

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

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October 20, 2011

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Congressman Peter King  
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Committee on Homeland Security  
339 Cannon House Office Building  
Washington, DC 20515-3203

Congressman Bennie Thompson  
Ranking Minority Member  
Committee on Homeland Security  
2466 Rayburn House Office Building  
Washington, DC 20515-2402

Dear Members of Congress:

On behalf of The Constitution Project, I am writing in opposition to the Enemy Expatriation Act, which aims to strip the citizenship of any American who engages in hostilities against the United States, or who

purposefully and materially supports such hostilities. The bill, which was introduced this month by Senators Lieberman (I-CT) and Brown (R-MA) and Representatives Dent (R-PA) and Altmire (D-PA), is constitutionally suspect, will do nothing to further combat terrorism, and should therefore be soundly rejected by Congress.

The bill raises several serious constitutional concerns, which are outlined in the attached statement by The Constitution Project's bipartisan Liberty and Security Committee. Our [Statement Opposing the Terrorist Expatriation Act](#) was developed in May 2010 in response to the earlier similar legislation introduced by Senators Lieberman and Brown and Representatives Dent and Altmire. Our committee's analysis of the constitutional flaws of this legislation applies equally to the new bill, except that the new Enemy Expatriation Act does not incorporate the material support statutes' language, and thus the final section of the report's analysis does not apply.

Most importantly, citizenship is a basic right that cannot be taken away unless a person obtained it illegally or voluntarily renounced it. Moreover, this legislation is seriously lacking in fundamental due process protections because it would permit stripping of citizenship based on mere suspicion—not conviction—of terrorist activity. Beyond these constitutional concerns, the bill would add nothing to our existing counterterrorism efforts: current law already allows the United States to strip citizenship from individuals who take action to renounce their citizenship, such as taking an oath to a foreign government or serving as an officer in that foreign government's military.

As committee member William H. Taft, IV, legal advisor for the U.S. State Department under President George W. Bush and Deputy Secretary of Defense during the Reagan administration, said at the time, "Sadly, although cloaked in patriotism, this legislative proposal is actually ugly demagoguery that should be rejected by Congress. Our law already provides harsh punishment of U.S. citizens who commit terrorist acts."

The answer to those American citizens who turn their back on their country and take up arms against it is not to ignore the Constitution, but rather to honor it by providing them with all the rights they are entitled to under it.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Bradford Franklin". The signature is written in black ink and is positioned below the word "Sincerely,".

Sharon Bradford Franklin  
Senior Counsel