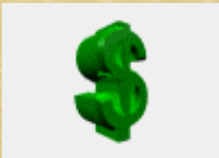


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I'm Up For a Constitutional War... But:

By Darrel Mulloy

Published 02. 4. 03 at 21:08 Sierra Time

I want to make it clear that my gut feeling is that there is no Islamic nation that does not harbor hate for America. More appropriately, the peoples of those nations harbor hate for America and Americans. I don't think regime change in Iraq will really make much difference regarding how the Middle East looks toward us. That said, if it were up to me, we would turn the entire region into a sheet of glass. But, it is not up to me.

It has been said, with some degree of error, that we are a government of laws not of men, and that the Constitution is the supreme law of the land. Some argue that the Constitution is not the supreme law of the land, just because it declares itself so, and that things have changed over the years that make the Constitution obsolete. I am not one of those people. I hope the majority of Americans do not believe that either. Robert Bork made the point that if the Constitution is in fact not the supreme law of the land, then none of the Constitution can be held to be valid, including Congress, the Executive and the Supreme Court. In other words, we would have no government. The unlikelihood of that is obvious. The Constitution is the "Supreme Law of the Land".

That said, we must look into the validity of the United States engaging in military hostilities with Iraq. Article 1 section 8 of the Constitution grants to congress alone, the authority to declare war, and not until such declaration is made can the president authorize the use of American troops in that war. Congress passed in 1973, the War Powers Act of 1973, allowing the president powers not in the Constitution, by allowing his use of American troops after seeking "approval" from congress. Approval is not a declaration of war, and therefore not constitutional. No amendment has been offered for ratification by the states to allow the change in the Constitution that this act would allow. Article 5 of the Constitution requires an amendment to change the content of the Constitution.

Congressman Ron Paul offered a declaration of war to Congress, asking its members to use it to demonstrate their willingness to engage in war with Iraq. They refused! Congress refused to fulfill their proper role of declaring war, yet they are allowing the president to continue hostilities against Iraq.

President Bush states that he does not need congressional approval since another congress twelve years ago gave their okay to his father, another president (again not a declaration of war) to engage in military action with Saddam Hussein's Iraq. Using that logic, it would follow that we could go back to war with Japan and Germany since a previous congress declared war with those countries as well.

As I mentioned in my opening paragraph, I would turn the entire Middle East into a sheet of glass, but if I were in Congress I would not allow my president to do likewise without following the constitutional mandate of requiring congressional approval before doing so.

Darrel Mulloy



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Some say that U.N. Resolution 1441 gives the president authority to act, but again, our Constitution makes no allowances for a foreign power to dictate what America can and cannot do. The only power lies within our own congress and our own Constitution. Whether Saddam has violated Resolution 1441 should have no bearing on what the constitutional government of the United States does. If there is perceived to be a real threat to the American people by actions taken by Saddam Hussein, or for that matter, any foreign power, it is the responsibility of our congress to make the declaration of war that authorizes our president to commit American troops to our defense. Failure to make that declaration is failure of our congress to do their constitutionally mandated job; the job we sent them to Washington to do.

While there is debate as to whether Iraq presents a threat to America, that threat is not what should be the subject for debate at this time. What we should be looking at is whether we still have a constitutional republic or just a government by poll. It matters not whether the majority of Americans believe that we should wage war with Iraq, as the administration says they do, but whether we will continue to allow our government to run roughshod over the Constitution.

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