

## Paradigm Drift: Distributed Power to Aggregated Power

2021 06132

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The relationship between citizens and government exists along a spectrum ranging from perfect individual freedom to perfect individual monarchy. The *PREMISE* and the *PROMISE* of the Constitution of the United States is a governmental system that emphasizes personal freedom. That government has been erected in such a manner that no person or group of people could ever amass powers sufficient to suppress or oppress the freedom of the people. The ratification of the Constitution occurred in 1788, followed by the adoption of the Bill of Rights in 1789. The power of the federal government didn't lie simply in the separation of the three branches of government. The document includes no less than forty-seven statements serving to widely distribute power, lest it fall into the hands of the few.

And yet, only nine years later, in 1798, Congress established the U. S. Marine Hospital Service – predecessor of today's U.S. Public Health Service – to provide health care to sick and injured merchant seamen. There is no provision in the Constitution for this service. Then in 1870, the Marine Hospital Service was reorganized as a national hospital system with centralized administration under a medical officer, the Supervising Surgeon, who was later given the title of Surgeon General. That organization blossomed into the Department of Health and Human Services. Although it took more than a hundred years, American Health had become a facet of the Federal Government. The journey was a slow but persistent aggregation of power such that today, the Surgeon General can force private entities to place warning labels on products and Non-Governmental entities, such as the CDC can shut down the entire nation. Other examples of how power has become aggregated into the hands of fewer and fewer people are presented in the following paragraphs.

In 1803, the United State Purchased the great territory of Louisiana Purchase from France. This is not quite the same as a power taken from the people or states, but the purchase did violate a basic premise of the constitution and awarded massive powers that the language of the constitution sought to avoid. In 1776, land ownership was the primary source of power and influence. The constitution limited federal land ownership quite severely primarily for that reason. A federal government with too much power was deemed to be a dangerous one. Along with the ownership of the land itself came the ownership of water rights, mineral rights, oil and gas rights, and even hunting rights.

1813 Congress passed the Vaccine Act of 1813 in order to provide free smallpox vaccines to children. While this isn't a bad idea, it is a step beyond the governmental responsibilities of the constitution. The passage set a precedent that would later contribute to the rationalization for federal health services.

In 1819, Congress purchased Florida from Spain. That extended the power of land ownership to the south.

After the 1846-1848 Mexican American War, the land that is now Nevada, Utah, Arizona, California and parts of Colorado and New Mexico came under the ownership of the federal government. Cumulative land within the states was now less than the land owned by the federal government.

In 1849, the General Land Office (from the Department of the Treasury), the Patent Office (from the Department of State), the Indian Affairs Office (from the War Department) and the military pension offices (from War and Navy Departments) were consolidated into the Home Department, which ultimately became the Department of the interior. Subsequently, Interior functions expanded to include the census, regulation of territorial governments, exploration of the western wilderness, and management of the D.C. jail and water system. Federal ownership had expanded well beyond the boundaries of the constitution.

In 1853, Congress expanded ownership even more with the Gadsden Purchase. The federal government owned most of the land and all the resources on it.

Farming and grazing was widespread and in 1862, Congress created the US Department of Agriculture. They were able to do so in large part because they owned much of the land. With the creation of the department, came the creation of regulations.

Within the USDA, there was one chemist. That one job was dubbed the Division of Chemistry and it grew. By 1901, it had been reclassified as the 1901 Bureau of Chemistry. As more growth and aggregation occurred, the Bureau was again renamed in 1927 and given more responsibility as the Food, Drug, and Insecticide Administration. Each growth spurt carried with it new and expansive regulations. In 1940, it was renamed again as Food and Drug. A Research position had grown into a

massive regulatory agency in 78 years. None of the tasks within the agency are authorized by the constitution.

In 1886 the Bureau of Tobacco, Alcohol, and Firearms was part of Treasury but back then, it was known as the Revenue Laboratory within the Bureau of Internal Revenue. The pre-history of the ATF can then be traced through the Bureau of Prohibition, itself a branch of the Bureau of Internal Revenue formed in 1920. The Bureau of Prohibition was then spun off as an independent agency under the umbrella of the Treasury Department in 1927, before becoming a part of the Justice Department in 1930, and eventually merged into the FBI briefly in 1933.

Alaska was purchased from Russia in 1867, adding even more land and resources to the federal power base. More than half of the land area of the United States was obtained by purchase or war. The constitution did not anticipate this means of acquisition and only limited federal purchase of land within the boundaries of the states.

The Supreme Court case of *Pollock v. Farmers' Loan & Trust Co.* in 1895 set the stage for passage of the Income Tax and elimination of state contributions. In that case, a non-governmental state corporation, the Farmers' Loan and Trust, was involved in a very complicated scheme that the Supreme Court determined was an un-apportioned direct tax on income. The case did not result in an aggregation of power, but exposing the scheme planted the idea of a formal income tax as a replacement of the existing system of funding the federal government by contributions from each state.

More land was acquired after the 1898 Spanish American War: Puerto Rico and Guam.

1908 - Attorney General Finch Created the FBI as an expansion of National Bureau of Criminal Identification - advisory to state and local

1909- 16<sup>th</sup> Amendment was adopted.

1913- 17<sup>th</sup> Amendment was adopted

1926 - designated state roads as part of the Federal Hwy System

1928 Farm Supports - Farm Board - Dept of Ag - payments because of farming surpluses - 1928

1935 Passed Social Security - 1935 - FDR

[\*Helvering v. Davis\*](#) (1937). *Helvering* upheld the constitutionality of Social Security on the basis that Congress has a general power to spend on whatever it deems to be in the General Welfare.

1942 *Wickard v Filburn* - 1942 - ruling greatly expanded domain of Fed. Govt. over farming - - - An Ohio farmer, Roscoe Filburn, was growing wheat to feed animals on his own farm. The [US government](#) had established limits on wheat production, based on the acreage owned by a farmer, to stabilize wheat prices and supplies. Filburn grew more than was permitted and so was ordered to pay a penalty. In response, he said that because his wheat was not sold, it could not be regulated as commerce, let alone "interstate" commerce (described in the Constitution as "Commerce... among the several states"). The Supreme Court disagreed: "Whether the subject of the regulation in question was 'production', 'consumption', or 'marketing' is, therefore, not material for purposes of deciding the question of federal power before us.... But even if appellee's activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce and this irrespective of whether such effect is what might at some earlier time have been defined as 'direct' or 'indirect.'"<sup>1</sup>

1939 - Congress - Federal Security Agency: Umbrella combining the United States Department of Health, Education, and Social Welfare.

1950 - Korean War - War by Treaty, not declaration

1953 - Department of Health, Education, and Welfare, Office of Education

1956 - Eisenhower - Created the Federal Highway System

1958 - FAA

1964 - Federal Communications Commission

1965 - Passed Medicare - 1965 Johnson

1979 - Carter Erected the Federal Department of Education

1970 - Congress - Nixon - NEPA and the Environmental Protection Agency

1973 - Drug Enforcement Agency war on drugs - Nixon

1976 - Magnuson-Stevens Act regulating FOREIGN fisheries in coastal waters

1977 - Created the Department of Energy - 1977 to include the Atomic Energy Commission.

1982 - United Nations Created the Exclusive Economic Zone

2002 - Bush - Created the Department of Homeland Security - combining all federal law enforcement agencies under the umbrella of homeland security - under special circumstances including the coast guard.

2005 - Kelo v City of New London - Connecticut domain - to transfer from one to another - Pfizer used the City to take property.

The process is ongoing.

In 2001, HR 1 proposed election reform that would put state elections in the hands of federal agencies. This was repeated in 2023 and 2024.

In 2021 the G7 proposed a Global Tax. The U.N. had previously proposed a global income tax which would have put the greatest part of the burden of funding on the United States Citizen.

END NOTES:

More than half of Federal lands were acquired by war or purchase from another nation. The groundwork for the aggregation was laid by Alexander Hamilton, the first secretary of the Treasury (1789-1795). He believed that economic competition and the free market alone would not be sufficient to 'provide' for the General Welfare of the American Citizen.

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