

# The Breakfast Club

Constitutional Minute for 20 April 2021

## What's General Welfare?

“The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and **general Welfare of the United States...**” (Article 1, Section 8).

- *“If Congress can do whatever in their discretion can be done by money, and will promote the General Welfare, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions. It is to be remarked that the phrase out of which this doctrine is elaborated, is copied from the old articles of Confederation, where it was always understood as nothing more than a general caption to the specified powers, and it is a fact that it was preferred in the new instrument for that very reason as less liable than any other to misconstruction.”* James Madison, letter to Edmund Pendleton, 1792.

Early Congresses agreed with Madison:

- *The 1st Congress (1789) refused to make a loan to a glass manufacturer after some members charged it was unconstitutional.*
- *The 4th Congress (1796) turned down a request for relief to Savannah citizens after a devastating fire.*

In 1936, along came U.S. v. Butler (challenging provisions of the Agricultural Adjustment Act of 1933):

- *“The [General Welfare] clause confers a power separate and distinct from those later enumerated[,] is not restricted in meaning by the grant of them, and Congress consequently has a substantive power to tax and to appropriate, limited only by the requirement that it shall be exercised to provide for the general welfare of the United States. ...”*
- OK, but what does “General Welfare” mean?

In 1937, along came Helvering v. Davis (challenging that the Social Security Act was unconstitutional):

- *“Congress may spend money in aid of the 'general welfare'... Where [the line between specific and general welfare] shall be placed cannot be known through a formula in advance of the event... The discretion belongs to Congress, ....”*

**The result: Congress can spend your hard-earned tax dollars on whatever it decides constitutes “general welfare.”**

Welcome to unlimited government!!

How do we fix this? Amend the Constitution to define the term and return limits to “General Welfare.”

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