former President John Quincy Adams, who orally argued in the Supreme Court on behalf of the liberated slaves, refused to accept this argument, [res](#) that it was beyond the power of the President to – without a court hearing – consign ...

“...men, being at that time in judicial custody of the Court of the United States, should be taken out of that custody, under an order of the President, and sent beyond seas by his sole authority! The Cabinet adopted that opinion; why, then, did they not act upon it? Why did not the President send his order to the Marshal to seize these men, and ship them to Cuba, or deliver them to the order of the Spanish Minister? I am ashamed ! I am ashamed that such an opinion should ever have been delivered by any public officer of this country, executive or judicial. I am ashamed to stand up before the nations of the earth, with such an opinion recorded as official, and what is worse, as having been adopted by the government:—an opinion sanctioning a particular course of proceeding, unprecedented among civilized countries, which was thus officially sanctioned, and yet the government did not dare to do it.”

The difference between the administration of Martin Van Buren and George W. Bush is that Bush did the shameful thing. Unlike Meese’s arguments, the district court judgment in the Amistad case ruled that the black men who rebelled “are each of them natives of Africa, and were born free, and ever since have been, and still of right are free, and not slaves.”

Adam’s subsequently [argued](#):



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I know of no law, but one which I am not at liberty to argue before this Court, no law, statute or constitution, no code, no treaty, applicable to the proceedings of the Executive or the Judiciary, except that law, (pointing to the copy of the Declaration of Independence, hanging against one of the pillars of the courtroom,) that law, two copies of which are ever before the eyes of your Honors. I know of no other law that reaches the case of my clients, but the law of nature and of Nature's God on which our fathers placed our own national existence. The circumstances are so peculiar, that no code or treaty has provided for such a case. That law, in its application to my clients, I trust will be the law on which the case will be decided by this Court....Is there a law of Habeas Corpus in the land? Has the expunging process of black lines passed upon these two Declarations of Independence in their gilded frames? Has the 4th of July, '76, become a day of ignominy and reproach?

The U.S. Supreme Court agreed with John Quincy Adams that foreigners do have rights in U.S. courts if they are in U.S. custody, even if they were accused of murder on the high seas (which the rebel former slaves were accused of committing against their former masters). The court eventually [ruled](#) that "There is no pretence to say the negroes of the Amistad are 'pirates' and 'robbers;' as they were kidnapped Africans, who, by the laws of Spain itself were entitled to their freedom."

Ed Meese has instead followed upon another precedent of the Supreme Court: the [Dred Scott decision](#), which declared some people "non-persons" legally. That case was far more consistent with his Meese's blog than the decision in the Amistad case, the Declaration of Independence, or the Mount Vernon Statement. As such, it has no place in any movement that pretends to restore the U.S. Constitution.

Photo of Edwin Feulner, president The Heritage Foundation, and former U.S. Attorney General, Edwin Meese, at the start of a ceremony to sign the Mount Vernon Statement: AP Images



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