

## FOUNDATIONS OF LAW, LESSON 2: AUTHORITY OF LAW PART II.

### III. GRANTS OF AUTHORITY & U.S. GOVERNMENT

#### A. Creation Doctrine (Declaration of Independence) (Declarations & Bills of Rights)

1. God
2. Man in their Individual Capacity, Unalienable, Indefeasible, Inherent Rights
  - a) **Maxim of Law 51i.** *Individual liberties are antecedent to all government. C.L.M.*
  - b) **The Law by Frederic Bastiat, Page 2-3**
3. The People, Assembled, Collective Will
  - a) **Maxim of Law 51o.** *All political power is inherent in the people by decree of God, thus none can exist except it be derived from them. American Maxim.*
4. The State Government (State Constitution)
5. The Federal Government (Constitution of these United States)

**B. Grants of Authority-** The concept of the "grant of authority" from the people to the government is fundamental to democratic governance and is often associated with social contract theories which come from political theorists, such as John Locke, Jean-Jacques Rousseau, and Thomas Hobbes. This idea suggests that political authority and power are not inherently possessed by rulers or governments but are derived from the consent of the governed. Here's a brief description of how this process typically works in our system:

#### 1. SOURCE OF LAW FOUNDED ON THE AUTHORITY OF THE PEOPLE.

- a) That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government in such manner as they may deem expedient. **Alabama Const. art. 1, § 2.**
- b) **Maxim of Law 51o.** All political power is inherent in the people by decree of God, thus none can exist except it be derived from them. **American Maxim.**

#### 2. THE PEOPLE CAN ONLY GRANT THE AUTHORITY THAT THEY HAVE INDIVIDUALLY.

- a) **Maxim of Law 52l.** *If a man grant that which is not his, the grant is void. Shep. Touch. 243; Watk. Conv. 191.*
- b) **Maxim of Law 4c.** *What I cannot do by myself, I cannot by another [i.e., an agent.] 4 Coke, 24b; 11 Coke, 87a; Jenk. Cent. 237.*

### 3. POWER DELEGATED TO GOVERNMENT OFFICIALS CANNOT AGAIN BE DELEGATED BY THEM TO SOMEONE ELSE.

a) *Maxim of Law 11a.* A delegated power cannot be again delegated. **2 Inst. 597; Black's, 2d. 347; 2 Bouv. Inst. n. 1300.** A deputy cannot have (or appoint) a deputy. **Story, Ag. s. 13; 9 Coke, 77; 2 Bouv. Inst. n. 1936.**

b) *Maxim of Law 4e.* A delegate cannot delegate; an agent cannot delegate his functions to a subagent without the knowledge or consent of the principal; the person to whom an office or duty is delegated cannot lawfully devolve the duty on another, unless he be expressly authorized so to do. **9 Coke, 77; Broom, Max. 840; 2 Kent, Comm. 633; 2 Steph. Comm. 119.**

### 4. THE GOVERNMENT AS THE DERIVATIVE POWER CAN NEVER BECOME GREATER THAN THE PEOPLE FROM WHICH ALL POWER IS INHERENT.

a) *That all power is vested in, and consequently derived from, the people, that magistrates are their trustees and servants, and at all times amenable to them.* **Virginia Const. art. 1, § 2.**

a) *Maxim of Law 11b.* The derivative power cannot be greater than the original from which it is derived. **Noy, Max.; Wing. Max. 66; Finch, Law, b. 1, c. 3.**

### 5. ANY POWER ASSERTED BY THE GOVERNMENT WITHOUT AN ORIGINAL GRANT OF AUTHORITY IS OF NO POWER AT ALL.

a) *Maxim of Law 11i.* Where there is no authority for establishing a rule, there is no necessity of obeying it. **Black's, 2d. 1181; Dav. Ir. KB. 69.** Useless power is to no purpose. **Branch, Prine.**

b) *That all persons invested with the Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.* **Maryland Const. art. I, § 6.**

## C. Founding Documents

1. Lee Resolution
2. **Virginia Declaration of Rights**- lays down the common law and collective morality of society- Section 16 states: "That religion, or the duty which

we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity toward each other."

3. Virginia Constitution

4. **Declaration of Independence-** expresses the collective will of the Founding Fathers to declare the thirteen American colonies as independent states, free from British rule. It articulates the principles and reasons justifying the separation (declared acts of tyranny), emphasizing concepts such as individual rights, equality, and the idea that governments derive their authority from the consent of the governed.

*a) All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them. [Massachusetts Constitution, Part the First, Article VI]*

*b) That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants and at all times amenable to them. [Virginia Declaration of Rights, Section 2]*

5. **Preamble-** The Purpose of Government -To Secure Rights- The Preamble serves as an introduction, outlining the broad goals and objectives of the Constitution. It states that the Constitution is established to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

6. **Constitution-** one could envision the Constitution as a carefully crafted and sturdy cage that we, the people, construct to confine and guide the actions of the government. Similar to how a cage protects and sets boundaries for a powerful yet potentially unpredictable animal, the Constitution serves as a framework that outlines the powers, limitations, and responsibilities of the government.

Just as a well-designed cage ensures that the animal within behaves in a manner consistent with safety and societal norms, the Constitution establishes the rules and principles that govern the conduct of the government. It acts as a protective structure that prevents the government from overstepping its authority and encroaching upon the rights and freedoms of the citizens. The bars of this metaphorical cage represent the checks and balances, separation of powers, and legal constraints that keep the government in check, ensuring it operates within the parameters defined by the collective will of the people.

7. **Bill of Rights-** In a metaphorical sense, the Bill of Rights can be likened to a set of individual shields that we, as citizens, hold up to protect ourselves from potential encroachments by the government. Just as shields provide a defense against external threats, the Bill of Rights serves as a protective barrier against the infringement of our fundamental rights by the government.

Each amendment in the Bill of Rights acts as a distinct shield, safeguarding specific rights such as freedom of speech, religion, and the right to bear arms. Like a shield that can deflect unwanted attacks, these amendments shield individuals from undue government interference, ensuring that certain liberties are preserved.

This metaphorical set of shields represents a collective commitment to personal freedoms and limits on governmental power. The Bill of Rights stands as a testament to the principle that certain rights are inherent, and their protection is crucial to maintaining a just and free society.

## D. Three Branches of Government

1. **Legislative Branch-** The legislative branch, has been granted authority by the people to make statutes limited to that outlined in the Constitution in Article I, Section 8. This branch, consisting of the Senate and the House of Representatives, holds the power to levy taxes, regulate commerce, declare war, and manage the federal budget. The legislative branch also has the authority to impeach and remove federal officials, approve presidential appointments, and ratify treaties negotiated by the executive branch. In performing these duties and functions, they are to conform to fundamental law, rights, and common law concepts, such as due process, and the things prescribed in the written constitution.

- a) Congress
  - (1) Senate
  - (2) House of Representatives
- b) Codes and Revised Statutes
  - (1) Codification- Codification, in a simplified way for beginners, refers to the process of organizing and collecting laws, rules, or regulations into a systematic and comprehensive set. It involves arranging legal provisions into a structured and accessible format.
- c) Three essential parts of every bill or law. The first two speak to the form and style in which laws are to be enacted to make the laws of the State. The title and enacting clause are necessitated by both fundamental law and constitutional mandate.

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(1) **The Title-** The constitutions of more than forty states require that each bill have a title and that the title accurately reflect the contents of the bill.

(2) **Enacting Clause-**The enacting clause is the portion of a statute that gives it jurisdiction identity and “constitutional authenticity”. The purpose of an enacting clause is to establish the act; to give it permanence, uniformity, and certainty; to afford evidence of its legislation, and statutory nature, and thus prevent inadvertence, possible mistake, and fraud. The enacting clause is mandatory.

*“The enacting clause of all laws shall be: “Be it enacted by the Legislature of the State of Texas.”-Texas Constitution Article 3, Section 29*

### **Enacting Clause of Bills; Laws Enacted Only by Bill**

*The enacting clause of all bills shall be “Be it enacted by the Legislature of the State of Kansas.” No law shall be enacted except by bill. -Kansas Constitution, Article 2, Section 20*

(3) **The Body-** Each bill must tell the legislative body what action is to be taken, precisely and clearly. This might involve sections adding, repealing, or amending General Statutes, uncodified law, or sections of local acts or municipal charters

d) Positive V. Non-Positive Law

2. **Executive Branch-**The grants of authority given to the executive branch by the people are outlined in the Constitution of the United States. The executive branch, headed by the President, is empowered to enforce and administer laws, conduct foreign affairs, serve as Commander-in-Chief of the Armed Forces, appoint federal officials (with Senate approval), grant pardons, and negotiate treaties (with Senate ratification). The President also has the authority to veto legislation, but Congress can override a veto with a two-thirds majority.

- a) President and Vice President
- b) Cabinet

3. **Judicial Branch-** The judicial branch in the United States, as granted authority by the people through the Constitution, is primarily responsible for interpreting laws and ensuring their constitutionality. The branch is headed by the Supreme Court and lower federal courts. The key grants of authority include the power of judicial review, allowing courts to declare laws or executive actions unconstitutional, ensuring that they adhere to the principles of the Constitution. The judiciary also has the authority to settle disputes between states, hear cases

involving ambassadors, and address issues of federal law. The lifetime appointments of federal judges, including Supreme Court justices, aim to safeguard their independence from political pressures. The judicial branch plays a crucial role in upholding the rule of law and maintaining the balance of powers within the government.

- a) Supreme Court
- b) Federal Courts

### **E. How They Circumvented the Written Collective Will of The People and The Consequences.**

1. The Constitution was written to protect us. Legislative bodies were laid down as:

- a) Agents of the people and “answerable” to them;
- b) Subject to the limitations outlined in the constitution.
- c) Unable to violate the fundamental rights that the Constitution was formed to protect.
- d) Forced to conform to due process as it existed under the Anglo-Saxon common law.
- e) Only able to enact laws in the manner and process described by the Constitution.

This posed severe problems for the corrupt, power elite, who wished to control the life, liberty, and property of the people of this country.

To get the oppressive, totalitarian type of laws enforced upon the people of America, they needed to get laws passed by another source other than the State Legislature or Congress but at the same time appear as though the laws were laws of the state legislature and congress.

Our nation has been invaded by hostile, alien, people who promote a law and religion that is contrary to fundamental law and Christian foundations originally established in this land.

2. They used indirect means to create not only a new source of laws but to create new executive and judicial functions as well. This was done by getting the current legislative bodies to create artificial entities, boards, commissions, bureaus, agencies, and trusts, which exist by statute instead of by the constitution or common law. The intent was to have these legal entities assume the role of governmental functions, or financial ones as was done with the Federal Reserve Board in 1913, or educational functions as was done with the NEA.

3. They have also established and organized new courts by statute with judicial powers. These courts are not real courts though they have the same name as the ones written in the Constitution to mislead the people into thinking that they are constitutionally accepted.

4. They also created an executive body to enforce the corrupt and oppressive laws using highway patrol, Federal marshals, ATF agents, etc. which exist by

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commission or agency and whose powers come from statutes, not the constitution or common law.

