Section 2

Committee of Correspondence-Statement of David Horton
Legal Counsel, Committee to Restore the Constitution,
before the Joint Committee on Regionalism, Illinois Legislature
(4/11/1978)

COMMITTEE OF CORRESPONDENCE

"Each of us has a natural right—from God—to defend his person, his liberty and his property. These are the three basic requirements of life, the preservation of any one of them is completely dependent upon the preservation of the other two."
THE LAW, by Frederic Bastiat, Paris, June 1850

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STATEMENT OF DAVID HORTON, LEGAL COUNSEL, COMMITTEE TO RESTORE THE CONSTITUTION, BEFORE THE JOINT COMMITTEE ON REGIONALISM, ILLINOIS LEGISLATURE, APRIL 11, 1978.*

Chairman Hudson and members of the Committee:

The Constitution of the United States is a very simply stated document that says what it means and means what it says. In order to understand what it says, it is necessary to see who is speaking.

The words in the Preamble to that Constitution "We the people of the United States," mean the Peoples of the several States, each speaking through its State government in its highest Sovereign capacity. It is in this sense that the constitution was formed by the thirteen Nations that were recognized to be free and independent States by the Treaty of Paris that concluded the Revolutionary War. All other States, all nation, that have since joined as Parties to this Agreement have come in on "an equal footing" with the original Sovereigns.

The inspiration of our Constitutional structure was that it found a way to insure maximum freedom by limiting government. This limitation is reflected in our State constitutions; it is still more apparent in the United States Constitution that defines three special, or limited, agencies of government that are created by the absolute Sovereignties of e States who are both the fount of all authority delegated to ,ese agencies, and the repository of all powers that are not so delegated.

Yet the agencies created by the States have seen fit to ignore the limits of authority granted to them and have undertaken to exercise powers that were not delegated, and for the use of which no open application has ever been made to the States. In this situation, the position of the State, as a Party to the Constitutional Compact is pivotal in causing correction of the Constitutional violations. James Madison described the position of the State as follows:

> "the ultimate right of the parties of the Constitutional Compact, to judge whether the Compact has been dangerously violated must extend to violations by one delegated authority as well as by another; by the judiciary as well as by the executive; or the legislature."

The Illinois Joint Legislative Committee on Regional Government was formed in consonance with the provisions of House Joint Resolution No. 8, introduced 24 February, 1977, by Representatives George Ray Hudson and Charles M. Campbell. The Committee is charged with the responsibility "...to investigate the impact and effect of the regional governance concept on the traditional constitutional government in Illinois." Legislative remedy to constitutional usurpation was inspired by the Illinois Committee to Restore the Constitution, Inc., and irate citizens affiliated with the movement, under the direction of John W. Smith, President, Box 182, Bismarck, Illinois 61814.

Illinois Joint Legislative Committee on Regional Government

Rep. George Ray Campbell, Chairman	Senator Howard W. Carroll, Vice Chairman
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Lawrence (Laz) Murphy	James H. Rupp

But it is not a right of the State Legislature (which speaks for the State in its highest Sovereign capacity) to enforce the limits of the Constitution within the State's borders, it is a duty.

The famous resolution of the Kentucky Legislature of Nov. 19, 1799 declared:

> "Whensoever the general government assumes undelegated powers, its acts are unauthoritative, void and of no force; that to the contract (the Constitution) each State acceded as a State and is an integral party; its co-states forming as to itself, the other party; that government created by this Contract was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers. But, that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infraction as of the mode and measure of redress."

The New York Legislature of 1833 roundly condemned what it called "the dangerous heresy that the Constitution is to be interpreted, not by the well understood intentions of those who framed and those who adopted it, but by what can be made out of its words by ingenious interpretation."

To ignore the original intent of the Constitution is to ignore its only lawful meaning. Therefore, it is not just Constitutional heresy to depart from the original meaning of the Constitution, it is unlawful. And that is the key to the examination of the Regionalism concept. For example, Figure 1. shows ten (10) Regions where State boundaries are deleted, but governmental functions are to be carried on and performed within these Regions. This is a basic violation of the intent and of the express language of the Constitutional Agreement. Damage is already being done to our local representative institutions through efforts of intimidation and bribery to take over governmental functions. The stated plan is to intensify the process and to establish contact directly with local officials, by-passing State and County governments: And in the process using TAX funds — public funds — for the basic purpose of defeating one of the principal objects of all law.

The purpose of the law can be summarized this way: "to prevent coercion, either by bribery or by force..." And what is the effort being made by the federal agencies when they say to legislators: "You must do what we say, or you won't get this money?" That is a form of bribery. And it is using the very processes of the law — not the law itself, but the processes of the law — to subvert our basic institutions.

That is one reason why the problem of defending our local governments requires us to return to basics. We need to understand that in the last analysis we are dealing with what has been described as a sedition, which is an attempt by indirect means — the quiet means (we might say "the quiet revolution")—to basically change our form of government.

To understand the importance of keeping our form of government we need to know why it is that it is a wise form and why it is that it works well.

There is a parallel between why our free enterprise system works well and why our system of local control of local affairs works well. The free enterprise system works well because the man who is making the decisions is the best informed.

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Secondly, he is responsible for his decisions. He pays the bills if he makes a mistake. That's why our free enterprise system can produce plenty of wheat. A centralized, vicariously governed system — such as they have in Soviet Russia — can convert the breadbasket of Europe into a starvation nightmare, because they are not adopting this basic principle that we have in our free-enterprise system.

The reason local control of local affairs works best is the same reason that the free-enterprise system works best — namely, that our County Commissioners when they make decisions, and make mistakes, have to look eyeball to eyeball at the people who are adversely affected by those mistakes. And if they can find a solution, they are much more likely to be responsive, and put that solution into effect. True, even local officials, if they make a mistake, tend to have a vested interest in their error. But they're much more likely to correct an error if (1) they are local, and (2) they are periodically accountable by election. This is the principle that needs to be reincorporated into our structure of government if we are to be protected from attacks against it.

There is an available remedy. In understanding this remedy, there is both good news and bad news. The good news is that there is the authority in the State Legislature to define or redefine the limits of authority specified in the Constitution, and to enforce those limits within the boundaries of the State. The bad news, of course, is that with the authority, there is the responsibility to apply the remedy.

The State Legislature has the power to speak for the State in its highest Sovereign capacity.

> "The true barriers of our liberty in this country," wrote Mr. Jefferson (Jan. 26, 1811), "are our State governments; and the wisest conservative power ever contrived by man, is that of which our Revolution and present government found us possessed...**distinct States** amalgamated into one as to their foreign concerns, but **single and independent as to their internal administration.**"

It is as to matters within each State's boundaries that the State is, and remains, **Sovereign.** But there is an intrusion into the right of the Peoples of our several States to govern themselves that is represented by efforts at regional government. The avowed purpose of regional government is to exercise governmental powers. Many of these powers were never delegated by the State to any agency in Washington.

The wisdom and success of the principle of local control of local affairs by elected officials, State and local, who are periodically accountable to their constituents, is well known. But the tentacles of self-aggrandizing centralized power are spreading themselves by means of regional governance throughout the social and political structure of our institutions.

City councils are bribed, legislators are intimidated and citizens are taxed for purposes that not only lack their consent, but call forth their sincere and steadfast opposition.

We are told that the United States Supreme Court, one of the agencies created by the Agreement between the Sovereign States, will relieve us of the burden of governing ourselves by deciding, in its infinite wisdom, all "questions" regarding policy that the members of that body may be able to lay hand to. They have no lawful authority to decide "questions". The language of the Constitution confines them to a limited number and type of **cases.** But members of the Court have seen fit to ignore the limits of authority placed upon them by the Constitution. For example, Chief Justice Warren Burger recently delivered an excoriation of his colleagues when he said:

> "...**I do not acquiesce in prior holdings** that purportedly, but none the less **erroneously, are based on the Constitution**...I am bound to **reject categorically** ... (the) ... **thesis that what the Court said lately controls over the Constitution.** ...I will not join in employing recent cases rather than the Constitution, to bootstrap ourselves into a result. ..By placing a premium on 'recent cases' rather than the language of the Constitution, the Court makes it dangerously simple for future Courts, using the technique of interpretation, to operate as a 'continuing Constitutional convention.' ...I would not decide that the Constitution commands this result (the decision in the present case) simply because I think it is a desirable one... By inventing its own verbal formula **the prevailing opinion simply seeks to reshape the Constitution in accordance with predilections of what is deemed desirable.** Constitutional interpretation is not an easy matter, but we should be especially cautious about substituting our own notions for those of the Framers." (Emphasis added)

The ambitious acts of this special agent can and will continue only so long as its principal, the State, does nothing.

Lincoln said in his First Inaugural Address:

> "that if the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the instant they are made in ordinary litigation between parties in personal actions, **then the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."**

The key word here is "resigned." Because usurpation is a bi-lateral act. It does not consist alone of an attempt to exercise power by someone having no authority to exercise that power. It consists of that in the first instance. But to complete the act, usurpation consists of the party having lawful authority to exercise that power, surrendering it or acquiescing in the exercise of that power by the usurper. In other words, resigning the power into the hands of the usurper.

Attempts to exercise powers by any federal agency that are not delegated are attempts to change the Constitution **without process of law.** Each attempt is a subterfuge that undermines the Constitution.

"Mr. Madison's Report," says with regard to the so-called supremacy of the Supreme Court:

> "If the decision the judiciary be raised above the authority of the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decisions of that department...However true therefore it may be that the judicial department is, in all questions submitted to it by forms of the Constitution to decide in the last resort, this resort must necessarily be the last in relation to the other departments of the government NOT IN RELATION TO THE RIGHTS OF THE PARTIES TO THE CONSTITUTIONAL COMPACT, from which the judicial as well as the other departments hold their delegated trusts. **On any other hypothesis, the delegation of the judicial power, would annul the authority delegating it;** and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve.

The grouping of the States of the United States into "regions" for the purpose of exercising governmental powers (multi-state regionalism) and the intimidation of the legislature of each State to divide the State into regions for the purpose of exercising governmental power (sub-state regionalism) constructs a system of government by appointed bureaucrats that by-passes and undermines the lawful government of each State by its elected State and local office-holders. The by-passing of our lawfully elected officials in the exercise of governmental power **is a sedition.**

The exercise by appointed bureaucrats through federal regionalism of powers that were never delegated to the limited agencies in Washington **is a sedition.**

The so-called "executive order No. 11647," purporting to group the several States into ten "regions" is void. This is the conculsion that was arrived at by the Joint Interim Study Committee of our Sister State, your neighbor, Indiana, in its report which gives the following reasons for its conclusion:

> First, "it (the so-called executive order) was legislative in nature and thus invalid under Article I of the Constitution of the United States, which vests 'all legislative power herein granted' in the Congress of the United States."
>
> And second, "neither the States nor the Congress have ever granted authority to any branch or agency of the federal government to exercise regional control over the states."

Federally imposed regionalism is further void because it

violates yet another express provision of the U.S. Constitution—Article; IV, Section 3:

"nor (shall) any State be formed by the Junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress."

The exercise in multi-state regions of governmental powers combines, to that extent, the States that have a right under the Constitution, to remain Free and Independent. It is precisely to that extent that multi-state regionalism also violates Article IV, Section 3.

Americans have long wondered what redress they have against politicians promising their way into office, swearing on their oath to "support this Constitution" and thereafter proceeding to violate every Constitutional limitation at the earliest opportunity. The use of the State's legislative power can enforce observance of Constitutional requirements. The measure recommended by the Indiana Committee is one way to "support this Constitution," by enforcing it.*

A few words to those who tell us that if we enforce our Constitution and violate the Divine Right not of Kings but of Bureaucrats, we shall forfeit the spoonful of pottage that the usurpers threaten to take from us.

We supplied that pottage. By the resourceful and resolute use of the State's legislative power, even the funds being misused as pottage can be taken from those who would substitute their will for the requirements of the Constitution and the judgment of our elected representatives.

In correctly analysing the problem, we are half way to a solution. The problem is usurpation. The solution is to enforce the Constitution. The sky will not fall if we enforce the Constitution. We can however be engulfed, just as the Roman Republic was engulfed, by the constant encroachments of irresponsible centralism.

The legal maxim "fiat justicia, ruat coelum" (do justice, though the Heavens crash) is less the issue today, than the principle, unless justice is done by the enforcement of the Constitutional Compact, the Heavens will, most inevitably, crash.

In Proverbs we find, "remove not the ancient landmark which thy fathers have set" (22:28). That landmark is the Constitution.

The landmark was set by the States when they agreed to a Constitution granting only limited, enumerated powers. The men of our revolutionary period made themselves the exceptions to the maxim of the world and finished the revolution which they began. They founded new governments and administered them in their day and generation until "gathered to their fathers," and they did it with the same wisdom, justice, moderation and decorum with which they began it. We owe a duty of justice to these men and to the People who sustained such men.

Eulogy is not our task, but gratitude and veneration is the debt of our birth and inheritance and of the benefits which we have enjoyed from their labors. The work now being considered by this Committee proposes to acknowledge this debt—to discharge it is impossible—by laboring to restore their work.

Aristotle observed in Book One of his Politics, "the form of a Republic is soon lost when those men are put in power who do not love the present establishment." Many who forsake their oaths to "support this Constitution" have been put in power.

Those who bleed us of our substance through taxation in order to have funds with which to assault our liberties today boldly enter our State capitols and by cajoling; intimidation and bribery seek to compromise the legislative will of those who serve in this Legislature for thousands and for tens of thousands.

Those who misapply our tax dollars reveal a predisposition to authoritarian government. They not only misapply public funds to the end of destroying the basic purpose of all law—to prevent coercion—but they commit manifold contempts of this Legislature in so doing. The awakening of the power of the People through their elected Representatives in their State Legislature is spreading.

In rallying to support their leaders in the Legislature the People of Illinois have shown an awareness of the need for restoring Constitutional limitations. In undertaking the study of regional governance and its effect upon our political institutions your Committee will be starting the State of Illinois on the way back to Constitutional self government.

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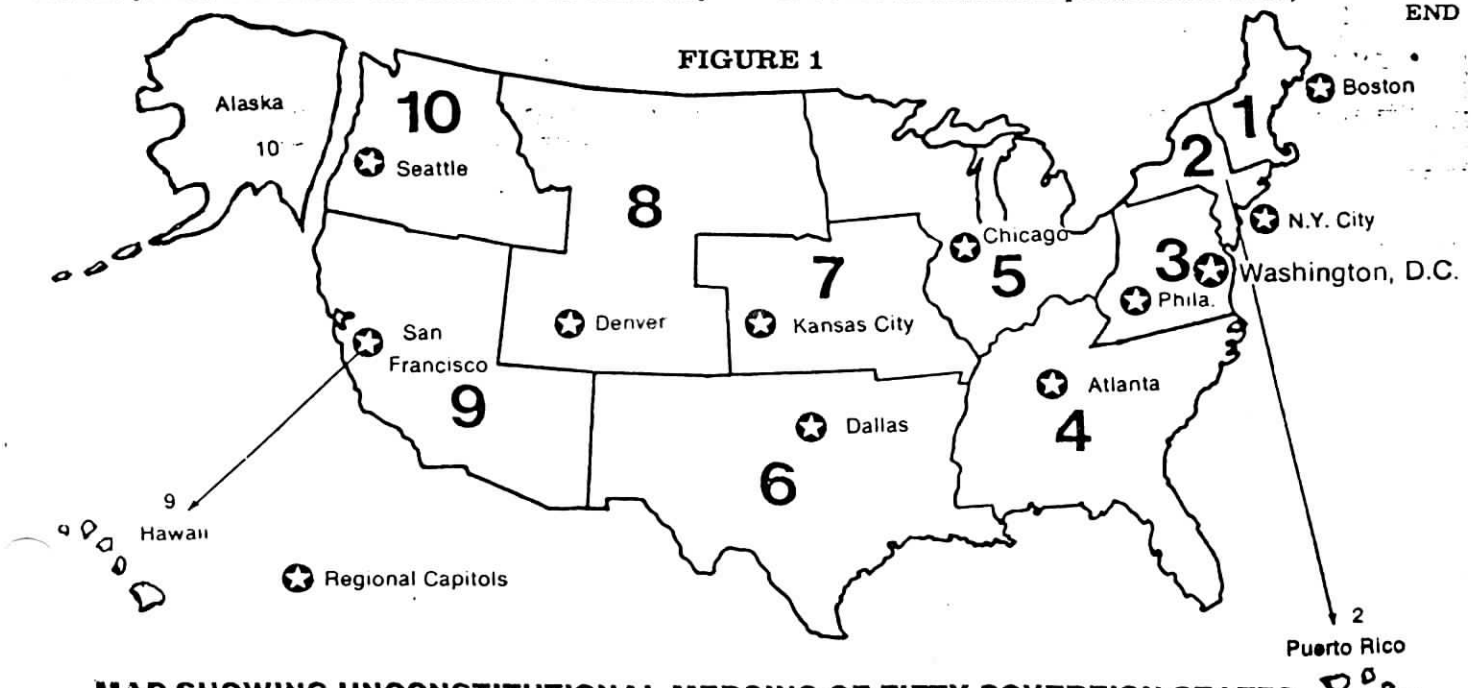
*"Sec. 4. Before the election of a candidate to the Congress of the United States may be certified, the candidate must take an oath or affirmation, in the Indiana county of his residence, to support the Constitution of the United States.

"Sec. 5 (a) A public official of Indiana, or member of the Congress of the United States from Indiana, who violates section 2 of this chapter or breaches an oath or affirmation taken under section 4 of this chapter forfeits his office and is ineligible to hold any other public office for life.

(b) Any person may bring civil action to have the office filled by the public official, or member of the Congress, declared vacant. The former public official or member of the Congress is liable for the costs of the action, including the reasonable attorney's fees of the person bringing the action." (Final Report, November, 1976, Interim Study Committee On Regional Government, Indiana Legislative Council, Room 302, State House, Indianapolis, Indiana 46204.)

END

FIGURE 1



MAP SHOWING UNCONSTITUTIONAL MERGING OF FIFTY SOVEREIGN STATES