

How the Founders Explained Limits on the Federal Government

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

— James Madison, Federalist No. 45



By: Rob Natelson | Published on: Jan 21, 2026

Current controversy over the power of President Trump to send the National Guard into American cities reminds us of perennial questions about the extent of federal jurisdiction: In a system of divided sovereignty, where does central power end and exclusive state authority begin?

Writers on this subject, when they are not merely expressing their political preferences, often focus on the Founding-era meanings of constitutional words such as "commerce." Few have addressed how the Constitution's sponsors represented the prospective scope of federal powers to the ratifying public.

For example, the Supreme Court case that construed the Constitution's Taxation Clause to permit unlimited spending relied on a single claim by only one of the document's sponsors, Alexander Hamilton. Hamilton's claim had been hotly-disputed by other Founders and advanced only after the document had been ratified.

Moreover, in the first of the two cases principally responsible for widening the Commerce Clause into a power to regulate the entire economy, the court cited none of the Constitution's sponsors. The second case cited only a statement by John Marshall (who had been a Virginia ratifier) issued long after the ratification, and the court depicted even that statement inaccurately.

The Importance of Sponsors' Representations

Failure to consider the sponsors' representations of the Constitution's meaning seriously impairs the quality of interpretation. The Supreme Court has recognized that, when construing a legal text, pre-enactment comments from the sponsors about the text's purpose or effect are entitled to "substantial weight." This is so because voters presumably relied on the sponsors' representations. By contrast, statements made by non-sponsors are entitled to little weight and those made by opponents are entitled to even less.

Founding-era lawyers understood the value of sponsors' representations, although they stated it in Latin. *Nemo contra factum suum venire potest* ("No one may benefit [literally, "come"] in violation of his own deed") and similar maxims implied that sponsors would not be heard to deny their own pre-enactment representations.

Availability

The historical record is rich with representations from advocates of the Constitution—directed specifically at the ratifying public—on the prospective limits of federal power. The Constitution's promoters issued these representations *before* the Constitution was ratified to reassure the public that opponents' histrionic warnings of central tyranny were baseless.

JCRmc
Packet
February 9, 2026

Some of these representations, such as those in *The Federalist*, were published in newspapers. Others were presented in speeches delivered in public or at state ratifying conventions. One pronouncement appeared in a private letter.

They took the form of enumerations of activities the Constitution would leave to exclusive state jurisdiction, so long as those activities occurred within state boundaries rather than within federal territories or enclaves.

The Enumerators

A few published enumerations remain unattributed. For the overwhelming majority, however, we know who the authors were. They were an extraordinarily impressive group.

Two of the most important were James Madison and Tench Coxe. Coxe was a Philadelphia merchant and economist who later served under Hamilton as assistant secretary of the treasury. Coxe's explications of the Constitution were published and re-published in newspapers throughout the country, and were among the essays most read during the ratification debates.

All of the other major enumerators were lawyers. Not just any lawyers, but some of the most distinguished of their profession. They were people who could read and accurately interpret a legal text, so their views are entitled to, as the Supreme Court might say, "substantial weight." Their names and legal credentials follow. Most also had political careers, which I have not detailed:

- * Alexander Hamilton, a delegate to the Constitutional Convention, was then at the apex of the New York bar and the leader of the pro-Constitution forces at the New York ratifying convention. Although he often is cited for his post-ratification claims promoting unlimited federal spending, Hamilton also issued pre-ratification pronouncements of a very different tenor.
- * James Wilson of Pennsylvania, another Constitutional Convention delegate, was at the top of his state's bar. He was the leader of the pro-Constitution forces at the Pennsylvania ratifying convention.
- * Edmund Pendleton was Virginia's chief justice and was widely known as "Virginia's Mansfield," a reference to England's greatest chief justice. Pendleton chaired the Virginia ratifying convention.
- * John Marshall was a spokesman for the Constitution at the Virginia ratifying convention and later was Chief Justice of the United States.
- * Alexander White was educated at the English Inns of Court and had served as King's Attorney (i.e., attorney general) for the colony of Virginia. He, too, was a delegate to the Virginia ratifying convention.
- * James Iredell had served as a North Carolina judge and state attorney general. He led the pro-Constitution forces at the first North Carolina ratifying convention, and later became a justice on the U.S. Supreme Court.
- * Alexander Contee Hanson, another prominent lawyer, was a delegate to the Maryland ratifying convention. He later served as state chancellor, and became Maryland's most famous legal codifier.

* Nathaniel Peaslee Sargeant, a Justice (and shortly thereafter, Chief Justice) on the Massachusetts Supreme Judicial Court.

* Nathaniel Chipman had been educated at Yale College and at Judge Tapping Reeve's famous Litchfield Law School in Connecticut. He was Chief Justice of the Vermont Supreme Court, and led the pro-Constitution cause at the Vermont ratifying convention.

A Consistent Message

Enumerations of exclusive state powers differed in length. Some included just two or three items, offered to exemplify the limited reach of the new federal government. Others were extensive. Illustrative of an extensive enumeration is one published by the *Pennsylvania Gazette* (Benjamin Franklin's former newspaper) on December 26, 1787, at the height of the ratification controversy. This enumeration was anonymous, but probably was authored by Tench Coxe:

"The federal government neither makes, nor can without alteration make, any provision for the choice of probates of wills, land officers and surveyors, justices of the peace, county lieutenants, county commissioners, receivers of quit-rents, sheriffs, coroners, overseers of the poor, and constables; nor does it provide in any way for the important and innumerable trials that must take place among the citizens of the same state, nor for criminal offenses, breaches of the peace, nuisances, or other objects of the state courts; nor for licensing marriages, and public houses; nor for county roads, nor for any other roads other than the great post roads; nor for poor-houses; nor incorporating religious and political societies, towns and boroughs; nor for charity schools, administrations on estates; and many other matters . . ."

To restate the argument in modern terms: Within their boundaries, state governments will enjoy authority, to the exclusion of the central government, over wills and inheritance, real estate, local government, most areas of civil justice, criminal law, social services, schools, religious and political groups, local road construction, tavern licensing, and domestic relations.

A striking fact is that these enumerations, whether short or long, were remarkably consistent. The Constitution's spokesmen did not alter these messages to suit different audiences.

What The Constitution's Sponsors Said

Following is a summary of those activities that the Constitution's sponsors listed as exclusively matters of state regulation. Where I mention specific sponsors, the designation is illustrative only; often I could list several other names.

Training the Militia and Appointing Its Officers. Federalist spokesmen, most notably Madison and Marshall, emphasized continued state control over the militia—what we now call the National Guard. Federal authority over the militia would be limited to repelling invasions, suppressing insurrections, enforcing federal law, and writing general regulations to be applied by the states. The militia would be employed for defensive purposes only, and would not be sent out of the country.

Local Government. Advocates such as Sargent and Coxe represented incorporation of local government, regulation thereof, and selection of local officers to be exclusively matters of state concern.

Regulation of Real Property. Pendleton, White, Marshall, Chipman, and others assured the public that only the states would govern real property within their boundaries. This included exclusive power over land titles, land transfers, descents, and other aspects of real estate.

Regulation of Personal Property Outside of Commerce. Marshall and other sponsors of the Constitution assured the public that regulation of personalty outside interstate commerce was to be exclusively a state responsibility. As examples, they itemized testamentary and intestate succession, firearms for hunting and self-defense, and titles to goods. Exceptions were the congressional powers to adopt patent and copyright laws.

Domestic and Family Affairs. Coxe, Sargent, and others affirmed that domestic life was exclusively a matter for state regulation. Specifically mentioned were guardianship, marriage, divorce, issues of legitimacy, and sumptuary laws. As an anonymous author put it, only states would protect men in “possession of their houses, wives, children.”

Criminal Law. Outside of a few areas, criminal law was exclusively a state concern. Thus, at the North Carolina ratifying convention, Iredell asserted that Congress could provide for the punishment of treason and that “[t]hey have power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations,” but that “[t]hey have no power to define any other crime whatever.”

Civil Justice. Modern advocates of federal tort reform may find it discomfoting, but the Constitution’s sponsors affirmed that—other than matters of federal law and disputes among citizens of different states—supervision of civil justice was reserved exclusively to the states. Specific examples encompassed libel, other forms of defamation, nuisance, debts, and contracts.

Religion and Education. Federalist spokesmen listed as exclusive state concerns religion, the establishment of religious institutions, the incorporation of religious entities, and establishment of schools.

Social Services. Several Federalist spokesmen such as Hanson and Coxe, ruled social services out of the national sphere.

Agriculture. Hamilton affirmed in *Federalist* No. 17 that “the supervision of agriculture and of other concerns of a similar nature . . . can never be desirable cares of a general [i.e., national] jurisdiction.” Justice Sargeant wrote that only the states would have power to regulate “common fields” and “fisheries.” These representations are consistent with the Constitutional Convention’s decision to reject a motion for a federal secretary of domestic affairs, who, among other duties, would regulate agriculture.

Other Business Enterprises. Federalists represented that, outside the immediate stream of commerce across political boundaries, regulation of non-agricultural business was exclusively a state prerogative. Thus, Hamilton, Wilson, and others affirmed that (even before the First Amendment) the central government would have no power over the press. Hanson identified

promotion of “useful arts” (technology) as exclusively a state concern. Coxe added to the exclusive state sphere “public houses, nuisances, and many other things of like nature.”

Also cited as matters of exclusive state concern were roads, including ferries and bridges, unless they fell under the federal post road power. (During the Founding era, a “post road” was an intercity highway punctuated by rest stops called “stages” or “posts.”).

Conclusion

The consistency and clarity of these representations, the authoritative status of their authors, and the likelihood that the ratifying public relied on them all underscore their value in constitutional interpretation.

These representations also raise uncomfortable questions about the legitimacy of much of the modern federal establishment. But that is a topic for another day.

Readers seeking further detail, including specific citations, should consult the following by the author:

John Mearsheimer asks How Will the Ukraine War End?

by John Mearsheimer | Feb 3, 2026 | News | 2 Comments

Reprinted from John's Substack:

On 30 January 2026, Glenn Diesen and I discussed how the Ukraine war is likely to end, paying special attention to the pressure on Putin to escalate to end the war in the near future. In that regard, we talked about the possibility of nuclear use, which some prominent Russian strategists like Sergey Karaganov are advocating. I argued that I think Ukraine will collapse on the battlefield in the near future, given the balance of forces, the casualty-exchange ratio, and the dwindling material support for Ukraine from the West. But, if that does not happen, I would expect the Russia to escalate in a major way to end the war, although I find it difficult to see Putin using nuclear weapons. Nevertheless, one does not want to underestimate what a great power might do if it is truly desperate. Doubters should consider the Japanese attack at Pearl Harbor on 7 December 1941. Japanese leaders were not crazy. They fully recognized that there was only a tiny chance Japan would win, but they were desperate — US oil, scrap iron, and steel embargoes were strangling their economy — and struck anyway.

John Mearsheimer: Cold War 2.0 & NATO's Defeat in Ukraine

The Unz Review • An Alternative Media Selection

A Collection of Interesting, Important, and Controversial Perspectives Largely Excluded from the American Mainstream Media

Will He, or Won't He?

RON PAUL • FEBRUARY 2, 2026 • 600 WORDS • 7 COMMENTS

For the past month, Americans have been wondering whether President Trump will attack Iran, or whether the massive military build-up in the Middle East is just another bluff. President Trump claims that the decision is his alone to make.

Thus far, President Trump has made little effort to explain to the American people – or to Congress – why launching a war against Iran is in our national interest. Instead, he wanders from one reason to another, hoping something will stick. First it was a “nuclear threat” even though he swore that he had “obliterated” Iran’s nuclear program last summer. Then, after the CIA, Mossad, and UK’s MI6 launched a regime-change operation in the form of violent protests in late December, the excuse for war became the Iranian government’s crackdown on the insurrection. But before that could be used as the excuse, the Iranian government was able to quash the uprising. So President Trump returned to the issue of Iran’s nuclear program, while adding in the presence of Iran’s ballistic missile program.

Even by the low threshold for recent US military actions overseas, these arguments are unconvincing. That is why Americans are so skeptical. In a major poll last month, seven in ten Americans said they oppose any US military action against Iran.

When it comes to matters of war, where billions of dollars and countless lives are at stake, “will he, or won’t he” is a terrible question to have to ask. More than 250 years ago we rose up against a system where the king claimed the power to take us to war on his royal decision alone. Our Founding Fathers well understood the folly of concentrating so much power in the hands of one person and placed the power to take the country to war in the hands of the people’s direct representatives, Congress.

This Constitutional obligation has not only been usurped by the Executive Branch. Much blame must be reserved for Congress, which has allowed itself to become a doormat for whoever occupies the White House when it comes to war powers. Members of the president’s own party – regardless of which party it is – are terrified of going against “their” president and members of the opposing party are silent because they don’t want to be accused of not “supporting the troops.”

The media is reporting that Israeli prime minister Benjamin Netanyahu will make yet another trip to Washington – his sixth in one year – where he is expected to again pressure President Trump to launch a war on Iran. Last time he was in the US – in December – the regime-change protests in Iran were launched. What does he have up his sleeve this time?

How can it be that a foreign leader has more say on whether we go to war than the US Congress?

Here’s what we do know. Whether Trump launches a war or not, the massive military build-up in the Middle East has already cost us billions of dollars. Those are billions that instead of helping to actually make America great again will only make the military-industrial complex “greater.” All the American people will see is the continuing destruction of the dollar and with it more inflation and a lower standard of living at home. And, of course, we will see a “war supplemental” spending bill on top of the trillion-dollar military budget for the year.

(Republished from The Ron Paul Institute by permission of author or representative)

The Oxymoron of Dual Citizenship

IN DECEMBER, SENATOR BERNIE Moreno, a Republican from Ohio, introduced the “Exclusive Citizenship Act of 2025,” which states, “An individual may not be a citizen or national of the United States while simultaneously possessing any foreign citizenship.”

Moreno’s bill came in response to the growing number of Americans who possess “dual citizenship,” something that was exceedingly rare before the 1970s and remained uncommon until the last two or three decades. The bill’s intentions are clearly stated in three points:

“To preserve the integrity of national citizenship, allegiance to the United States must be undivided.”

“Existing law allows certain United States citizens to maintain foreign citizenship, which may create conflicts of interest and divided loyalties.”

“It is in the national interest of the United States to ensure the United States citizenship is held exclusively.”

At five years old, Senator Moreno immigrated to the U.S. from Columbia with his family and became a U.S. citizen at 18. “Being an American citizen is an honor and a privilege—and if you want to be an American, it’s all or nothing,” Moreno said in a statement after the introduction of his bill. “It’s time to end dual citizenship for good.”

Martha McDevitt-Pugh, who resides in the Netherlands and is the chair of both Democrats Abroad and Global LGBTQ+, responded to Moreno’s bill almost immediately,

Dual citizenship is not a threat—it’s an asset that reflects the reality of an interconnected world where Americans live, work, serve, and advocate for U.S. interests on a global scale. Questioning loyalty because a citizen possess *[sic]* another passport is not just wrong: it’s an attack on the millions of Americans whose lives span borders and who contribute every day to the strength of the United States.

Growing up, I had no idea there was such a thing as dual citizenship. I knew adults who were naturalized, but they had taken the Oath of Allegiance, which required them to “absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty” to which they had once been a subject or citizen. The use of the word “abjure” carried religious overtones. Strong stuff. No wiggle room in that oath.

In high school and college political science courses, I heard about naturalization but nothing about dual citizenship.

Upon joining the Marine Corps, I swore to “support and defend the Constitution of the United States against all enemies, foreign and domestic” and to “bear true faith and allegiance to the same.” I would never have thought there was any wiggle room in that oath, either.

During those years, I may not have heard about dual citizenship, but I did hear about British impressment of American sailors. It was one of the reasons we fought the American Revolution and established the Marine Corps. The British claimed Americans were “subjects” of the Crown, no matter where they were born or where they lived. If the Royal Navy needed more sailors, they were forcibly taken from American merchant vessels. American complaints were futile.

In the 1783 Treaty of Paris, which ended the American Revolution, Britain recognized the sovereignty and independence of the United States and differentiated between “Subjects” of the British Crown and “Citizens” of the United States. This should have ended impressment.

However, as the Napoleonic Wars (1803-1815) progressed and Britain faced manpower shortages, the practice began again. Britain excused itself by saying it did not recognize American naturalization of British subjects and was taking only those sailors who had immigrated to America post-Treaty of Paris. The U.S. protested in the strongest terms, but the Royal Navy continued to impress sailors until more than 6,000 were spirited away. This was one of the principal causes the War of 1812.

Britain continued disregarding American naturalization of British subjects until 1870. The change was a result of the Fenian raids into Canada following the Civil War and the 1867 Fenian Rising in Ireland. Taking their name from the followers of the third century A.D. Irish hero Finn Mac-Cool, the Fenians were dedicated to driving Britain out of Ireland and to establishing a free and independent Irish Republic.

Upwards of 200,000 Irish-born men fought in the Civil War, 150,000 or more for the Union and another 40,000 or more for the Confederacy. Since these men had been born in Ireland under the suzerainty of the British Crown, Britain regarded them as British subjects. Having become naturalized U.S. citizens and having fought in the Civil War was of no consequence to Britain. Tough luck, mate!

When these veterans joined Fenian groups and attacked British forts in Canada or returned to Ireland and supported the Fenian Rising there, Britain considered them traitors. When captured, they were

not afforded the protections, legal representation, and due process they should have had as foreign nationals.

This cavalier disregard of American citizenship caused Congress to pass the Expatriation Act of 1868, which declared it was “a natural and inherent right of all people” to renounce one’s citizenship. Britain was not eager to surrender her principle of perpetual allegiance but after two years of American pressure, debates in England, and fear of making martyrs of Fenian prisoners, Britain abandoned it.

At the same time that the United States worked to insure that naturalized Americans had no obligations to their native lands, the State Department worked to disallow dual citizenship. The Expatriation Act of 1907 codified several decades of State Department decisions. It included many provisions but, most importantly, declared an American who was naturalized in a foreign state or who took an oath to a foreign state lost his U.S. citizenship.

Also, if a naturalized American lived in his native land for more than two years or in any foreign land for more than five years, he would lose U.S. citizenship. A woman who married a foreign national would lose her U.S. citizenship and take the nationality of her husband. If she gave birth to a child on U.S. soil, that child would be a U.S. citizen *and* a citizen of the husband’s country, but only until age 21, when he’d have to “elect” one citizenship.

The prohibition on dual citizenship remained mostly in place until 1967, when the Supreme Court ruled in *Afroyim v. Rusk*. Efraim Bernstein, later known as Beys Afroyim, was a Polish Jew, who immigrated to the U.S. in 1912 and became a naturalized citizen in 1926. His communist activism caused him ever more problems and in the late 1940s he resettled in Israel. In 1960, he attempted to return to the United States but was denied a passport and told he had lost his U.S. citizenship because he had voted in Israeli elections.

With the aid of ACLU lawyers, Afroyim fought his loss of citizenship in U.S. courts. He lost again and again, until the Supreme Court ruled 5–4 in his favor, saying that under the 14th Amendment the government couldn’t strip a person of his citizenship. Dissenting opinion argued that nothing in the 14th Amendment or elsewhere in the Constitution prevented the government from revoking a person’s citizenship in accordance with laws passed by Congress.

The Supreme Court’s decision opened the way for dual citizenship. Such a status, of course, also depended on a second country

allowing it. Israel has allowed dual citizenship since its 1948 inception and codified it in the 1950 Law of Return and the 1952 Citizenship Law. In 2023, *The Times of Israel* estimated there were more than 200,000 people living in Israel who were dual citizens of the U.S. and Israel. The 2020 Census estimated 191,000 Israeli Americans living in the U.S. There are also thousands of Americans serving in the Israel Defense Forces—exactly 23,380, according to a 2024 article by *The Washington Post*. It's unclear how many of these are reservists living here in the U.S., who were called to active duty following the Hamas attack in October 2023.

In May 2024, a bill was introduced in the House to afford these Americans serving in Israel the same protections American reservists called to active duty in the U.S. military receive. The authors of the bill say the legislation will provide protections against foreclosure, default judgements in legal cases, repossession of rental property, increase in interest rates, and loss of a civilian job for those serving.

It seems astounding that the U.S. government would provide such benefits to those serving in the armed forces

of a foreign nation but so is allowing—at least since 1967—dual citizenship. The bill was referred to the Committee on Veteran Affairs and then to a subcommittee. It has not emerged from committee.

Though Israel-United States dual citizenship has gained the most attention, it is not the most common by a long shot. Dual citizens of Mexico and the United States are in the hundreds of thousands and have the potential to reach 10 million or more in the near future. We have no exact numbers because neither Mexico nor the U.S. compile data on dual citizens—or so we are told. Mexico's 1998 Nationality Act makes dual citizenship easy, allowing American-born children of at least one Mexican parent to become Mexican citizens simply by filing out a form.

Moreover, Mexico has been promoting dual citizenship ever since the passage of the Nationality Act. In 2000, Mexican President Vicente Fox urged Mexicans living in the U.S. to naturalize, reassuring them that they wouldn't lose Mexican citizenship and their American-born children would be eligible for Mexican citizenship. Dual citizenship for either them or their children

was another powerful incentive for Mexicans to enter the U.S., legally or illegally.

The consequences of uncontrolled Mexican migration can be seen most dramatically in California, which had only a single-digit minority of Mexicans in the 1950s and '60s. Mexicans are now a plurality of the population in California and comprise the majority of the children. It's likely they will achieve majority status in another two decades. Once thought a demographic change peculiar to California, Texas is now heading the same direction.

Since both California and Texas share a border with Mexico, this leads to some interesting speculation. What if Mexico developed a reserve military force of dual citizens similar to that of Israel? Proportionately, instead of 23,000 soldiers, that would be 450,000, or nearly two-and-a-half times the current size of the Marine Corps.

It would seem it's time for Bernie Moreno's Exclusive Citizenship Act. How can it even be possible to pledge loyalty to two nations? Dual loyalty is an oxymoron. ♦

The price system has two outstanding features. First, it is by all odds the most efficient system of social organization ever conceived. It makes it possible for huge multitudes to cooperate effectively, multitudes who may hardly know each other's existence, or whose personal attitudes toward one another may be indifference or hostility. Second, it affords a maximum of individual freedom and a minimum of coercion. And since people can cooperate effectively in production even when their attitudes on other issues are hostile, there is no need for unity and conformity in religion, politics, recreation, and language--or even in patriotism and good will except in the very broadest sense.

— W. Allen Wallis, *The Freeman* [July 1957]

The percentage of correct decisions which individuals make is very high when they are risking their own money and their own future. The percentage of correct decisions is very low when made by politicians, so-called intellectuals, and others, regardless of their intelligence, who are not faced with the discipline of having to pay for their own mistakes with their own earnings.

— A.W. Stewart

Does the US Still Have a Constitution?

February 5, 2026

By Andrew P. Napolitano

Legal scholars have many lenses through which to examine the Constitution. Lawyers need to master about 150 Supreme Court decisions in order to have a sufficient understanding of the government. But most of what lawyers have studied is theory — how the Constitution is supposed to work, as opposed to how it actually does work. This “supposed to” versus “actually does” conundrum is often called the formal versus the functional.

Formally, the United States still has a Constitution. We still have the three branches of government. Congress still has the House of Representatives and the Senate. The president is still elected by the Electoral College. The courts still function to resolve disputes and to define what the laws mean and what the Constitution means.

Yet, thanks in large measure to the public fear and mania in the war on drugs in the 1980s and 1990s, the war on terror in the 2000s and 2010s, and now the war on immigrants, functionally, Congress found it easy to cut constitutional corners and to look the other way as one crisis after another has led to the expansion of executive powers and the erosion of personal freedoms.

The principal victim in all these wars has been the quintessentially American right to be left alone, which is expressly protected in the Fourth Amendment, which reads: “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or Affirmation, and particularly describing the place to be searched or the persons or things to be seized.”

The courts have held that all searches and seizures, except for a few exigent circumstances, undertaken without warrants are by definition unreasonable, and thus in contravention of the amendment.

In 1947, when overstaying an immigrant’s visa was a civil wrong — like filing your taxes late or failing to shovel the snow from your sidewalk — Congress crafted the concept of administrative warrants in which one federal agent authorized another to look for these civil wrongs. The theory was these were not crimes and no one could go to jail, so a judicial warrant wasn’t needed.

The war on drugs began the slow erosion of the right to privacy by a law enforcement belief that the mere possession of controlled dangerous substances was so harmful to the social order that its eradication was a greater good than preserving constitutional norms. Unfortunately, this attitude permeated into the judiciary, which soon became loath to allow — using Justice Benjamin Cardozo’s phrase — the criminal to go free because the constable has erred.

But, in the war on drugs, just like in the war on terror, the constable did not err, he intentionally violated constitutional norms because of a belief that he could get away with it.

Then in 2001, the Patriot Act permitted one federal agent to authorize another to conduct searches of personal private records in the custody of one’s physician,

lawyer, banker, telephone and computer service provider, even the mailman. The theory was that you gave up your privacy when you allowed these custodians to house your records. And, in a strike at the First Amendment, it prohibited the recipient of an agent-written warrant from telling anyone of its receipt.

Then, after the drumbeat of anti-immigrant hysteria and paranoia infected government at nearly all its levels and Congress converted immigration violations from civil wrongs to criminal acts, the feds told their agents to use administrative warrants to arrest people.

This was done in blatant violation of the Fourth Amendment, and is being done somewhere in the United States even as this essay is being read. Administrative warrants are general warrants that authorize the bearer to look where he wishes and seize what he finds. The British use of general warrants was a principal impetus to the American Revolution. The whole purpose of the Fourth Amendment was to eliminate and forbid general warrants.

Today in Minneapolis and elsewhere, searches and seizures of persons, houses, papers and effects are being conducted without judicial warrants. Administrative warrants often don't even name the person seized. They permit appearance, occupation and location as the descriptive authorization for group stops and arrests. This has resulted in regular, consistent, systematic and massive violations of Fourth Amendment rights of citizens and immigrants.

Throughout this sordid history of government indifference to the Constitution, the attitude of the feds who did the violations, and often the jurists and jurors who validated them, and the legislators who enabled them, has been us versus them. We don't use drugs, they do. We aren't terrorists, they are. We were born here, they weren't.

Until now.

Now, we have seen on the streets and in the homes of the hapless residents of Minneapolis the reason we have a Fourth Amendment. The government cannot be trusted to evaluate or restrain itself when it comes to compliance with the Constitution. Hence the solemn requirement of the interference by the judiciary between the government and its targets. Hence the absolute requirement of probable cause of crime. Hence the mandatory requirement of specificity.

Now, the Trump administration — beating the bushes against all immigrants, even longtime law-abiding residents with American children and grandchildren — has used administrative warrants, which have never been authorized by the Supreme Court, to break down the doors of the homes of immigrants and American citizens and drag them in their underwear in subzero weather to awaiting government vehicles.

Now, the same feds who trample freedoms kill innocent Americans in the streets.

Paraphrasing Justice Louis Brandeis, when the government becomes the lawbreaker, it breeds contempt for the law and due process; it invites anyone to become a law unto himself; it propagates the anarchy it produces.

There have been times when the Constitution protected us. Functionally today, those days are gone.

Lincoln's Union Army Was More Evil Than the Israeli Defense Force

February 7, 2026 By Paul Craig Roberts

Recently someone sent me a copy of Walter Brian Cisco's book, *War Crimes Against Southern Civilians*. Until I began reading this book, I had regarded Israel's "defense force" as the ultimate in barbarism. The Israelis justify shooting mothers and babies in the head on the grounds that all Palestinians are terrorists, and that the babies will grow up to be terrorists and that the mothers will have more babies that will grow up to be terrorists, and that is better to kill the mothers and the babies before this happens.

The Israelis acknowledge this, but if gentiles repeat it, they are dismissed as antisemites. So it remains knowledge that we know, but are not permitted to repeat.

Apparently, historians have the same policy toward the war crimes inflicted on Southern civilians by Lincoln's Union Army that was nothing but an organized gang of plunderers, murderers, and rapists who make the Israeli "Defense Force" look like benevolent Christians.

Until Lincoln's invasion of the Confederate States of America, war in the civilized Western world was confined to combatants. Lincoln broke the code of civilized warfare and conducted war against the civilian population of the South. The Americans and the British followed this practice in the war against Japan and Germany. The nuclear weapons of today mean that war is total and is conducted against all of humanity. Today we have this situation in which disagreement between the elites of two countries can result in the extermination of humanity.

The documented accounts in Cisco's book of war against Southern civilians are horrific. In Missouri, for example, the populations of entire counties were forced on the penalty of death to leave their homes, businesses and properties and be relocated in Kansas. It was the precedent for Israel's expulsion of Palestinians from Palestine.

In New Orleans, General Benjamin Butler, one of Lincoln's many incompetent and hate-filled political appointees who had never commanded soldiers, responded to women who complained of the mistreatment of fathers, husbands, sons, and brothers by declaring the women "to be treated as a woman of the town plying her advocacy." Butler's invitation to his troops to rape southern women astounded the British Prime Minister, Lord Palmerston, who condemned it in a speech before the British Parliament.

Just as all Palestinians are terrorists, Southern men in towns under Union Army jurisdiction were shot or hung on the grounds that all Southern men were bushwackers aiding and abetting the Confederacy's resistance.

When Union soldiers appeared in a Southern town, the town could expect to be totally looted and burnt to the ground. Cisco provides example after example.

When Lincoln's army appeared on a plantation, the black slave women were mercilessly

raped for the failure of slaves to revolt against their masters, thereby supporting the South's war effort.

Lincoln's war against the South was a war of hate. Many Union officers and generals were indoctrinated products of *Uncle Tom's Cabin*, a propaganda publication that demonized the South as a society of slave owners mistreating slaves, as Union soldiers actually did. The hatred generated by Northern abolitionists resulted in the worst war crimes in human history.

Corrupt historians busy at work feathering the official narrative have kept buried the true history of the so-called "Civil War" which was not a civil war, but an invasion of one country by another.

When I was growing up in the South we knew that our ancestors had suffered grievously at the hands of the Yankees, but we were left with monuments, such as statues of Robert E. Lee and Stonewall Jackson, that told us we had made a stand against greed-driven aggression from the North. The North intended for the South to pay for its industrialization via the Morrill Tariff, and, therefore, would not allow the South to secede from the Union despite the South's constitutional right to do so.

But the statues have been taken down, erasing public references to the South's resistance to invasion.

When the extraordinary war criminal Abraham Lincoln went to war against the Confederacy, he went to war against the American Constitution. It was Lincoln who destroyed the United States that was created by the founding fathers as a union of sovereign states who had under the Constitution most of the governing powers.

As Lincoln repeated over and over and over, his war against the South was a war to make the South pay the tariff necessary to finance the industrialization of the north. Lincoln never said that he went to war to free slaves, at least not during his war. The Emancipation Proclamation was a war measure designed to produce a slave rebellion that would result in Southern troops leaving the front lines and returning to their homes to protect their families. The proclamation only applied to slaves in areas under Southern control. As Lincoln's Secretary of State noted, the proclamation did not apply to any areas under Union control.

Lincoln's war against the South anticipated by a century the Israeli Defense Force's war on Palestinians.

I have always thought that the collapse of American morality occurred in the 20th century, but Cisco's book makes it clear that American morality collapsed during 1860-1865 and the following decade of Reconstruction during which everything in the South of value was stolen by the North.

The South did not recover from its looting and gratuitous destruction until after World War II.

In view of the unprecedented harm Washington inflicted on Southern people, it is extraordinary that the military of the United States would not exist were it not for the voluntary enlistment of Southern men. These are men who know nothing of their history, or of the torment of their ancestors by the government to which they give their lives. If this is not the total failure of a historical consciousness, what is it?

In 1863 when General Robert E. Lee commander of the Army of Northern Virginia made the first Confederate invasion of Union territory, General Lee addressed his troops:

"The duties exacted of us by civilization and Christianity are not less obligatory in the country of the enemy than in our own. The commanding general considers that no greater disgrace could befall the army, and through it our whole people, then the perpetration of the barbarous outrages upon the unarmed and defenseless and the wanton destruction of private property that have marked the course of the enemy in our own country. It must be remembered that we make war only upon armed men, and that we cannot take vengeance for the wrongs our people have suffered without lowering ourselves in the eyes of all whose abhorrence has been excited by the atrocities of our enemies, and offending against God, to whom vengeance belongeth."

When Lee surrendered his starving and barefoot army that the Confederacy could no longer provision, Union general Philip Sheridan wanted to massacre the surrendering soldiers and had to be admonished by Union general Grant. As soon as the Confederacy was conquered, the Republican government in Washington sent the Union war criminals Sheridan and Tecumseh Sherman to destroy the Plains Indians. The buffalo herds were destroyed in order to deprive the Indians of food, and the Republicans used germ warfare against the starving Indians. Strange, isn't it, that historians can be so utterly corrupt to claim the Union fought a war in behalf of blacks, and as soon it was over, turned to the destruction of another people of color.



A Union soldier from Illinois wrote home that the Union soldiers had so abused the Southern blacks that "many of them have learned to hate the Yankees as much as our Southern brethren do. The army is becoming awfully depraved. How the home folks will ever be able to live with them after the war, is, I think, something of a question. If we don't degenerate into a nation of thieves, it will not be for lack of the example set by the Union army."

The only civilization that existed in North America in the 19th century was in the South, and the evil war criminal Abraham Lincoln destroyed it.

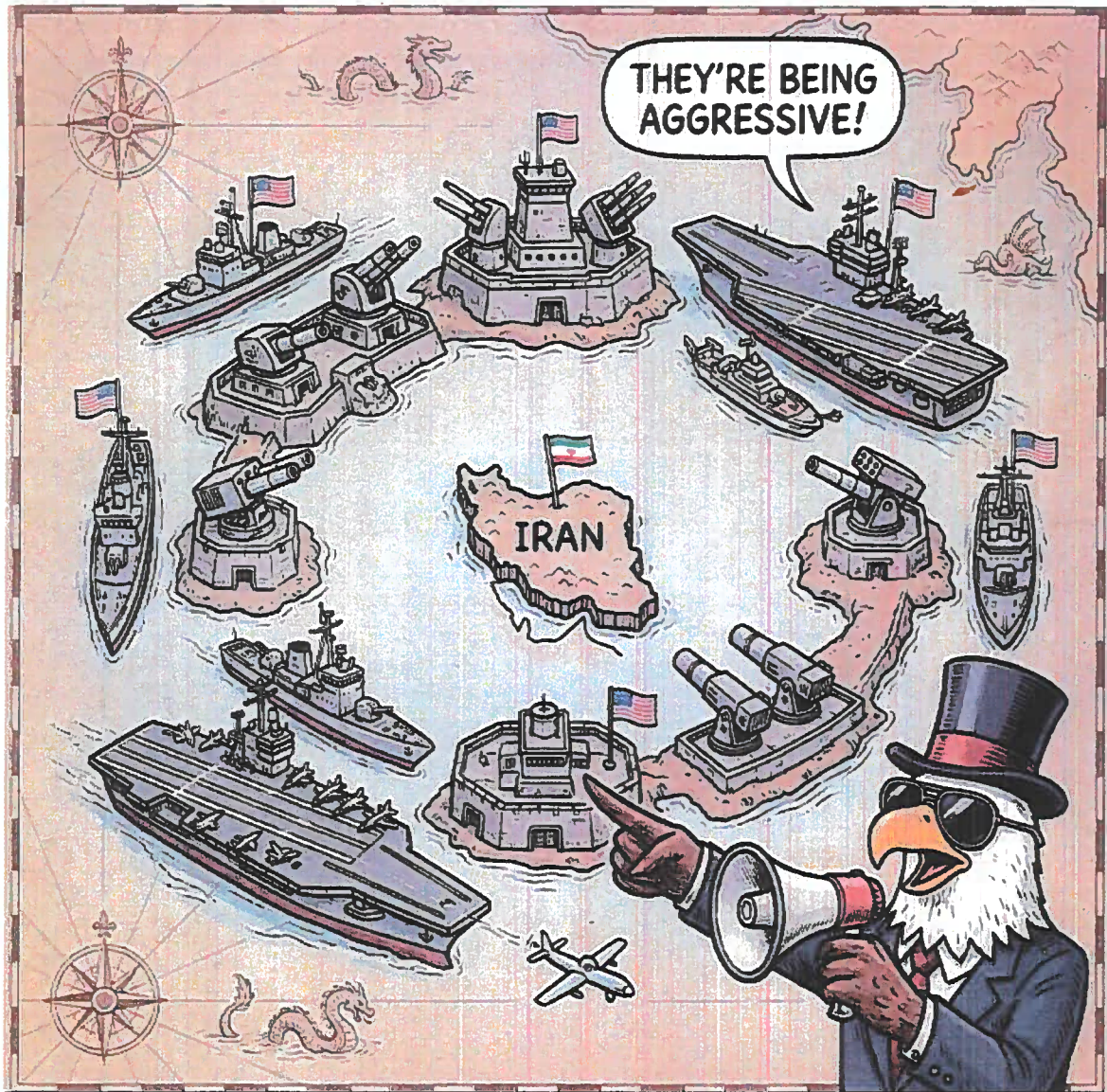
And the monument to Lincoln has not been taken down.

— Hubert H. Humphrey [1959]

Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms ... The right of citizens to bear arms is just one guarantee against arbitrary government, one more safeguard, against the tyranny which now appears remote in America but which historically has proven to be always possible.

The Audacity of Iran To Park Its Country 500 Miles From a US Warship

by Jon Reynolds | Feb 4, 2026



This week, Iran had the audacity to fly a drone near the USS Abraham Lincoln, an American aircraft carrier innocently parked 500 miles (or 434 nautical miles) off their coastline as part of a Trump naval “armada” deployed amid threats to bomb the country into oblivion over a nuclear weapons program that does not exist.

Like clockwork, war-hungry American news networks went into overdrive beating the propagandistic war drums. One headline from *The Washington Post*, titled “US shoots down Iranian drone that approached aircraft carrier Lincoln”, cited anonymous “officials” who claimed the drone was “acting aggressively”.

Other outlets like CBS News, PBS, CNBC, New York Post, and USA Today also echoed this narrative about the Iranian drone’s “aggressive” behavior around the Lincoln, which clearly felt threatened as a 5,000-personnel, nuclear-powered, missile-loaded carrier with the capacity to hold around 80-90 aircraft.

And while these articles rightly point out that the US ship is technically in international waters, it is still well within striking distance.

For Iran, the threat from the US is very real. Not only because the country is militarily surrounded by American forces, but also because the US acted on its saber-rattling last summer and bombed Iranian enrichment sites. That’s why this framing of a single Iranian drone as “aggressive” – particularly coming from the United States, one of the most hostile countries on the planet – is beyond laughable.

Flip the scenario: imagine how the US would react if an Iranian warship came within 434 nautical miles of North Carolina’s coastline – still firmly in international waters.

How would Washington react?

I think we know the answer.

Reprinted with permission from *The Screaming Kettle at Substack*.

Inspired by the Order of Heaven

Anthony Esolen

The year is 1966. It's summer, and in the sweltering heat the stones of an old cemetery seem to shimmer.

"Why are these monuments still intact?" cries the chief of a platoon of Red Guards. His voice cracks a little because he's young, with all the certainties of inexperience and idealism.

He is looking at the Zhalan Cemetery, in Beijing. Or it used to be a cemetery. Now the grounds have been taken over by the Beijing Administration Institute, a school for the training of Communist party functionaries.

The order to destroy the monuments had come from on high, as part of Chairman Mao's "Cultural Revolution," that movement energized by hatred of China's past, spilling over into hatred of what had been accomplished by patience, modesty, intelligence, generosity, and purity of life toward introducing the Chinese to the Christian faith. The first memorial in the Zhalan Cemetery was erected in 1610, for the bones of the great missionary Father Matteo Ricci, S.J., the first priest permitted entry into the Forbidden City, where he spent the last nine years of his tireless and fruitful life.

Other memorials had been reduced to rubble, and the stones given to peasants to build with. Priests and nuns had to destroy them with their own hands. But there was a shrewd lover of history at the Institute. He didn't want the relics to be ruined.

"Why don't you just bury the stones," he suggested, "and then order them not to rise again?"

So they did, and that's why we still have Ricci's tomb, dug out of the ground later on when the Communists changed their minds, though what has been restored of the Zhalan Cemetery, where eight hundred Catholics once were buried, is no longer open to the Church.

■ A SCHOLAR FOR A LAND OF SCHOLARS ■

Father Ricci had spent many years preparing to enter China and to bring to the Chinese the fullness of wisdom and knowledge that is only to be found in Christ. Ricci, whom the Chinese called Master Li, had to master the language, no small task, as the very composition of words in Chinese and the organization of ideas are entirely foreign to us in our Indo-European language family. If that were not enough, there was no single Chinese language, but dozens, often mutually unintelligible. The Chinese across their empire did communicate with one another, though, because there was a standard *written* language, but as Ricci noted, it was expressed not by an alphabet, but by "hieroglyphs," intricate pictograms. To be fluent in Chinese, you have to learn to recognize about ten thousand of these, he said, and you must be able to draw them too.

But in an odd way, that gave Master Li a real opportunity: the Chinese valued scholarship. In his fascinating account of the Chinese missions, he describes how youths competed, in every province, to show themselves best-versed in the ancient wisdom literature of their people. Those who attained the highest degree, what Ricci compares with the European doctorate, were honored everywhere and given posts of great responsibility for public affairs. So Ricci and his confreres aimed to win the respect of the Chinese by their knowledge, particularly of astronomy and mathematics.

Master Li was up to the task, as he had studied those subjects under the great astronomer Father Christopher Clavius. Here's an example of how patiently he worked. He had befriended a Chinese scholar, who prided himself on mapmaking and geography. But the Chinese thought their nation made up almost the whole world. And why not? They were bounded by a vast desert to the west, the impassable mountains to the southwest, the Great Wall and deserts to the north, and the ocean to the east and southeast. But Ricci showed this man, one Lin-Go-Tzun, precisely

where his work was in error, and instead of growing sullen, the scholar befriended Ricci and his fellows. They helped him make a more accurate map of the world and gave him Clavius' book on geometry to study. Lin-Go-Tzun went on to be baptized, taking the name Leo, but that was well in the future. Meanwhile, he constructed his own astrolabe, and wrote two volumes on its workings, which Ricci forwarded to Clavius. He also assisted Ricci in translating Clavius' work into Chinese, and he spread copies of Ricci's *T'ien-chu-she-I, The True Teaching of the Lord of Heaven*, promoting the Christian faith wherever he went. Why was he not baptized right off? Well, Lin-Go-Tzun had a couple of wives and some concubines.

■ NO DILUTION OF THE FAITH ■

Couldn't they baptize him anyway, and lead him along slowly? No, they couldn't. Master Li was as clear in moral reasoning as he was in mathematical reasoning. Polygamy is not compatible with Christian life.

Ricci was no universalist. He never suggested that the Chinese might find God *through* the errors of idolatry, which was a feature of their popular religious expression. He tells the story of three scholars who grew weary of the moral code of Confucius, turning to idols instead, and to the superstitious belief that just as the Lord of Heaven might rule up there, idols rule down here, so if you flatter them well, you can grow rich and powerful. These three set themselves against the Jesuits, too, scoffing at the idea that any wisdom could come from the west. The sun is larger than the earth? Ridiculous! But their real animus was not astronomical. It was religious. They hated Ricci and the Jesuits, because the Christians said the idols were demons if they were anything at all.

Here God used the serene conservatism of the Chinese to frustrate Ricci's enemies. The king heard what the idolaters were doing, and even though his wives and the royal eunuchs were idolaters, he summoned one of the three to Beijing to answer a charge of apostasy, while commanding that his writings be burned in public. The hapless old man cut his own throat rather than live in shame.

The king, you see, honored Confucius. So did Master Li, and that requires some explanation.

■ IN THE PRECINCTS OF TRUTH ■

In Confucius, Ricci found a sage whose sayings on piety, honesty, modest living, patience, and public service compared well with what the wisest pagans of ancient Rome and Greece said. Two thousand years had passed, and the Chinese still looked to Confucius to show them the way to live a good and pious life. Every city was required to have a temple in honor of the great man, but, Ricci is careful to say, the Chinese did not pray to him and did not expect favors from him. They revered him as the most honorable of their ancestors. Ricci observes, too, that Confucius was too modest to put forth any ideas about life after death. Where the man did not know, he held his peace.

What did he and the other old sages believe about God? Ricci says that the most ancient Chinese writings affirm that there is one God, the Lord of Heaven, or, simply, Heaven; and Heaven was the realm of order, peace, and holiness. Without appearing to insult the Chinese, then, who looked on foreigners as barbarians, Ricci could appeal to them by their best lights. His Chinese catechism was in the most profound way a translation of Christian truth not just into Chinese words and pictograms but into Chinese manners and ideas. We could wish that the current rulers of China were as open to the Christian faith as Ricci was to the wisdom of Confucius.

■ A GIFT THAT DOES NOT GROW OLD ■

Events long after Ricci's death in 1610 caused the evangelization of China to grind to a halt. But many fruitful seeds

were planted, and I look forward to the day when the most glorious feature of that institute in Beijing will be the old Zhalan Cemetery, and Master Li's tomb.

It is the central object in the garden. The bronze plate on the stone is inscribed with Roman and Chinese characters. They do not say quite the same things. The Chinese—Ricci, by the way, was the first man to transliterate Chinese into the Roman alphabet—is more effusive in its praise than the Latin. It honors Master Li, called "Madou," and "Wise Man from the West." It says that in his youth, Ricci entered the Society to cultivate perfection, and in the Year of the Horse [1582], under the emperor Wan Li, he came to China and was the first to propagate the [Christian] teachings there. In the Year of the Rat [1600], he went to the capital, where he died in the Year of the Dog [1610].

But of all the *earthly* gifts Master Li brought to China, there's one that may provide the next great evangelist with a beautiful opening. The Chinese loved mechanical devices such as clocks, and Ricci made gifts of many such to the emperor and his viceroys. He also brought the clavichord: the first in China. It pleases me to think of Master Li's catechism and Bach's *Saint Matthew Passion* together, in a no longer Forbidden City, turning the hearts of a billion people toward the Lord of Heaven.

Anthony Esolen is translator of Augustine's Confessions (TAN), translator and editor of Dante's Divine Comedy (Random House), and author of four volumes of essays, How the Church Has Changed the World (MAGNIFICAT).

Republicans Start Work To Get Trump His \$1.5 Trillion Military Budget for 2027

The heads of the House and Senate armed service committees want to pass a reconciliation bill with \$450 billion in military spending to go toward the budget

by Dave DeCamp | February 8, 2026 at 7:31 pm ET

A few weeks after President Trump declared on Truth Social that he wants a \$1.5 trillion military budget, Republican leaders in Congress are working on making his dream of increasing military spending by about 50% a reality.

The 2026 military budget marked the first to exceed \$1 trillion, which was achieved by Congress passing a 2026 National Defense Authorization Act (NDAA) worth over \$900 billion and combining it with \$150 billion in supplemental military spending that was included in the so-called Big Beautiful Bill, a reconciliation bill that became law last year.

Now, the chairs of the House and Senate Armed Services Committees are eyeing another reconciliation bill to secure Trump's \$1.5 trillion budget. Mike Rogers (R-AL), chair of the House committee, said he and his Senate counterpart, Roger Wicker (R-MS), want to pass a reconciliation that will include \$450 billion in military spending.

"We've informed our leadership of that," Rogers told *Breaking Defense* last week. "We're not talking about something frivolous here. We're talking about national defense."

He explained that he expects the White House to request about \$1.03 trillion for the NDAA and that \$20 billion from the reconciliation bill passed last year would be rolled into the 2027 budget, leaving a \$450 billion to reach Trump's goal of \$1.5 trillion.

Other Republican leaders oppose using reconciliation bills to pad the military budget, as they want the entire amount included in the NDAA, including Se. Mitch McConnell (R-KY), chair of the Defense Appropriations Subcommittee, wants Trump's massive request to be treated as the base budget.

"Much of the Defense Subcommittee's most arduous work in recent months has been helping the armed services address real, urgent operational shortfalls that were created when much of Washington decided to pretend that one-time infusions of cash could take the place of consistent annual appropriations," McConnell said in a recent floor speech, according to *Roll Call*.

Either way, Republicans in Congress seem eager to go along with a mammoth increase in military spending and are just currently at odds over how exactly they will come up with the money.

**If you liked this article, please support Antiwar.com.
We are 100% reader-supported.**

Work on Xerxes I tomb at Naqsh-e Rostam nears completion

February 2, 2026 ·

TEHRAN – Restoration work on the rock-cut tomb of Achaemenid king Xerxes I is nearing completion after years of conservation efforts, a local official has said.

The tomb is one of the four huge tombs carved on a hillside in the face of Naqsh-e Rostam archaeological near Persepolis in the Marvdasht plain of Fars province, southern Iran.

In Western history, Xerxes is best known for his invasion of Greece in 480 BC. Son of Darius the Great, he consolidated his power by crushing revolts in Egypt and Babylon, and renewed his father's campaign to subjugate Greece and punish Athens and its allies for their interference in the Ionian Revolt.

Mostafa Rakhshandekhoo, head of the Naqsh-e Rostam historical complex, on Monday said the restoration of the tomb, which had suffered damage from weathering over time, is in its final stages after nearly eight years of work.

He said erosion caused by wind and rainfall had damaged reliefs at the tomb's entrance, prompting detailed studies and the installation of scaffolding comparable in height to a 20-storey tower to allow access for conservation work.

Rakhshandekhoo said reliefs including the Faravahar symbol and a fire altar were restored and stabilized using modern conservation materials, with the work carried out by Iranian specialists.

In May 2024, media reports said heavy rainfall had caused a sizeable cavity to form beneath the tomb, leading to a longitudinal crack at the Naqsh-e Rostam site. Experts warned at the time that erosion and water infiltration posed risks to the rock-cut monument.

Naqsh-e Rostam, located near the UNESCO-listed ruins of Persepolis in Iran's Fars province, contains royal tombs from the Achaemenid period and later Sassanid-era bas-reliefs carved into the cliff face.

The necropolis embraces four tombs where Persian Achaemenid kings are laid to rest, believed to be those of Darius II, Artaxerxes I, Darius I, and Xerxes I (from left to right facing the cliff), although some historians are still debating this.

There are stunning bas-relief carvings above the tomb chambers that are similar to those at Persepolis, with the kings standing on thrones supported by figures representing the subject nations below. There are also two similar graves situated on the premises of Persepolis, probably belonging to Artaxerxes II and Artaxerxes III.

Beneath the funerary chambers are dotted with seven Sassanian era (224–651) bas-reliefs cut into the cliff depict vivid scenes of imperial conquests and royal ceremonies; signboards below each relief give a detailed description of English.

At the foot of Naqsh-e Rostam, in the direction of the cliff face, stands a square building known as Ka'beh-ye Zardusht, meaning Kaaba of Zoroaster. The building, which is roughly 12 meters high and 7 meters square, was probably constructed in the first half of the 6th century BC, although it bears a variety of inscriptions from later periods.

Though the Ka'beh-ye Zardusht is of great linguistic interest, its original purpose is not clear. It may have been a tomb for Achaemenian royalty or some sort of altar, perhaps to the goddess Anahiti, also called Anahita, believed to be associated with royalty, war, and fertility.

Naqsh-e Rostam, which literally means "Picture of Rostam", is named after a mythical Iranian hero who is most celebrated in Shahnameh and Persian mythology. Back in time, natives of the region had erroneously supposed that the carvings below the tombs represented depictions of the mythical hero.

