

America, We Have a Land Grab Problem

First some basic U.S. History. The U.S. Constitution (Constitution) was signed on September 17, 1787, by 39 of the original 55 delegates to the Convention. Some delegates would not sign the Constitution without a Bill of Rights. On December 07, 1787, Delaware was the first State to ratify the Constitution. On June 22, 1788, New Hampshire became the ninth State to ratify the Constitution which was the minimum needed to make the Constitution operational. The Confederation Congress then established March 09, 1789, as the date to begin operating under the Constitution. By that date, only North Carolina and Rhode Island had yet to ratified the Constitution. Rhode Island was the last State to ratify on May 29, 1790.

The first 10 Amendments to the Constitution were finally ratified on December 15, 1791. Each Amendment is actually considered an Amending Article to the Constitution. Some believed that the Constitution by itself placed all the needed limits on the federal government. (Note needed limits versus ever expanding powers.)

Others, on the other hand, felt the Bill of Rights Amendments were absolutely necessary and that as well written as the Constitution was, a some extra clarification was definitely needed. Additionally, to help quell the belief that the new federal government might come to believe that it had the power to do anything it was not explicitly forbidden from doing, one need only read Amendment X. Amendment X says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This is a crystal clear message to the federal government, which is, if the Constitution does not specifically include a specific delegated or granted duty or power, than you, the federal government, do not possess that duty or power. For me, Amendment X clearly deals with the issue of unspecified or "implied" powers. The concept of implied powers was created as a work around to the Constitutional limits placed on the federal government by the Founders.

Now to the purpose of this writing. Article I, Section 8, of the Constitution is the entire listing of the enumerated powers delegated or granted to the federal government by State governments. Note the source of the giving, the States, and note the recipient of the delegated or granted powers, the federal government. States are the parents, they created the Constitution, ratified the Constitution and it is the Constitution which brought into existence the federal government, the child. The child is to do only what it has been told to do or can do, nothing more.

Article I, Section 8, Clause 17 of the U.S. Constitution says -
[The Congress shall have Power . . .] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be,

for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;

Keep in mind, Clause 17 has never been amended, therefore, it still stands as originally written. Clause 17 refers to the establishment of the District of Columbia (D.C.), the seat of the federal government and what the federal government must do to acquire any more land outside D.C., because, except for D.C., all other land belongs to some State.

Clause 17 clearly states the three conditions that must be satisfied for the federal government to be able to Constitutionally acquire land from a State. 1, the land must be purchased, 2, the State Legislature must consent to the purchase, and 3, the purchase must be for one of the listed stated purposes or other needful building. That's it.

Whether or not the land was intended to be used for a listed Constitutional purpose, another area that must be addressed is the concept that a State can cede, convey or grant State land to the federal government. If a State can not cede land, then the federal government can not accept. Before we can answer yes, we must know what part of a State's Constitution grants that State legislature the authority to do so?

Apparently, the Supreme Court has held that a State may convey, and that Congress may accept, either exclusive or qualified jurisdiction over property acquired within the geographical limits of a State, for purposes other than those enumerated in Clause 17. If the Supreme Court so ruled, then that would mean the Supreme Court has the authority to Amend the Constitution by the decisions it renders. I would say that the Constitution never gave the Supreme Court the power to Amend the Constitution, therefore, any such ruling is not Constitutional and is thus invalid.

We must first consult the Constitution if we are to correctly understand what purposes and needful buildings the federal government is Constitutionally permitted. This begs the question, what is the business of the federal government that brings such a purpose or requires such a building?

The federal government was given the task of establishing Post Offices and post Roads which is not the same as operating post offices. Where in the Constitution does the federal government find its authority to own national park land, locks, dams and be involved with improving navigation and flood control? No where.

If you believe this to be an excessively limited view on my part, please find and read the veto of The Bonus Bill, written as of March 03, 1817, by President James Madison. President Madison is still considered by many to be The Father of the Constitution, which means if he issued a veto of a law proposed by Congress, he knows what he is doing.

This all appears to be a strict limitation on the federal government's ability to acquire land in any State and convert it into federal land. This begs the question,

Currently, how much land does the federal government own in each State?

I reviewed a pdf pamphlet from the Congressional Research Services titled Federal Land Ownership: Overview and Data, updated as of February 21, 2020. Go to <https://sgp.fas.org/crs/misc/R42346.pdf> to see the pamphlet. Go to feded.us to see my spreadsheet summaries.

According to my summaries of the information I reviewed, I learned the following:

Total land in the U.S. is 2,271,343,360 acres, of which, federal government owns 615,311,602 acres or 27% of total land in the U.S.

Total land East of the Mississippi is 547,844,480 acres, of which, federal government owns 27,594,782 acres, or 5.03%.

Total land West of the Mississippi is 1,723,498,880 acres, of which, federal government owns 587,716,820 acres, or 34.1%.

Which means, federal government owns more land West of the Mississippi than the entire land mass East of the Mississippi.

Most federal government land owned per State is in Nevada. Total land in Nevada is 70,264,320 acres, of which, federal government owns 56,262,610 acres or 80%. Alaska comes in fourth on the list with total land of 365,481,600 acres, of which, federal government owns 222,666,580 acres or 60.9%.

The 12 States with the most federal government land owned are, in order, Nevada (80%), Utah (63%), Idaho (61.9%), Alaska (60.9%), Oregon (52%), Wyoming (46.7%), California (45.4%), Arizona (38.6%), Colorado (36.2%), New Mexico (31.7%), Montana (29%) and Washington (28.5%). Note each State is West of the Mississippi.

Next questions include how much of this land was acquired Constitutionally and is it being used for a specified needful purpose or building? These are question that must be answered by each State legislature. This is a Call To Action. Demand the answers from your state legislature, NOW.

Next questions for the reader. Why should you care? What's in it for you? If the federal government "owns" land in your State that was not acquired Constitutionally, then it is up to the State to take back its land. My understanding is that the federal government does not pay property taxes to any State. With land that was taken by the federal government in a manner that exceeded its Constitutional power, the State would now be in the position to benefit from such a return. The land could be leased, rented or sold which would generate funds for the State and provide additional future funds from the collection of property taxes.

Final questions for the reader. What are you willing to do to find out if the federal government has unconstitutionally taken possession and control of your State's land and will you act to return the ownership of the land to your State?