

The State of the Union under a failed Constitution

April 2, 1996

The logical analysis and legal reasoning governing the Federalist 92 proposition on the legal profession's unconstitutional control of all government and the federal crime of treason.

Federalist 92 asserted the proposition that probable cause exists that lawyers occupying public office in either the legislative or executive branches of the federal government are guilty of the crime of treason. The position was developed as an extension of the constitutional prohibition against a single '**same hands' faction** or group controlling all government. The **same hands** group in question consists of the members of the legal profession.¹ That position is being asserted because the unconstitutional power being exercised by the 'same hands' faction in question, is the source of many of the Nation's most serious problems, and that situation is in urgent need of correction lest the Nation go down.

The assertion is being made for two reasons. The first is that it is required by law.² The second is in the hope that the legal profession will finally overcome the cognitive dissonance and self delusion so far extensively exhibited and finally come to grips with the grievous harm it is doing to this Nation. Notwithstanding the egregiousness of the crime involved it is hoped and respectfully recommended, that the Nation limit itself to requiring the resignation from public office of those deemed guilty in exchange for amnesty.³ This commentary is written to aid the understanding of those seriously interested in the issue. It is intended to make clear the sequence of legal arguments that led to the conclusions reached. It should also serve to identify the particular links in the chain of logical reasoning which fail to persuade those who may disagree with the conclusions.

To arrive at the conclusion asserted one must do the the following:

1. Define the crime of treason.
2. Determine what the legal requirements are for a court of law to convict an individual of the crime of treason.
3. Establish why the presence of members of the legal profession in elective office in the legislative and executive branches of the federal government may be deemed an act of treason.
4. Establish that probable cause exists for the general assertion that the presence of members of the legal profession in elective office in the legislative and/or executive branches is treason.

These matters will be addressed one by one.

1. Define the crime of treason.

There are certain 'links' in the causal chain that are facts and others that are opinions. *The following are facts:*

1.1. The Constitution is the supreme law of the land and the Supreme Court is the sole entity with the Constitutional right, responsibility and authority to interpret the Constitution.

1.2. Article III, Section 3. of the United States Constitution **defines the crime of treason.** Title 18, USCS, (Crimes and Criminal Procedure) Section 2381 of the Federal Statutes which is the Federal Statute implementing Article III, Section 3, of the Constitution, **further defines treason as follows:**

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere is guilty of treason and shall suffer death, or be imprisoned for not less than five years, and fined not less than \$10,000; and shall be incapable of holding office under the United States.

1.3. The case of *United States v Haupt*, D.C.III., 47 Supp. 836, 839 expanded the definition of treason to mean any act which '*strengthens or tends to strengthen the ability of the enemies of the United States or which weakens or tends to weaken the power of the United States to resist such enemies.*'

2. Determine what the legal requirements are for a court of law to convict an individual of the crime of treason.

The following are statements of fact:

2.1. Supreme Court Justice Douglas in *Cramer v United States* (1945) 325 US 1, 65 S Ct 918, stated that the crime of treason consists of two elements, which are: the overt act and the treasonous intent. (Thus unless the **Park doctrine** applies {see footnote 7} an individual can only be convicted of the crime of treason if he commits an *overt act with treasonous intent*).

3. Establish why the presence of members of the legal profession in elective office in the legislative and executive branches of the federal government may be deemed an act of treason.

The following are statements of fact:

3.01. The Constitution was written in 1787 by James Madison.

3.02. The motivation for writing the Constitution was that the United States Federal Government operating under the Articles of Confederation, did not have sufficient power to govern.⁴

3.03. To make certain that the Federal government was given *sufficient power to govern but insufficient to oppress*, the Constitution

incorporated a system of 'Separation of Powers' and checks and balances into the government's structure. The government was divided into three separate branches, the judiciary, the executive and the legislative. The system was designed to provide each branch of government with sufficient power to check and balance the powers of the other two branches.

3.04. The principle of Separation of Powers is an essential cornerstone principle of the Constitution because it protects the people of the United States from their own government.

3.05. There is nothing in the Constitution that requires any person to be a lawyer in order to serve as a judge or in order to represent others, in a federal court of law. Thus non lawyers may constitutionally serve in any and all offices of the federal Judiciary. Nevertheless the federal Judiciary is de facto under the absolute control of members of the legal profession.

3.06. The Constitution required ratification by the individual States in order to become law.

3.07. In 1787 the State of New York had expressed opposition to the Constitution and appeared unwilling to ratify.

3.08. To persuade the people of the State of New York to ratify the Constitution, James Madison, Alexander Hamilton and John Jay, wrote a series of 85 newspaper articles which became known as *The Federalist Papers*.

3.09. *The Federalist Papers* outlined in the fullest detail the intentions of the founding fathers and the author of the Constitution as to why the Constitution was written, what it was intended to accomplish, why the principle of separation of powers was essential to freedom and how its implementation would protect the people against their own government.

3.10. The Federalist Papers are recognized by the Supreme Court as the source of interpretation of the Constitution, second only to the Constitution itself.

3.11. James Madison, Alexander Hamilton, Thomas Jefferson and the great French philosopher Montesquieu were unanimous in believing the principle expressed by Madison in Federalist 47 concerning tyranny arising from any *single hands* faction or group controlling all government. Madison wrote:

*No political truth is certainly of greater intrinsic value.... than that the accumulation of all powers legislative, executive and judiciary, in the **same hands**, may be pronounced the very definition of tyranny.*

(Emphasis added)

3.12. James Madison defined the term 'same hands' or 'faction' in Federalist 10 as follows:

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse or passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

Henceforth the causal links represent opinions and conclusions arrived at by this writer:

3.13. Any action which would materially undermine the Constitution, would adhere to and give aid and comfort to the enemies of the United States, as well as weaken the United States and strengthen its enemies.

3.14. *Any tendency which could result in the nullification of the principle of Separation of Powers*, which is an essential cornerstone principle of the Constitution and which is the source of both representative government and protection of the people from their own government, ***would materially undermine the Constitution***

3.15. Because Madison wrote the Constitution to include a Separation of Powers principle to make sure that no 'same hands' faction could ever control all government, ***control or tendency to control all government by any 'same hands' faction would constitute either nullification or the tendency towards nullification, of the principle of Separation of Powers***, and therefore a material undermining of the Constitution.

3.16. Madison's definition of a '*faction*' consisting of '*same hands*' applies to all professional groups as well as many other kinds of groups. The legal profession like all other professional associations or groups, is a same hands faction or group within the meaning of Madison's definition. Therefore ***all members of the legal profession*** be they lawyers or judges, are a part of and belong to, that which Madison defined as a '*same hands*' ***faction*** or group.

3.17. When the members of the legal profession acquired absolute control of the Judiciary Branch of the Federal government they became a 'same hands' faction or group in control of one third of all government. From that moment forward any member of the legal profession who occupied elective public office in either the legislative or executive branch of government would by his presence constitute a '*tendency to nullify the principle of separation of powers of the Constitution which would result in the material undermining of the Constitution, which would adhere to and give aid and comfort to the enemies of the United States, etc.,*' which action, by a person owing allegiance to the United States, constitutes treason.

3.18. At the present time the 'tendency' to nullify the principle of separation of powers ***has become a total 'nullification of the Separation***

of Powers.' That is because the effective control of all government is and has been in the hands of the legal profession for some time.⁵

4. Establish that probable cause exists for the general assertion that the presence of members of the legal profession in elective office in the legislative and/or executive branches is treason.

4.1. It is the duty of every person who owes allegiance to the United States and who has *knowledge of treason* to report it to the proper authorities under penalty of law. It is also the right of every person, in the eyes of the law, to be innocent until proven guilty. ***Thus the words 'knowledge of treason' in the law can only mean 'probable cause' that treason exists.*** That means to have *'reasonable ground for belief in the existence of facts warranting the proceedings complained of.'*⁶

4.2. The crime of treason requires a person to commit an overt act with a treasonous intent.⁷ The overt act, for a member of the legal profession, is the act of occupying elective public office in either the executive or legislative branch of the Federal Government and is a matter of undisputed public record.

4.3. The treasonous intent aspect is covered by the law under *Cramer*.⁸ In that case actual treasonous intent was determined to be legally inferable from the *circumstances and knowledge* of the individual. Lawyers specifically trained in the law are required to know the Constitution. That *knowledge and the circumstance of occupying elective office in either the executive or legislative branches*, requires the law to *infer that they legally intend* to nullify or tend to nullify the separation of powers principle of the Constitution and *that such action constitutes treason.*

4.4. The above establishes *'reasonable grounds for belief in the existence of facts warranting the proceedings complained of,'* which is ***probable cause*** for asserting that members of the legal profession who occupy the aforementioned elective offices are guilty of treason.

Conclusion:

It is evident from the legal argument presented that the assertion made is fully supported by the evidence.

PUBLIUS II
(Ronald Bibace)

About the author: *This writer is a constitutional scholar who wrote Federalists 86 - 93, in defense of the Constitution. He is like Madison, a non lawyer and like Hamilton an immigrant and naturalized American.*

1. See Federalists 87,88,89,90,91, 92 & 93 by this writer.
2. Failure to report knowledge of treason is a crime known as *Misprision of treason*. United States Title 18, Section 2382.
3. The purpose is to remedy a very serious problem not to punish or place blame.
4. See Federalist Papers 1787.
5. The Judiciary Branch of government has been under their absolute control for a very long time. The Executive Branch is 100% controlled by members of the profession because at this time, both the President and Vice President are lawyers. The United States Senate includes 50% lawyers and the House of Representatives about 40%. No other 'same hands faction' has more than a few members in either Chamber. Thus the legal profession is in total effective control of all of the federal government. *Effective* control remains in the hands of the legal profession even when the President is a non lawyer.
6. Black's Law Dictionary: A definition of *probable cause*.
7. That assertion makes the unproved assumption that the Park doctrine does not apply. That doctrine in *Park v United States*, (1974) 421 US 658,668, established the principle of 'strict liability' or 'liability without fault' in criminal cases. If applicable here the doctrine *eliminates the need for proof of intent*.
8. *Cramer v United States*, (1945) 325 US 1, L Ed 1459, 1460