

Questions:

- (1) Could you expound a bit on how popular sovereignty and the right to petition “grew up” together? A lot of the articles discuss this in only a few sentences. Although I see how the two are related concepts, I was wondering if you have historical examples which show how the two were outgrowths of the same (shifting) attitudes towards government. Perhaps there is some literature from political philosophers that you are familiar with?

See “HISTORICAL RECORD OF THE RIGHT TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES” (attached).

- (2) Could you go into the history of the right to petition and the creation of the judiciary as a separate branch of government?

By the terms of the Constitution, the People enabled (and restricted) the three branches to do the job we wanted them to do. Each branch was to be responsible for determining the constitutionality of their actions, with the People as the final arbiter of the constitution. Beginning with *Marbury v Madison* SCOTUS (the “government”) has arrogated that power unto itself and is now perceived to be the final arbiter. Emboldened, SCOTUS now routinely abuses its judicial doctrines on standing and *stare decisis* to dismiss Petitions for Redress (aka “lawsuits”) brought by individuals to challenge and seek relief from the government’s violation of the principles, prohibitions, restrictions and mandates of America’s Charters of Freedom.

The Declaration of Independence and the Constitution are a set of essential principles and rules to govern the government. Each principle, prohibition, restriction and mandate is an individual Right, guaranteed by the Constitution. For instance, without an amendment to the Constitution, individuals are guaranteed the Right to an Executive Branch that does not apply the armed forces of the United States in hostilities overseas without a declaration of war and to an Executive Branch that does not violate the sovereignty of the United States of America.

However, with the approval of NATO, not Congress, President Clinton bombed the Federal Republic of Yugoslavia in 1999, violating the war powers provisions of Article I and II of the Constitution and the sovereignty principle of the Declaration of Independence. Ignoring the fact that the Plaintiffs’ individual Rights were violated, the lawsuit was dismissed for lack of standing, on the ground that the Plaintiffs’ harm was no different in kind and degree from everyone else, so the issue was a political question to be taken up with Congress. In other words, without bothering to go through the Amendment process, the Courts have contributed to the transformation of America from a Republic, with individual Rights guaranteed by the words of the law/Constitution, to a pure Democracy, with collective Rights guaranteed by the will of the majority and the promises and assurances of men. SCOTUS refused to hear the case.

In addition, without another amendment to the Constitution, individuals are guaranteed the Right to an Executive Branch that does not give or lend public money to a private entity for a definitively private purpose. However, in 2008, the Executive Branch, under President Bush, agreed to give \$85 billion to AIG to enable AIG to meet its debt obligations, and in 2009, the Congress, together with the Executive branch, under President Obama, agreed to use \$700 billion to remove worthless and near worthless investments from the books of financial institutions. Again ignoring the fact that the Plaintiff's individual Right was violated, and with every Right there is a Remedy, the lawsuit was dismissed for lack of standing. The Second Circuit Court of Appeals affirmed.

Without an amendment to the Constitution, individuals are guaranteed the Right to an Executive that does not violate the money clauses of Article I, Section 8 that reserve to Congress the power to regulate commerce with foreign nations and to regulate the value of foreign Coin, or the prohibition of Section 9 that prohibits the Executive from using public funds without an appropriation by Congress. However, in 1995, without the involvement of Congress, the Executive used \$20 billion to bail out the Mexican Peso. Again, ignoring the fact that the Plaintiffs' individual Right to a republican government in form and substance, the lawsuit was dismissed for lack of standing. SCOTUS refused to hear the case.

In 2010, without an appropriation by Congress (the \$40 Billion that was in the Exchange Stabilization Fund at the beginning of 2010 had been depleted by the bailouts of GM and others in 2009), the Executive branch/Federal Reserve agreed to "currency swaps" with foreign central banks, including the European Central Bank and the UK Central Bank. The Federal Reserve sent \$350 Billion to those central banks who used the U.S. dollars to purchase Greek securities held by rich Greeks and Greek banks that were about to go into default. Obviously, a lawsuit by one or more individual Plaintiffs would merely be dismissed for lack of standing.

A lawsuit by an individual challenging the constitutionality of an action by one of the political branches is a Petition for Redress of the Grievance by a citizen who was injured/harmed by the violation of an individual Right guaranteed him by the Constitution. To dismiss such a lawsuit for lack of standing is to eviscerate the Right guaranteed by the last ten words of the First Amendment and the Ninth Amendment.

(3) I was considering profiling you in the chapter, since you have repeatedly petitioned the government and tried to exercise a right which has largely been read out of the Constitution. What sort of arguments did the government/judges make in dismissing your petitions? How did you respond to these? What kinds of issues were you petitioning?

Most Petitions for Redress filed with the judiciary (aka "lawsuits") challenging the constitutionality of actions of the government are now routinely dismissed for lack of standing, an abuse of the judiciary's standing doctrine.

However, in *We The People v United States*, the Court of Appeals for the DC Circuit did reach the merits of the Right to Petition case, without declaring the Rights of the People and the obligations of the Government under the clause.

We The People was an action for declaratory relief that arose from the Government's refusal to respond to the People's 2002 Petitions for Redress regarding violations of: 1) the war powers clause by the Iraq Resolution ; the money clauses by the Federal Reserve System; 3) the privacy clauses by the USA Patriot Act; and 4) the tax clauses by the enforcement of a direct, un-apportioned tax on labor. However, in a clear abuse of the judicial doctrine of *stare decisis* , the lower courts dismissed the case, saying that in *Smith v Arkansas* (SCOTUS, 1979) and *Minnesota v Knight* (SCOTUS, 1984), SCOTUS held that the government does not have to listen or respond to petitions for redress of grievances.

The facts in *We The People* were completely dissimilar from the facts in the two earlier cases (in *Smith*, the Plaintiffs were state highway workers who formed an association that submitted their on-the-job, employment related grievances to their public employers, in spite of a state law that required employees to submit their grievances as individuals; in *Minnesota*, the Plaintiffs were state college professors who refused to submit their on the job related grievances to their public employer through their legally constituted public bargaining union, as a state law required, choosing instead to submit their grievances directly to their employer, arguing their Right to free speech).

The Plaintiffs in *We The People* were not public employees and their grievances were not employment related but those that arose from violations of the Constitution of the United States by the federal government. As Judge Rogers wrote in her separate nine page decision in *We The People*, the legal question before the court in *We The People* (the Rights of the People and the obligation of the Government under the Petition clause of the First Amendment) was not before SCOTUS in the two earlier cases. Here is part of what Judge Rogers wrote:

"The DC District and Circuit Courts erred in deciding the question without taking the Framers' Intent into consideration. This is particularly difficult for the Plaintiffs to accept in view of what Circuit Judge Rodgers had to say in her concurring opinion, to wit:

"That precedent [*Smith* and *Knight*], however, does not refer to the historical evidence and we know from the briefs in *Knight* that the historical argument was not presented to the Supreme Court...The Supreme Court's interpretation of the Constitution has been informed by the understanding that ...it is to be gathered not simply by taking the words and a dictionary, but by considering their origin and the line of their growth...the Supreme Court has rejected a pure textual approach in favor of an analysis that accords weight to the historical context and the underlying purpose of the clause at issue...In the context of the First Amendment, the Supreme Court has repeatedly emphasized the significance of historical evidence...Appellants point to a long history of petitioning and the importance of the practice in England, the American Colonies, and the United States until the 1830's as suggesting that the Right to petition was commonly understood at the time the First Amendment was proposed and ratified to include duties of consideration and response...Even those who take a different view, based on a redefinition of the question and differences between English and American governments, acknowledge that there is 'an emerging consensus of scholars' embracing appellants' interpretation of the right to petition....the historical context and underlying purpose have been the hallmarks of the Supreme Court's approach to the First Amendment...Of course, this court cannot know whether the traditional historical analysis would have resonance with the Supreme Court in a Petition Clause claim such as appellants have brought...No doubt it would present an interesting question. For now it suffices to observe that appellants' emphasis on contemporary historical understanding and practices is consistent with the Supreme Court's traditional interpretive approach to the First Amendment." (footnotes and citations omitted).

The 1450 Plaintiffs in *We The People* were asking the court to answer two questions: 1) is the government required to respond to "proper" Petitions for Redress of Grievances regarding certain violations of the Constitution: and 2) if the government does not respond, do the People then have the Right of Enforcement (say, by imposing economic sanctions on the Government until the grievances are redressed), on the ground that any Right that is not enforceable is not a Right and with every Right there is a Remedy.

Citing *Smith* and *Minnesota*, the *We The People* Court held the government does not have to listen or respond to our Petitions for Redress, and if that was the case, the People did not have the Right to withdraw their financial support until the Government did respond. SCOTUS denied cert.

We The People is obviously a good example of bad case law. But the People had no choice but to test the attitude of the Judiciary on the meaning of the First Amendment's accountability clause. After years of having their Petitions answered only with repeated injury, the People began to adopt the mantra, "NO ANSWERS, NO TAXES." Then, after acting on their beliefs, the People finally received a "response" from the government – i.e., the IRS.

IMPORTANT NOTE: In 2007, hard on the heels of the court's decision in *We The People*, the federal government amended the Tax Relief and Health Care Act of 2006, to impose a penalty of \$5,000 on any person who submits a "specified frivolous submission" to the IRS. A submission is a "specified frivolous submission" if any portion of the submission is based on a position identified by the Secretary of the Treasury (the IRS) as frivolous. The Act was further amended to require the Treasury Secretary to prescribe, and periodically revise, a list of positions identified as frivolous.

In 2007 the Secretary published the list of frivolous positions, including the following:

Frivolous Positions. Positions that are the same as or similar to the following are frivolous.

(9) ... a taxpayer has a constitutional right not to comply with the Federal tax laws for one of the following reasons:

b. A taxpayer may withhold payment of taxes or the filing of a tax return until the Service or other government entity responds to a First Amendment petition for redress of grievances.

How egregious! First the entire Legislative and the Executive branches ignore the Constitution by violating the War, Money, Privacy and Tax clauses of the Constitution. Then the Legislative and Executive branches ignore the People by refusing to respond to the People's First Amendment Petitions to Remedy those violations. Then the Supreme Court of the United States lets stand a lower court's ruling that the Legislative and Executive branches do not have an obligation to respond to the People's Petitions for Redress. Then, to chill the enthusiasm of the People to continue their efforts to hold the Government accountable to the Constitution (except through the electoral process – "if they don't like what is going on they can vote for someone else."), the Legislative branch "authorized" the Executive branch to declare as a "specified frivolous position" an individual's stated belief that to enforce any of his individual Rights he has the Right to retain his money until the grievances are redressed, and to fine the individual \$5,000 every time he utters that position to the tax collectors in the Treasury Department.

(4) Is there a difference between petitioning the government and lobbying?

Lobbying and the garden variety type petitions address political questions involving some amount of discretion on the part of the elected officials to whom the lobbying and petitioning activity is directed. There is a wish to influence the legislative activity of the official. There is no obligation for the elected officials to respond. There is a hope to influence discretionary behavior. On the other hand, a First Amendment Petition for Redress is a legal document that cites a provision of the Constitution, provides a factual account of its violation and seeks a remedy. The government is obligated to respond, responsively. The Petitioner may not get the relief requested, but is able to then take the appropriate next step.

(5) To the best of your knowledge, has the government been discriminatory in which petitions it chooses to respond to? The discrimination could be across any dimension: racial, socioeconomic, geographic, ideological, etc.

In general, no matter how well crafted the complaint may be, especially if the plaintiffs are *pro se*, the judiciary discriminates by not responding on the merits to Petitions for Redress involving challenges by individuals and small groups to the constitutionality of an action by one of the political branches. The judiciary is highly politicized and quite corrupt, committing treason to the Constitution by cooperating with the other branches in a collective decision to deny individual Rights guaranteed by the Constitution.

Elected and appointed officials in the Legislative and Executive branches have answered only with repeated injury the repeated petitions for redress of constitutional torts. They have either refused to respond or have responded by retaliating.

(6) Is there any way to reinstate the duty to respond without a large-scale reduction in the size of government, or are the two simply irreconcilable?

Honest, responsive responses to proper Petitions for Redress would result in a large-scale reduction in the size of government, assuming numerous Petitions for Redress would be successful in challenging the power of the government to engage in many of the activities it now engages in.

Did you mean to say "...without a large-scale increase in the size of government...."
If so, the obligation to respond would not require a large scale increase.

Until 1836, a Petition for Redress received by a congressman was submitted to a Committee and every Monday the Congress dealt with Petitions for Redress.

Today, the same procedure could be followed. In fact, Article Two of the Articles of Freedom instructs the Congress and the State Legislatures to establish Constitutional Oversight Committees, which could be the landing place for Petitions for Redress regarding violations of the Constitution.

While many people might Petition their representative for Redress of a particular violation, say the violations of the war powers clauses, one response could serve as a response to all such Petitions, especially if each Petition is submitted to a Committee for a response.

While there might be dozens of Petitions for Redress of current violations, meaning the workload might be substantial at first, once the government had begun to fear the People because the Government knew the People were better informed about their Rights, that the People had institutionalized citizen vigilance and were continually comparing Government's behavior with the requirements of the Constitution (always eschewing political questions), and that the People were prepared to confront the Government, intelligently, rationally, professionally and non-violently every time the Government took a step outside the boundaries drawn around its power, violations would become a thing of the past and there would be little to no requirement for man power and funding to respond to such Petitions for Redress.

NOTE: My email exchange with Ron Paul's chief of staff, Tom Lizardo sheds some light on the subject. I'll send it to you by separate email.

(7) How would you argue that the right to petition is a natural, inalienable right, and not just a right which has been crafted over time in response to specific political circumstances? One of the central themes of the book is that our rights should be inviolate and transcend any and all political landscapes.

See the response to question #1

In addition, it stands to reason that if sovereignty rests with the People and the People institute government to secure their natural, unalienable Rights (essential

principles, Dec. of Independence), the People have the natural Right to hold the government accountable when it violates any Right of any man, by the imposition of economic sanctions.

The framers knew this. They were familiar with evolution of liberty beginning in 1215 with Section 61 of the Magna Carta and continuing through 1774 with THEIR unanimous adoption of the Act titled "Continental Congress to the Inhabitants of Quebec." They knew the fundamental Right of Speech, Press and Assembly derived from the Right to Petition for Redress. They knew the reason, more than any other, for their decision to separate from Great Britain, as stated clearly at the end of the list of their grievances in the Declaration of Independence, to wit: "And we have petitioned for redress and our repeated petitions have been answered only with repeated injury...." They were not foolish enough to fill the pages of the Constitution with numerous guaranteed Rights, both in the Articles themselves (i.e., war, money, taxes, law enforcement, etc.), and in the Bill of Rights (i.e., speech, firearms, trial by jury, no cruel and unusual punishment, privacy, property, etc.) but fail to include a guarantee of our Natural Right to hold the government accountable, non-violently (i.e., without having to resort to the Second Amendment) should the government violate ANY of those other Rights.

Again, with every Right there is a Remedy, and any Right that is not enforceable is not a Right.

- (8) Do you have any examples of egregious violations of the right to petition and/or the principle underlying it-stories which will enrage readers?

See answer to #3, especially last paragraph on page four. "Frivolous": First they refused to answer, now they will fine you for claiming and exercising your Right to Petition for Redress.

The Courts' dismissal of constitutional challenges on the grounds of "No standing": Mexican Peso, Kosovo, AIG Bailout, Obama's Eligibility, etc.

We The People v United States: "Government does not have to listen or respond to Petitions for Redress of constitutional torts. Clear abuse of *stare decisis* judicial doctrine.

Joseph Banister.

US v Simkanin:

Sen. Thompson:

Blue Folder: Revocation of tax exempt status of WTPF and WTPC and imposition of heavy fine for distributing copies of Petition for Redress regarding institutionalized, unconstitutional practice of withholding workers earned income and turning it over to the IRS.

Hunger Fast: Reneging after "We agree to respond to Petitions for Redress in a recorded, public forum."

(9) If the right to petition the government had not been eviscerated, do you have any thoughts on how different America would look today? Or how certain events in history would have played out differently?

We would not be meddling in the internal affairs of other countries, taking sides. We would be neutral in our alliances; trading with all; conducting ourselves with honor and dignity. Our troops - those amazing citizens who have stepped up to give that Service - would be here with us, protecting our soil and our people, not far off allegedly "serving our country" and giving the ultimate sacrifice in the Name of Freedom. How can we possibly express enough gratitude for their efforts?

If we followed our Constitution, there would be no undeclared wars abroad and no war on terror at home.

Our government would not bail out any private company or foreign Nation with public money.

All unconstitutional debts would be null and void. (!)

Gold and silver would be the standard for our currency. There would be no inflation. Imagine that.

We would have full employment.

We would all have the Right to bear and keep arms and each state would have a well-regulated, trained and disciplined militia. This is very hard for some to imagine in these modern times, but if you study the Constitution, our history well into the 19th Century, plus the age-old public policy of the Swiss and try to understand why this is so important, you may feel differently.

There would be no direct tax on an individual's property, including his labor.

If the Constitution were followed, our Rights to privacy would be honored.

The President would enforce the immigration laws, dutifully passed by Congress, but which have been left unattended for more than thirty years.

We would not have a President with the potential of dual loyalties because his father was a citizen of a foreign country. The Constitution is very strong in its requirements about who is eligible to hold this most important office in our land. It is not an issue about the melting pot of America, race or our goodwill to all. It is about our national security and the absolute need to have one in that position who is in absolute harmony with the essence and soul of our Country—and unquestionably so.

We would never entertain the idea or enter into contracts, treaties or alliances with any organization, country, group or individual that would compromise the Sovereignty of America.

We would not be counting our votes in secret which is what happens when machines count them.

Life as we know it now would surely be different.

We are so far afield from what our Constitution would have us do, that some of its provisions seem strange to our thinking... yet within Its wisdom is our prosperity, safety and protection.

Do you see what is happening to our America?

Do you see our towns and cities, our neighbors and even members of our families being pauperized?

Those who violate our Charters of Freedom are committing treason against the Creator, our America, and our people. These violations are challenging the Constitutional Republic of the United States and Her People to Its core.

(10) As you probably know, the Judge's books are widely read. Are there any personal thoughts and arguments you might have on the right to petition which you would like to reach the American public? Perhaps think of this as your take on "5 things every American *must* know about the right to petition."

1. American colonists, who exercised their Right to Petition the King or Parliament, ¹ expected the government to receive *and respond* to their Petitions.² The King's persistent refusal to answer the colonists' grievances outraged the colonists and as the "capstone" grievance, was a significant factor that led to the American Revolution.³

2. In 1774, the same Congress that adopted the Declaration of Independence two years later unanimously adopted an Act in which they gave meaning to the People's Right to Petition for Redress of Grievances and the Right of enforcement as they spoke about the People's "Great Rights." Quoting:

"If money is wanted by rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility." "Continental Congress To The Inhabitants Of The Province Of Quebec." Journals of the Continental Congress 1774, Journals 1: 105-13.

3. The Founders put the accountability clause in the First Amendment so future generations would never again have to go through what they went through; if the People had evidence that the Government was violating their Rights they had the Right to Petition for Redress of the Grievance, and if the Government refused to respond, the People had the Right to impose economic sanctions against the Government – that is, the People would be able to peaceably procure relief from abuse of governmental power. The accountability clause was added by the Founders as a necessary element in the overall balance of power between the People and their elected officials.

4. Congress's response to Petitions in the early years of the Republic indicates that the original understanding of Petitioning *included a governmental duty to respond*. Congress viewed the receipt and serious consideration of every Petition as an important part of its duties.⁴

¹ See DECLARATION AND RESOLVES OF THE CONTINENTAL CONGRESS 3 (Am. Col. Oct. 14, 1774), reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n5 at 199; DECLARATION OF RIGHTS OF THE STAMP ACT CONGRESS 13 (Am. Col. Oct. 19, 1765), reprinted in *id.* at 198.

² See Frederick, *supra* n4 at 115-116.

³ See THE DECLARATION OF INDEPENDENCE para. 30 (U.S. July 4, 1776), reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n5 at 199; Lee A. Strimbeck, The Right to Petition, 55 W. VA. L. REV. 275, 277 (1954).

⁴ See STAFF OF HOUSE COMM. ON ENERGY AND COMMERCE, 99TH CONG., 2D SESS., PETITIONS, MEMORIALS AND OTHER DOCUMENTS SUBMITTED FOR THE CONSIDERATION OF CONGRESS,

5. Notwithstanding the individual nature of the Right to Petition for Redress, America has reached the point where a pro-active, non-violent, *mass-movement* is required to secure the Right. Individuals and small groups can no longer prevail against the Government in defense of the Constitution. To shift the ultimate power of accountability from the Government back to the People where it was meant to reside in the first place, three to five percent of the People, prepared to engage in a series of civic actions including, if necessary, the imposition of economic sanctions against the Government, will be necessary. The Constitution cannot defend itself. As Jefferson said, the People are the only sure reliance on the preservation of Liberty.

MARCH 4, 1789 TO DECEMBER 15, 1975, at 6-9 (Comm. Print 1986) (including a comment by the press that “the principal part of Congress’s time has been taken up in the reading and referring Petitions” (quotation omitted)).