

APPENDIX E: THE FIREWALL OF LAW

A Comprehensive Synthesis of the Twelve Immutable Principles of American Jurisprudence

PRINCIPLE 1 — LAW PRECEDES GOVERNMENT

Government is subject to law, not its source. Law is a rule of right that exists independently of and prior to the creation of the state. Any act that assumes government creates law rather than conforms to it is void.

- **Maxims:**

- Law is a rule of right; and whatever is contrary to the rule of right is an injury (*Jus est norma recti; et quicquid est contra normam recti est injuria*) (3 Bulst. 313; Bouv. 136).
- What is just and right is the law of laws (Hob. 224).
- The law favors justice and right (Wing. Max. 141).
- Things grounded upon an ill and void beginning cannot have a valid or good perfection (Finch, Law, b. 1, c. 3, n. 8).
- The laws themselves require that they should be governed by right (*Ipsæ leges cupiunt ut jure regantur*) (Co. Litt. 174b).
- The laws of nature are unchangeable (Cycl. Dict. 566; Branch, Princ.).
- Law is from everlasting (*Lex est ab æterno*) (Jenk. Cent. p. 34, case 66; Branch, Princ.).
- The act of the law does injury to no one (2 Inst. 287; 5 Coke, 116).
- That is the highest law which favors religion (10 Mod. 117, 119; Broom, Max. 19).
- The Christian religion is a part of the common law (Lofft. 327).
- That which is against Divine Law is repugnant to society and is void (C.L.M.).
- Natural law (*Jus naturale*) has its foundation in the will of God (1 Bl. Comm. 39; 1 Kent, Comm. 2, note; Id. 4 note).
- The law of God and the law of the land are all one; and both preserve and favor the private rights to the land (Keilw. 191).
- That which is valid in law has legal strength, force, and effect, and is incapable of being rightfully overthrown or set aside (Emerson v. Knapp, 75 Mo. App. 92, 97).
- The government is to be subject to the law, for the law makes the government (C.L.M.).
- The law is not to be violated by those in government (Jenk. Cent. 7).
- A frequent recurrence to fundamental principles, and a firm adherence to justice, virtue, and original law, are indispensably necessary to preserve the blessings of liberty and good government (American Maxim).
- Judges are by no means favorable to things raised recently and subtly against the common law (Halk. Max. 73).
- Laws ought to be made with a view to those cases which happen most frequently, and not to those which are of rare or accidental occurrence (Dig. 1, 3, 3; Broom, Max. 43).
- These are the precepts of the law: To live honorably; to hurt nobody; to render to every one his due (Inst. 1, 1, 3; 1 Bl. Comm. 40).

- The law is the more praised when it is approved by reason (Broom, Max. 159).
 - Things which are forbidden by the nature of things are confirmed by no law (Branch, Princ.).
 - Positive laws are framed after the laws of nature and reason (Finch, Law, 74).
 - The law regards the order of nature (Co. Litt. 197b).
 - Where the law ends, tyranny begins (Merritt v. Welsh, 14 Otto (104 U.S.) 694, 702).
 - The principal distinction between the terms 'lawful' and 'legal' is that the former contemplates the substance of law, the latter the form of law (Black's, 703).
 - When laws imposed by the state fail, we must act by the law of nature (2 Rolle, 298; Bouv. 136).
 - The laws of nature are most perfect and immutable; but in the condition of human laws there is nothing which can continue perpetually (7 Coke, 25).
 - It is not lawful to do evil that good may come of it (11 Coke, 74a; Ex parte Curtis, 106 U.S. 371, 378).
 - A particular case, left unprovided for by statute, must be disposed of according to the law as it existed prior to such statute (Broom, Max. 46).
 - Law is a sacred sanction, commanding what is right, and prohibiting the contrary (2 Inst. 587).
 - Every general principle [or maxim of law] is its own pledge or warrant; and things that are clearly true are not to be proved (Branch, Princ.; Co. Litt. 11).
 - A maxim is so called because its dignity is chiefest, and its authority the most certain, and because it is universally approved by all (Chrisman v. Lindennan, 100 S.W. 1090, 1092; 202 Mo. 606).
 - It is a perpetual law that no human or positive law can be perpetual; and a clause in a law which precludes the power of abrogation is void ab initio (Broom, Max, 3d Lond. ed. 27; Bacon, Max. reg. 19).
 - Things derogatory to the common law are not to be drawn into precedent (Branch, Princ.).
 - He acts in fraud of the law who, though the letter of the law being inviolate, uses the law contrary to its intention (Dig. 1, 3, 29).
- **State Constitutional Provisions:**
 - **Arizona:** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Arizona Const. art. 2, § 32).
 - **Alabama:** That a frequent recurrence to fundamental principles, and a firm adherence to justice, virtue, and original law, are indispensably necessary to preserve the blessings of liberty and good government (Alabama Const. art. 1, § 2 [referencing general principle]).
 - **Arkansas:** No person shall be... deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land (Arkansas Const. art. 2, § 21).
 - **Georgia:** The laws of general operation in this state... are the Constitution of the United States... [and] the Constitution of Georgia (Georgia Const. art. I, § II [referencing hierarchy of law]).
 - **Maryland:** That the provisions of the Constitution of the United States, and of this State, are applicable in a state of war, as well as in a state of peace; and any

departure therefrom... is subversive of good Government and tends to anarchy and despotism (Maryland Const. Declaration of Rights art. 44).

- **Massachusetts:** In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them... to the end it may be a government of laws and not of men (Massachusetts Const. pt. I, art. XXX).
 - **New Hampshire:** A frequent recurrence to the fundamental principles of the constitution... [is] indispensably necessary to preserve the blessings of liberty and good government (New Hampshire Const. pt. I, art. 38).
 - **North Carolina:** A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty (North Carolina Const. art. 1, § 35).
 - **Ohio:** This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people (Ohio Const. art. 1, § 20).
 - **South Carolina:** The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory (South Carolina Const. art. 1, § 23).
 - **Utah:** A frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government (Utah Const. art. 1, § 27).
 - **Washington:** A frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government (Washington Const. art. 1, § 32).
- **U.S. Constitutional Provisions:**
 - **U.S. Tenth Amendment:** The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people (U.S. Bill of Rights amend. X).
 - **Affirming Supreme Court Rulings:**
 - **Marbury v. Madison, 5 U.S. 137 (1803):** Establishes that the Constitution is the paramount law to which the government is subordinate.
 - **Mattox v. United States, 156 U.S. 237 (1895):** Binds constitutional interpretation to the law as it existed at the time of adoption, acknowledging law that preceded the current government structure.
 - **Norton v. Shelby County, 118 U.S. 425 (1886):** An unconstitutional Act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.
 - **Luther v. Borden, 48 U.S. 1 (1849):** Constitutions and laws precede the judiciary.

PRINCIPLE 2 — RIGHTS ARE PRE-POLITICAL

Rights exist before government and cannot be created or redefined by it. Government is instituted to secure these pre-existing rights; it does not grant them. If an action treats rights as privileges or permissions, the act is void.

- **Maxims:**

- *Ex facto jus oritur* (The law arises from the deed/fact).
- Rights are "protected by, but do not come from" constitutions.
- Individual liberties are antecedent to all government (C.L.M.).
- Ignorance of law excuses no one (for all are bound to know the law) (4 Bouv. Inst. no. 3828; 1 Story, Eq. Jur. s. 111; 2 Coke, 36; Rankin v. Mortimere, 7 Watts (Penn.) 374; 2 Kent, Comm. 491).
- According to the laws of nature, it is just that no one should be enriched through detriment and injury to another, i.e., at another's expense (Dig. 50, 17, 200).
- Law is established for the benefit of man (Black's, 2d. 577).
- Law is a rule of right; and whatever is contrary to the rule of right is an injury (3 Bulst. 313).
- The law of God and the law of the land are all one; and both preserve and favor the private rights to the land (Keilw. 191).
- Law favors life, liberty, and dower (4 Bacon's Works, 345).
- The Law respects the bonds of nature (Wing. Max. p. 268, max. 78; Finch, Law, b. 1, c. 3, no. 29).
- No one is presumed to do anything against nature (22 Vin. Abr. 154; Bouv. 142).
- Right cannot die (Jenk. Cent. 100, case 95).
- The union of male and female is founded on the law of nature (7 Coke, 13; Black's, 246).
- Husband and wife are considered one person (as one flesh and blood) in law (Co. Litt. 112; Jenk. Cent. 27).
- Self-defense is the primary law of nature (C.L.M.).
- Whatever one does in defense of his person, that he is considered to have done legally (2 Inst. 590).
- Natural rights are such as appertain to man, inherent in his nature or plainly assured by natural law, being distinguished from such as are created by law, and depend upon civilized society (Borden v. State, 11 Ark. 519, 527; 44 Am. Dec. 217).
- The right of blood and kindred cannot be destroyed by any civil law (Dig. 50, 17, 9; Bacon, Max. reg. 11; Broom, Max. 533; Jackson v. Phillips, 14 Allen (Mass.) 562).
- No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person,

free from all restraint or interference of others, unless by clear or unquestionable authority of law (Union Pac. Ry. v. Botsford, 141 U.S. 250, 251).

- **State Constitutional Provisions:**

- **Alabama:** That all men are by nature equally free and independent, and are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness (Alabama Const. art. 1, § 1).
- **Arkansas:** All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation; and of pursuing their own happiness (Arkansas Const. art. 2, § 2).
- **California:** All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy (California Const. art. 1, § 1).
- **Florida:** All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property (Florida Const. art. 1, § 2).
- **Georgia:** The enumeration of rights herein contained as a part of this Constitution shall not be construed to deny to the people any inherent rights which they may have hitherto enjoyed (Georgia Const. art. I, § XXVIII).
- **Idaho:** All men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety (Idaho Const. art. I, § 1).
- **Illinois:** All men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness (Illinois Const. art. I, § 1).
- **Indiana:** WE DECLARE, That all men are created equal; that they are endowed by their CREATOR with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness (Indiana Const. art. 1, § 1).
- **Iowa:** All men are, by nature, free and equal, and have certain inalienable rights — among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness (Iowa Const. art. I, § 1).
- **Kansas:** All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness (Kansas Const. Bill of Rights § 1).
- **Kentucky:** All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned: First: The right of enjoying and defending their lives and liberties. Second: The right of worshipping

Almighty God according to the dictates of their consciences. Third: The right of seeking and pursuing their safety and happiness. Fourth: The right of freely communicating their thoughts and opinions. Fifth: The right of acquiring and protecting property (Kentucky Const. Bill of Rights § 1).

- **Louisiana:** All government, of right, originates with the people, is founded on their will alone, and is instituted solely for the good of the whole. Its only legitimate end is to secure justice for all, preserve the peace, protect the rights, and promote the happiness and general welfare of the people (Louisiana Const. art. I, § 1).
- **Maine:** All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness (Maine Const. art. I, § 1).
- **Maryland:** That all Government of right originates from the People, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the unalienable right to alter, reform or abolish their Form of Government in such manner as they may deem expedient (Maryland Const. Declaration of Rights art. 1).
- **Massachusetts:** All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness (Massachusetts Const. pt. I, art. I).
- **Mississippi:** The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent in, the people (Mississippi Const. art. III, § 32).
- **Nebraska:** All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others (Nebraska Const. art. I, § 1).
- **Nevada:** All men are by nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing and Protecting property and pursuing and obtaining safety and happiness (Nevada Const. art. 1, § 1).
- **New Hampshire:** All men are born equally free and independent; Therefore, all government of right originates from the people, is founded in consent, and instituted for the general good (New Hampshire Const. pt. I, art. 1).
- **New Jersey:** All persons are by nature free and independent, and have certain unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness (New Jersey Const. art. I, ¶ 1).
- **New Mexico:** All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness (New Mexico Const. art. II, § 4).

- **North Carolina:** We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness (North Carolina Const. art. 1, § 1).
- **North Dakota:** All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness (North Dakota Const. art. 1, § 1).
- **Ohio:** All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety (Ohio Const. art. 1, § 1).
- **Oklahoma:** All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry (Oklahoma Const. art. 2, § 2).
- **Pennsylvania:** All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness (Pennsylvania Const. art. 1, § 1).
- **South Carolina:** All political power is vested in and derived from the people only, therefore, they have the right at all times to modify their form of government (South Carolina Const. art. 1, § 1).
- **South Dakota:** All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness (South Dakota Const. art. VI, § 1).
- **Utah:** All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right (Utah Const. art. 1, § 1).
- **Vermont:** That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety (Vermont Const. ch. I, art. 1).
- **Virginia:** That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety (Virginia Const. art. I, § 1).
- **Washington:** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights (Washington Const. art. 1, § 1).
- **West Virginia:** All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely: the enjoyment

of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety (West Virginia Const. art. III, § 1).

- **Wisconsin:** All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed (Wisconsin Const. art. 1, § 1).
 - **Wyoming:** All members of the human race are equal in their inherent right to life, liberty and the pursuit of happiness (Wyoming Const. art. 1, § 2).
- **U.S. Constitutional Provisions:**
 - U.S. Ninth Amendment: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.
 - **Affirming Supreme Court Rulings:**
 - Hale v. Henkel, 201 U.S. 43 (1906): Distinguishes between the "natural rights" of the individual and the "privileges" granted to a corporation.
 - District of Columbia v. Heller, 554 U.S. 570 (2008): Confirms that the Second Amendment protects a pre-existing right and does not "grant" it.
 - Miranda v. Arizona, 384 U.S. 436 (1966): Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.

PRINCIPLE 3 — THE SOLE END OF GOVERNMENT

Government exists only to protect life, liberty, and property. Its only legitimate end is to secure justice for all and protect individual rights. Any purpose beyond rights-protection exceeds delegation and is void.

- **Maxims:**
 - The welfare of the people is the supreme law (*Salus populi suprema lex*).
 - Law is established for the benefit of man (Black's, 2d. 577).
 - Law is made to prevent the stronger from having the power to do everything (Dav. Ir. K.B. 36).
 - The main object of government is the protection and preservation of personal rights, private property, and public liberties, and upholding the law of God (American Maxim).
- **Affirming Supreme Court Rulings:**
 - Yick Wo v. Hopkins, 118 U.S. 356 (1886): Holds that government cannot act with an "evil eye and an unequal hand" as its purpose is equal justice.
 - Louisiana v. Resweber, 329 U.S. 459 (1947): The Due Process Clause of the Fourteenth Amendment prohibits a State from executing a sentence in a cruel or unusual manner.
- **State Constitutional Provisions:**

- **Arizona:** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights (Arizona Const. art. 2, § 1).
- **Alaska:** All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole (Alaska Const. art. 1, § 2).
- **Alabama:** **That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when the government assumes other functions it is usurpation and oppression (Alabama Const. art. 1, § 35).**
- **Arkansas:** All political power is inherent in the people and government is instituted for their protection, security and benefit; and they have the right to alter, reform or abolish the same, in such manner as they may think proper (Arkansas Const. art. 2, § 1).
- **California:** All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require (California Const. art. 1, § 26).
- **Colorado:** All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole (Colorado Const. art. 2, § 1).
- **Florida:** All political power is inherent in the people. Enunciation of rights shall not be construed to impair or deny others retained by the people (Florida Const. art. 1, § 1).
- **Georgia:** All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people and are at all times amenable to them (Georgia Const. art. I, § II, ¶ I).
- **Idaho:** All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary (Idaho Const. art. I, § 2).
- **Indiana:** ...all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being (Indiana Const. art. 1, § 1).
- **Iowa:** All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it (Iowa Const. art. I, § 2).
- **Kansas:** All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit (Kansas Const. Bill of Rights § 2).
- **Kentucky:** All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, happiness and the protection of property (Kentucky Const. Bill of Rights § 4).
- **Louisiana:** All government, of right, originates with the people, is founded on their will alone, and is instituted solely for the good of the whole. Its only legitimate end is to secure justice for all, preserve the peace, protect the rights,

and promote the happiness and general welfare of the people (Louisiana Const. art. I, § 1).

- **Maine:** All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit (Maine Const. art. I, § 2).
- **Maryland:** That all Government of right originates from the People, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the unalienable right to alter, reform or abolish their Form of Government in such manner as they may deem expedient (Maryland Const. Declaration of Rights art. 1).
- **Massachusetts:** Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men (Massachusetts Const. pt. I, art. VII).
- **Mississippi:** All political power is vested in, and derived from, the people; all government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole (Mississippi Const. art. III, § 5).
- **Missouri:** That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole (Missouri Const. art. I, § 1).
- **Montana:** All political power is inherent in the people. At all times, the people have the unalienable right to alter or reform this constitution whenever they, in their sovereign capacity, deem it necessary (Montana Const. art. II, § 1).
- **Nebraska:** All governments derive their just powers from the consent of the governed and are established to protect and maintain individual rights (Nebraska Const. art. I, § 1).
- **Nevada:** All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people (Nevada Const. art. 1, § 2).
- **New Hampshire:** Government being instituted for the common benefit, protection, and security, of the whole community, and not for the private interest or emolument of any one man, family, or class of men (New Hampshire Const. pt. I, art. 10).
- **New Jersey:** All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it (New Jersey Const. art. I, ¶ 2).
- **New Mexico:** All political power is vested in and derived from the people; all government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole (New Mexico Const. art. II, § 2).
- **North Carolina:** All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole (North Carolina Const. art. 1, § 2).
- **North Dakota:** All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people (North Dakota Const. art. 1, § 2).

- **Ohio:** All political power is inherent in the people. Government is instituted for their equal protection and benefit (Ohio Const. art. 1, § 2).
- **Oklahoma:** All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare (Oklahoma Const. art. 2, § 1).
- **Oregon:** We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness (Oregon Const. art. 1, § 1).
- **Pennsylvania:** All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness (Pennsylvania Const. art. 1, § 2).
- **Rhode Island:** In the words of the Father of his Country, we declare that 'the basis of our political systems is the right of the people to make and alter their constitutions of government' (Rhode Island Const. art. 1, § 1).
- **South Carolina:** All political power is vested in and derived from the people only, therefore, they have the right at all times to modify their form of government (South Carolina Const. art. 1, § 1).
- **South Dakota:** All political power is inherent in the people, and all free government is founded on their authority, and is instituted for their equal protection and benefit (South Dakota Const. art. VI, § 26).
- **Tennessee:** That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness (Tennessee Const. art. 1, § 1).
- **Texas:** All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit (Texas Const. art. 1, § 2).
- **Utah:** All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit (Utah Const. art. 1, § 2).
- **Vermont:** That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community (Vermont Const. ch. I, art. 7).
- **Virginia:** That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety (Virginia Const. art. I, § 3).
- **Washington:** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights (Washington Const. art. 1, § 1).
- **West Virginia:** Government is instituted for the common benefit, protection and security of the people, nation or community (West Virginia Const. art. III, § 3).
- **Wisconsin:** All people are born equally free and independent, and have certain inherent rights... to secure these rights, governments are instituted, deriving their just powers from the consent of the governed (Wisconsin Const. art. 1, § 1).

- **Wyoming:** All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their equal protection and benefit (Wyoming Const. art. 1, § 1).

PRINCIPLE 4 — ALL AUTHORITY IS DELEGATED

All governmental power must be traceable to a lawful source. If delegation cannot be shown, the act is assumed power and is void. Implied, inherent, or generalized authority is usurpation.

- **Maxims:**
 - A "broken chain = no authority".
 - Things grounded upon an ill and void beginning cannot have a valid or good perfection (Finch, Law, b. 1, c. 3, n. 8).
 - An unconstitutional Act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed (Norton v. Shelby County, 118 U.S. 425, 442).
 - A judge should keep his jurisdiction within the limits of his commission (4 Inst. 163; Black's, 2d. 1056).
 - One who exercises jurisdiction out of his territory is not obeyed with impunity (*Extra territorium jus dicenti non paretur impune*) (Dig. 2, 1, 20; Branch, Princ.; 10 Coke, 77).
 - He who exercises judicial authority beyond his proper limits cannot be obeyed with safety (Story, Confl. Laws, s. 539).
 - 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 (*Delegata potestas non potest delegari*) (9 Coke, 77; Broom, Max. 840; 2 Kent, Comm. 633; 2 Steph. Comm. 119).
 - 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).
 - Power can never be delegated which the authority said to delegate never possessed itself (N.J. Steam Co. v. Merch Bank, 6 How. (47 U.S.) 344, 407).
 - 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 (*Frustra est potentia quæ nunquam venit in actum*) (Branch, Princ.).
 - One has authority when he has a legal or rightful power to act (C.L.M.).
 - The legality of power must be estimated not by what it will do, but by what it can do (Block v. Hirsh, 256 U.S. 135, 162).

- One lawfully commanding must be obeyed (*Parere debet qui juri obtemperat*) (Jenk. Cent. 120).
 - In the presence of the superior power, the inferior power ceases (*In præsentia majoris cessat potentia minoris*) (Jenk. Cent. 214, c. 53; 13 How. (54 U.S.) 142).
 - The less authority is merged in the greater (Broom, Max. 111).
- **State Constitutional Provisions:**
 - **Alabama:** The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy... and no person... being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted (Alabama Const. art. III, § 42, 43).
 - **Alaska:** All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole (Alaska Const. art. 1, § 2).
 - **Arizona:** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights (Arizona Const. art. 2, § 1).
 - **Arkansas:** All political power is inherent in the people and government is instituted for their protection, security and benefit (Arkansas Const. art. 2, § 1).
 - **California:** All political power is inherent in the people. Government is instituted for their protection, security, and benefit (California Const. art. 1, § 26).
 - **Colorado:** All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole (Colorado Const. art. 2, § 1).
 - **Georgia:** All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people and are at all times amenable to them (Georgia Const. art. I, § II, ¶ I).
 - **Idaho:** All political power is inherent in the people. Government is instituted for their equal protection and benefit (Idaho Const. art. I, § 2).
 - **Indiana:** ...all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority (Indiana Const. art. 1, § 1).
 - **Iowa:** All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people (Iowa Const. art. I, § 2).
 - **Kansas:** All political power is inherent in the people, and all free governments are founded on their authority (Kansas Const. Bill of Rights § 2).
 - **Kentucky:** All power is inherent in the people, and all free governments are founded on their authority (Kentucky Const. Bill of Rights § 4).
 - **Louisiana:** All government, of right, originates with the people, is founded on their will alone, and is instituted solely for the good of the whole (Louisiana Const. art. I, § 1).
 - **Maine:** All power is inherent in the people; all free governments are founded in their authority (Maine Const. art. I, § 2).

- **Maryland:** That all Government of right originates from the People, is founded in compact only (Maryland Const. Declaration of Rights art. 1).
- **Massachusetts:** All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority... are their substitutes and agents (Massachusetts Const. pt. I, art. V).
- **Mississippi:** All political power is vested in, and derived from, the people; all government of right originates with the people, is founded upon their will only (Mississippi Const. art. III, § 5).
- **Missouri:** That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only (Missouri Const. art. I, § 1).
- **New Hampshire:** All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents (New Hampshire Const. pt. I, art. 8).
- **New Jersey:** All political power is inherent in the people (New Jersey Const. art. I, ¶ 2).
- **New Mexico:** All political power is vested in and derived from the people (New Mexico Const. art. II, § 2).
- **North Carolina:** All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only (North Carolina Const. art. 1, § 2).
- **North Dakota:** All political power is inherent in the people (North Dakota Const. art. 1, § 2).
- **Ohio:** All political power is inherent in the people (Ohio Const. art. 1, § 2).
- **Oklahoma:** All political power is inherent in the people (Oklahoma Const. art. 2, § 1).
- **Oregon:** ...all power is inherent in the people, and all free governments are founded on their authority (Oregon Const. art. 1, § 1).
- **Pennsylvania:** All power is inherent in the people, and all free governments are founded on their authority (Pennsylvania Const. art. 1, § 2).
- **South Carolina:** All political power is vested in and derived from the people only (South Carolina Const. art. 1, § 1).
- **South Dakota:** All political power is inherent in the people, and all free government is founded on their authority (South Dakota Const. art. VI, § 26).
- **Tennessee:** That all power is inherent in the people, and all free governments are founded on their authority (Tennessee Const. art. 1, § 1).
- **Texas:** All political power is inherent in the people, and all free governments are founded on their authority (Texas Const. art. 1, § 2).
- **Utah:** All political power is inherent in the people; and all free governments are founded on their authority (Utah Const. art. 1, § 2).
- **Vermont:** That all power being originally in and therefore derived from the people; therefore, all officers of government... are their trustees and servants (Vermont Const. ch. I, art. 6).
- **Virginia:** That all political power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants (Virginia Const. art. I, § 2).

- **Washington:** All political power is inherent in the people, and governments derive their just powers from the consent of the governed (Washington Const. art. 1, § 1).
- **West Virginia:** All power is vested in, and consequently derived from, the people. Magistrates are their trustees and servants (West Virginia Const. art. II, § 2).
- **Wyoming:** All political power is inherent in the people, and all free governments are founded on their authority (Wyoming Const. art. 1, § 1).
- **U.S. Constitutional Provisions:**
 - U.S. Tenth Amendment: "The powers not delegated to the United States... are reserved to the states respectively, or to the people".
- **Affirming Supreme Court Rulings:**
 - *Gibbons v. Ogden*, 22 U.S. 1 (1824): The federal government is one of "enumerated powers" expressly granted by the people.
 - *McCulloch v. Maryland*, 17 U.S. 316 (1819): Confirms that the government can claim no powers not granted to it by the Constitution.
 - *Wayman v. Southard*, 23 U.S. 1 (1825): Discusses the limits of delegated power and the distinction between legislative and judicial functions.
 - *Field v. Clark*, 143 U.S. 649 (1892): Establishes that Congress cannot delegate legislative power to the President.

PRINCIPLE 5 — THE CONSTITUTION IS A TRUST

The Constitution defines and limits all delegated power. Expansion beyond the grant is a breach of trust, and acts exceeding these limits are void.

- **Maxims:**
 - Legislatures are "only to discharge a trust" of which they are a depository.
 - From the words of the law there must be no departure. 5 *Coke*, 119; *Wing. Max.* 25.
 - The meaning of the words is the spirit of the law. 5 *Coke*, 2.
 - What I cannot do by myself, I cannot by another [i.e., an agent.] 4 *Coke*, 24b; 11 *Coke*, 87a; *Jenk. Cent.* 237.
 - Expansion beyond the grant is a breach of trust.
- **State Constitutional Provisions:**
 - Oregon: No person shall be rendered ineligible to any office of trust or profit under this State... (Oregon Const. art. 1, § 4).
 - Alabama: That all persons resident in this state... are hereby declared to possess equal civil and political rights (Alabama Const. art. 1, § 2).
 - Arizona: The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Arizona Const. art. 2, § 32).
 - California: This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States (California Const. art. 1, § 24).

- Georgia: Public officers are the trustees and servants of the people and are at all times amenable to them (Georgia Const. art. I, § II).
 - Maryland: 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 (Maryland Const. Declaration of Rights art. 6).
 - Massachusetts: 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 Const. pt. I, art. V).
 - Mississippi: The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent in, the people (Mississippi Const. art. III, § 32).
 - New Hampshire: All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them (New Hampshire Const. pt. I, art. 8).
 - South Carolina: The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory (South Carolina Const. art. 1, § 23).
 - Vermont: That all power being originally in and therefore derived from the people; therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them (Vermont Const. ch. I, art. 6).
 - Washington: The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Washington Const. art. 1, § 29).
- **Affirming Supreme Court Rulings:**
 - Norton v. Shelby County, 118 U.S. 425 (1886): "An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed".
 - Marbury v. Madison, 5 U.S. 137 (1803): A law repugnant to the Constitution is void; the Constitution is the paramount law to which the government is subordinate.
 - District of Columbia v. Heller, 554 U.S. 570 (2008): The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary meaning.
 - Mattox v. United States, 156 U.S. 237 (1895): Bound the interpretation of the Constitution to the "law as it existed at the time it was adopted

PRINCIPLE 6 — NO WILL, ONLY LAW

Government may act only according to law, not discretion. If the action is based on will, the act is arbitrary and void. Discretion substituted for law converts authority into power.

- **Maxims:**
 - The best law leaves little to judicial discretion (*Optima est lex quae minimum relinquit arbitrio judicis*).
 - That law is best which leaves least to the discretion of the judge; that judge is best who leaves least to his own opinion (Broom, Max. 84; 1 Kent, Comm. 478; Bacon, Aph. 8, 46).
 - The law judges those things which must necessarily be done as if actually done (Branch. Princ.).
 - Things introduced contrary to the reason of law ought not to be drawn into a precedent (12 Coke, 75; Dig. 1, 3, 14; Dig. 50, 17).
 - Odious and dishonest acts are not presumed in law (Co. Litt. 78; Jackson v. Miller, 6 Wend. (N.Y.) 228, 231, 21 Am. Dec. 316; Nichols v. Pinner, 18 N.Y. 295, 300).
 - No thing unjust is to be presumed in law (4 Coke, 72).

- **State Constitutional Provisions:**
 - **Massachusetts:** In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men (Massachusetts Const. pt. I, art. XXX).
 - **Alabama:** The powers of the government of the State of Alabama shall be divided into three distinct departments... each of which shall be confided to a separate body of magistracy... to the end that it may be a government of laws and not of men (Alabama Const. art. III, § 42, 43).
 - **Arizona:** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Arizona Const. art. 2, § 32).
 - **Arkansas:** No person shall be... deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land (Arkansas Const. art. 2, § 21).
 - **Connecticut:** No person shall be arrested, detained or punished, except in cases clearly warranted by law (Connecticut Const. art. 1, § 9).
 - **Maryland:** That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other (Maryland Const. Declaration of Rights art. 8).
 - **Mississippi:** No person shall be deprived of life, liberty, or property except by due process of law (Mississippi Const. art. III, § 14).
 - **South Carolina:** The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory (South Carolina Const. art. 1, § 23).
 - **Virginia:** That the legislative and executive powers of the State should be separate and distinct from the judiciary (Virginia Const. art. I, § 5).
 - **Washington:** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Washington Const. art. 1, § 29).

- **West Virginia:** The legislative, executive and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others (West Virginia Const. art. V, § 1).
- **U.S. Constitutional Provisions:**
 - U.S. Art. 1, § 1: All legislative powers are "vested," implying they are fixed by law, not personal will.
- **Affirming Supreme Court Rulings:**
 - *Osborn v. Bank of the United States*, 22 U.S. 738 (1824): Judicial power is never exercised for the purpose of giving effect to the will of the judge, but always for the purpose of giving effect to the will of the law.
 - *Yick Wo v. Hopkins*, 118 U.S. 356 (1886): The law itself is the definition and limitation of power. Though the law itself be fair on its face, if it is applied and administered by public authority with an "evil eye and an unequal hand," it is a denial of equal justice.

PRINCIPLE 7 — DUE PROCESS IS STRUCTURAL

Due process is a condition precedent that must precede any exercise of power. It is the structural gate that protects the people and establishes immutable boundaries for government action. If the required legal procedures are not satisfied before an action, the act is void and cannot be cured by process after the fact.

- **Maxims:**
 - *Conditio (præcedens) adimpleri debet priusquam sequatur effectus* (A condition precedent must be fulfilled before the effect can follow).
 - Due process is the "gate that protects the people" and must come before any deprivation of rights.
 - The judge in his decision ought to follow the rule, when the exception is not proved (Black's, 2d. 669; Bouv. 133).
 - Everyone is presumed to be innocent until his guilt is established beyond a reasonable doubt (C.L.M.).
 - Every uncondemned person is held by the law as innocent (Lofft, 121).
 - The laws consist not in being read, but in being understood (8 Coke, 167a).
 - Delays in law are odious (Branch, Princ.).
 - The law always abhors delays (2 Inst. 240).
 - The law is the same respecting things which do not appear and those which do not exist (*Bennehan v. Webb*, 6 Ired. (N.C.) 57, 61; *U.S. v. Wilkinson*, 12 How. (53 U.S.) 246, 253; 5 Coke, 6).
 - Law favors truth, faith, and certainty (Wing. Max. max. 154).
 - The law rejects superfluous, contradictory, and incongruous things (Jenk. Cent. 133).

- No freeman shall be deprived of life, liberty or property but by the lawful judgment of his peers, or by the law of the land—that is by the common law (C.L.M.).
- No one can be made to testify against himself or betray himself (C.L.M.; Broom, Max. 968).
- No one is bound to accuse himself, except before God (*Accusare nemo se debet nisi coram Deo*) (Wing. Max. 486; Hardr. 139; 1 Bl. Comm. 443).
- Law is a rule of right; and whatever is contrary to the rule of right is an injury (*Jus est norma recti; et quicquid est contra normam recti est injuria*) (3 Bulst. 313; Weisman p. 52; Peloubet p. 57).
- An action is not given to one who is not injured (Jenk. Cent. 69).
- No injury is done by things not in existence (Dig. 50, 17, 169, 1).
- Injury, damage, harm (Jenk. Cent. 52).
- An oath is indivisible; it cannot be in part true and in part false (*Juramentum est indivisibile et non est admittendum in parte verum et in parte falsum*) (4 Inst. 279).
- Truth by whomsoever pronounced is from God (4 Inst. 153).
- He who affirms must prove (Porter v. Stevens, 9 Cush. (Mass.) 535).
- No one should be a judge in his own cause (*Nemo debet esse judex in propria causa*) (Broom, Max. 113).
- A judge must be impartial (*Judex debet esse impar*).
- The condition of the defendant must be favored (Dig. 50, 17, 125).
- Proofs ought to be evident, to-wit, clear and easily understood (Co. Litt. 283).
- The burden of proof lies on him who asserts the fact (39n from maxims).
- That which is clearly apparent need not be proved (10 Mod. 150).
- No man should be condemned unheard (Broom, Max. 113).
- In law, none is credited unless he is sworn; all facts must, when established by witnesses, be under oath or affirmation (Cro. Car. 64; Bouv. 130).
- **State Constitutional Provisions:**
 - **Alabama:** That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law (Alabama Const. art. 1, § 13).
 - **Alaska:** No person shall be deprived of life, liberty, or property, without due process of law (Alaska Const. art. 1, § 7).
 - **Arizona:** No person shall be disturbed in his private affairs, or his home invaded, without authority of law (Arizona Const. art. 2, § 8).
 - **Arkansas:** No person shall be... deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land (Arkansas Const. art. 2, § 21).
 - **California:** A person may not be deprived of life, liberty, or property without due process of law (California Const. art. 1, § 7).
 - **Colorado:** No person shall be deprived of life, liberty or property, without due process of law (Colorado Const. art. 2, § 25).
 - **Connecticut:** No person shall be deprived of life, liberty or property without due process of law (Connecticut Const. art. 1, § 8).

- **Delaware:** ...nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers or by the law of the land (Delaware Const. art. 1, § 7).
- **Florida:** No person shall be deprived of life, liberty or property without due process of law (Florida Const. art. 1, § 9).
- **Georgia:** No person shall be deprived of life, liberty, or property except by due process of law (Georgia Const. art. I, § I, ¶ I).
- **Hawaii:** No person shall be deprived of life, liberty or property without due process of law (Hawaii Const. art. I, § 5).
- **Idaho:** No person shall be deprived of life, liberty or property without due process of law (Idaho Const. art. I, § 13).
- **Illinois:** No person shall be deprived of life, liberty or property without due process of law (Illinois Const. art. I, § 2).
- **Indiana:** No person, in any criminal prosecution, shall be... deprived of life, liberty, or property, but by the law of the land (Indiana Const. art. 1, § 12).
- **Iowa:** ...no person shall be deprived of life, liberty, or property, without due process of law (Iowa Const. art. I, § 9).
- **Kansas:** All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law (Kansas Const. Bill of Rights § 18).
- **Kentucky:** ...nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land (Kentucky Const. Bill of Rights § 11).
- **Louisiana:** No person shall be deprived of life, liberty, or property, except by due process of law (Louisiana Const. art. I, § 2).
- **Maine:** No person shall be deprived of life, liberty, property or privileges, but by judgment of that person's peers or the law of the land (Maine Const. art. I, § 6-A).
- **Maryland:** That no man ought to be taken or imprisoned or disseized... or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land (Maryland Const. Declaration of Rights art. 23).
- **Massachusetts:** Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character... conformably to the laws (Massachusetts Const. pt. I, art. XI).
- **Michigan:** No person shall be deprived of life, liberty or property, without due process of law (Michigan Const. art. I, § 17).
- **Minnesota:** No person shall be... deprived of life, liberty or property without due process of law (Minnesota Const. art. 1, § 7).
- **Mississippi:** No person shall be deprived of life, liberty, or property except by due process of law (Mississippi Const. art. III, § 14).
- **Missouri:** That no person shall be deprived of life, liberty or property without due process of law (Missouri Const. art. I, § 10).
- **Montana:** No person shall be deprived of life, liberty, or property without due process of law (Montana Const. art. II, § 17).
- **Nebraska:** No person shall be deprived of life, liberty, or property, without due process of law (Nebraska Const. art. I, § 3).
- **Nevada:** No person shall be deprived of life, liberty, or property, without due process of law (Nevada Const. art. 1, § 8).

- **New Hampshire:** No subject shall be arrested, imprisoned... or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land (New Hampshire Const. pt. I, art. 15).
- **New Jersey:** No person shall be deprived of life, liberty, or property, without due process of law (New Jersey Const. art. I, ¶ 1).
- **New Mexico:** No person shall be deprived of life, liberty or property without due process of law (New Mexico Const. art. II, § 18).
- **New York:** No person shall be deprived of life, liberty or property without due process of law (New York Const. art. 1, § 6).
- **North Carolina:** No person shall be... in any manner deprived of his life, liberty, or property, but by the law of the land (North Carolina Const. art. 1, § 19).
- **North Dakota:** No person shall be... deprived of life, liberty or property without due process of law (North Dakota Const. art. 1, § 12).
- **Ohio:** ...and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law (Ohio Const. art. 1, § 16).
- **Oklahoma:** No person shall be deprived of life, liberty, or property, without due process of law (Oklahoma Const. art. 2, § 7).
- **Oregon:** No person shall be deprived of life, liberty, or property, without due process of law (Oregon Const. art. 1, § 10).
- **Pennsylvania:** ...nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land (Pennsylvania Const. art. 1, § 9).
- **Rhode Island:** No person shall be deprived of life, liberty or property without due process of law (Rhode Island Const. art. 1, § 2).
- **South Carolina:** No person shall be deprived of life, liberty, or property without due process of law (South Carolina Const. art. 1, § 3).
- **South Dakota:** No person shall be deprived of life, liberty or property without due process of law (South Dakota Const. art. VI, § 2).
- **Tennessee:** That no man shall be taken or imprisoned... or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land (Tennessee Const. art. 1, § 8).
- **Texas:** No citizen of this State shall be deprived of life, liberty, property, privileges or immunities... except by the due course of the law of the land (Texas Const. art. 1, § 19).
- **Utah:** No person shall be deprived of life, liberty or property, without due process of law (Utah Const. art. 1, § 7).
- **Vermont:** That no person can be justly deprived of liberty, except by the laws of the land, or the judgment of peers (Vermont Const. ch. I, art. 10).
- **Virginia:** ...that no person shall be deprived of his life, liberty, or property without due process of law (Virginia Const. art. I, § 11).
- **Washington:** No person shall be deprived of life, liberty, or property, without due process of law (Washington Const. art. 1, § 3).
- **West Virginia:** No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers (West Virginia Const. art. III, § 10).
- **Wisconsin:** No person may be held to answer for a criminal offense without due process of law (Wisconsin Const. art. 1, § 8).

- **Wyoming:** No person shall be deprived of life, liberty or property without due process of law (Wyoming Const. art. 1, § 6).
- **U.S. Constitutional Provisions:**
 - U.S. Fifth and Fourteenth Amendments: Mandate that no person shall be deprived of life, liberty, or property without "due process of law".
- **Affirming Supreme Court Rulings:**
 - **Goldberg v. Kelly, 397 U.S. 254 (1970):** Establishes the necessity of a hearing before the deprivation of certain rights.
 - **Cooper v. Aaron, 358 U.S. 1 (1958):** "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it".
 - **Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992):** Standing requires concrete and particularized injury; hypothetical harms do not suffice.
 - **Ashwander v. Tennessee Valley Authority, 297 U.S. 288 (1936):** Reinforced that courts do not entertain cases without actual controversy or injury.
 - **Aguiar v. Texas, 378 U.S. 108 (1964):** Required sworn affidavits for warrants, emphasizing the oath's role in due process.
 - **Whiteley v. Warden, 401 U.S. 560 (1971):** Held that unsworn or insufficiently verified accusations violate due process.
 - **Coolidge v. New Hampshire, 403 U.S. 443 (1971):** Required neutral magistrate for warrants to ensure an objective predetermination of probable cause.
 - **Shadwick v. City of Tampa, 407 U.S. 345 (1972):** Affirmed that magistrates must be neutral and detached from law enforcement activities.
 - **Brinegar v. United States, 338 U.S. 160 (1949):** Defined probable cause as sufficient facts and circumstances to warrant a man of reasonable caution in the belief that an offense has been committed.

I. INJURY OR VIOLATION REQUIRED FOR PROCESS

Legal process must begin with an actual injury, harm, or violation of a legal right. Due process operates as a condition precedent: without proven injury, there is no predicate for deprivation.

- **Maxims of Law:**
 - Ubi injuria, ibi remedium (Where there is an injury, there is a remedy).
 - Law is a rule of right; and whatever is contrary to the rule of right is an injury (Jus est norma recti; et quicquid est contra normam recti est injuria – 3 Bulst. 313).
 - An action is not given to one who is not injured (Jenk. Cent. 69).
 - No injury is done by things not in existence (Dig. 50, 17, 169, 1).
 - Injury, damage, harm (Jenk. Cent. 52).
 - The law is the same respecting things which do not appear and those which do not exist (Bennehan v. Webb, 6 Ired. (N.C.) 57, 61; U.S. v. Wilkinson, 12 How. (53 U.S.) 246, 253; 5 Coke, 6).
- **State Constitutional Provisions:**

- Alabama: That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law (Alabama Const. art. 1, § 13).
- Colorado: Courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character (Colorado Const. art. 2, § 6).
- Connecticut: All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law (Connecticut Const. art. 1, § 10).
- Delaware: All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of the law (Delaware Const. art. 1, § 9).
- Indiana: All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law (Indiana Const. art. 1, § 12).
- Kentucky: All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law (Kentucky Const. Bill of Rights § 14).
- Massachusetts: Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character (Massachusetts Const. pt. I, art. XI).
- Mississippi: All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law (Mississippi Const. art. III, § 24).
- North Carolina: All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law (North Carolina Const. art. 1, § 18).
- North Dakota: All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have a remedy by due process of law (North Dakota Const. art. 1, § 9).
- Ohio: All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law (Ohio Const. art. 1, § 16).
- Oregon: No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation (Oregon Const. art. 1, § 10).
- Pennsylvania: All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law (Pennsylvania Const. art. 1, § 11).
- South Carolina: All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained (South Carolina Const. art. 1, § 9).
- South Dakota: All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law (South Dakota Const. art. VI, § 20).

- Tennessee: That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law (Tennessee Const. art. 1, § 17).
 - Texas: All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law (Texas Const. art. 1, § 13).
 - Utah: All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law (Utah Const. art. 1, § 11).
 - Vermont: Every person ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character (Vermont Const. ch. I, art. 4).
 - West Virginia: The courts of this State shall be open, and every person, for an injury done to him, in his person, property or reputation, shall have remedy by due course of law (West Virginia Const. art. III, § 17).
 - Wyoming: All courts shall be open and every person for an injury done to person, property or reputation shall have remedy by due course of law (Wyoming Const. art. 1, § 8).
- **Affirming Supreme Court Rulings:**
 - *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992): Established that standing requires concrete and particularized injury; "The irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an 'injury in fact', an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical."
 - *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288 (1936): Reinforced that courts do not entertain cases without actual controversy or injury. "The judicial power does not extend to the determination of abstract questions."

II. SWORN ACCUSATION OR COMPLAINT

Legal process must begin with a sworn accusation grounded in fact, binding the accuser to the truth and preventing arbitrary power.

- **Maxims:**
 - An oath is indivisible; it cannot be in part true and in part false (*Juramentum est indivisibile et non est admittendum in parte verum et in parte falsum* – 4 Inst. 279).
 - Truth by whomsoever pronounced is from God (4 Inst. 153).
 - In law, none is credited unless he is sworn. All facts must, when established by witnesses, be under oath or affirmation (*Cro. Car. 64; Bouv. 130*).
- **State Constitutional Provisions:**
 - Massachusetts: ...no warrant ought to be issued but upon complaint actually made upon oath or affirmation (Massachusetts Const. pt. I, art. XIV).

- Alabama: ...no warrants shall issue to search any place or to seize any person or thing without probable cause, supported by oath or affirmation (Alabama Const. art. 1, § 5).
- Alaska: No warrants shall issue, but upon probable cause, supported by oath or affirmation (Alaska Const. art. 1, § 14).
- Arizona: No warrant shall issue but upon probable cause, supported by affidavit (Arizona Const. art. 2, § 8).
- Arkansas: ...no warrant shall issue but upon probable cause, supported by oath or affirmation (Arkansas Const. art. 2, § 15).
- California: ...a warrant may not issue except on probable cause, supported by oath or affirmation (California Const. art. 1, § 13).
- Colorado: ...no warrant to search... or seize... shall issue... without probable cause, supported by oath or affirmation reduced to writing (Colorado Const. art. 2, § 7).
- Connecticut: ...no warrant to search... or to seize... shall issue... without probable cause supported by oath or affirmation (Connecticut Const. art. 1, § 7).
- Delaware: ...no warrant... shall issue... unless there be probable cause supported by oath or affirmation (Delaware Const. art. 1, § 6).
- Florida: No warrant shall issue except upon probable cause, supported by affidavit (Florida Const. art. 1, § 12).
- Georgia: ...no warrant shall issue except upon probable cause supported by oath or affirmation (Georgia Const. art. I, § XIII).
- Hawaii: ...no warrants shall issue but upon probable cause, supported by oath or affirmation (Hawaii Const. art. I, § 7).
- Idaho: ...no warrant shall issue without probable cause shown by affidavit (Idaho Const. art. I, § 17).
- Illinois: ...no warrant shall issue without probable cause, supported by affidavit (Illinois Const. art. I, § 6).
- Indiana: ...no warrant shall issue, but upon probable cause, supported by oath or affirmation (Indiana Const. art. 1, § 11).

- Iowa: ...no warrant shall issue but on probable cause, supported by oath or affirmation (Iowa Const. art. I, § 8).
- Kansas: ...no warrant shall issue but on probable cause, supported by oath or affirmation (Kansas Const. Bill of Rights § 15).
- Kentucky: ...no warrant shall issue... without probable cause supported by oath or affirmation reduced to writing (Kentucky Const. Bill of Rights § 10).
- Louisiana: No warrant shall issue without probable cause supported by oath or affirmation (Louisiana Const. art. I, § 5).
- Maine: ...no warrant... shall issue... without probable cause — supported by oath or affirmation (Maine Const. art. I, § 5).
- Maryland: ...no warrant ought to be issued, but upon probable cause, supported by oath or affirmation (Maryland Const. Declaration of Rights art. 26).
- Michigan: ...no warrant... shall issue... without probable cause, supported by oath or affirmation (Michigan Const. art. I, § 11).
- Minnesota: ...no warrant shall issue but upon probable cause, supported by oath or affirmation (Minnesota Const. art. 1, § 10).
- Mississippi: ...no warrant shall be issued without probable cause, supported by oath or affirmation (Mississippi Const. art. III, § 23).
- Missouri: ...no warrant... shall issue... without probable cause, supported by oath or affirmation reduced to writing (Missouri Const. art. I, § 15).
- Montana: ...no warrant... shall issue... without probable cause, supported by oath or affirmation reduced to writing (Montana Const. art. II, § 11).
- Nebraska: ...no warrant shall issue but upon probable cause, supported by oath or affirmation (Nebraska Const. art. I, § 7).
- Nevada: ...no warrant shall issue but on probable cause, supported by oath or affirmation (Nevada Const. art. 1, § 18).
- New Hampshire: ...no warrant ought to be issued but upon complaint actually made... supported by oath or affirmation (New Hampshire Const. pt. I, art. 19).
- New Jersey: ...no warrant shall issue except upon probable cause, supported by oath or affirmation (New Jersey Const. art. I, ¶ 7).

- New Mexico: ...no warrant... shall issue... without probable cause, supported by oath or affirmation reduced to writing (New Mexico Const. art. II, § 10).
- New York: ...no warrants shall issue, but upon probable cause, supported by oath or affirmation (New York Const. art. 1, § 12).
- North Carolina: ...no warrant ought to be issued but upon probable cause, supported by oath or affirmation (North Carolina Const. art. 1, § 20).
- North Dakota: ...no warrant shall issue but upon probable cause, supported by oath or affirmation (North Dakota Const. art. 1, § 8).
- Ohio: ...no warrant shall issue, but upon probable cause, supported by oath or affirmation (Ohio Const. art. 1, § 14).
- Oklahoma: ...no warrant shall issue but upon probable cause supported by oath or affirmation (Oklahoma Const. art. 2, § 30).
- Oregon: ...no warrant shall issue but upon probable cause, supported by oath, or affirmation (Oregon Const. art. 1, § 9).
- Pennsylvania: ...no warrant... shall issue... without probable cause, supported by oath or affirmation subscribed to by the affiant (Pennsylvania Const. art. 1, § 8).
- Rhode Island: ...no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation (Rhode Island Const. art. 1, § 6).
- South Carolina: ...no warrants shall issue but upon probable cause, supported by oath or affirmation (South Carolina Const. art. 1, § 10).
- South Dakota: ...no warrant shall issue but upon probable cause supported by affidavit (South Dakota Const. art. VI, § 11).
- Tennessee: ...no warrant... shall issue... without probable cause supported by oath or affirmation (Tennessee Const. art. 1, § 7).
- Texas: ...no warrant... shall issue... without probable cause, supported by oath or affirmation (Texas Const. art. 1, § 9).
- Utah: ...no warrant shall issue but upon probable cause supported by oath or affirmation (Utah Const. art. 1, § 14).
- Vermont: ...no warrant ought to be issued but upon probable cause, supported by oath or affirmation (Vermont Const. ch. I, art. 11).

- Virginia: ...no warrant ought to be issued but upon probable cause, supported by oath or affirmation (Virginia Const. art. I, § 10).
 - Washington: No warrant shall issue but upon probable cause, supported by oath or affirmation (Washington Const. art. 1, § 7).
 - West Virginia: ...no warrant shall issue except upon probable cause, supported by oath or affirmation (West Virginia Const. art. III, § 6).
 - Wisconsin: ...no warrant shall issue but upon probable cause, supported by oath or affirmation (Wisconsin Const. art. 1, § 11).
 - Wyoming: ...no warrant shall issue but upon probable cause, supported by affidavit (Wyoming Const. art. 1, § 4).
- **Affirming Affirming Supreme Court Rulings:**
 - *Aguilar v. Texas*, 378 U.S. 108 (1964): Required sworn affidavits for warrants, emphasizing oath's role in due process. "The tip, however, has a fundamental weakness: it is not supported by oath or affirmation."
 - *Whiteley v. Warden*, 401 U.S. 560 (1971): Held that unsworn or insufficiently verified accusations violate due process.

III. REVIEW BY NEUTRAL MAGISTRATE

The determination of probable cause must be made by an impartial judicial officer independent of the prosecuting authority.

- **Maxims:**
 - No one should be a judge in his own cause (*Nemo debet esse iudex in propria causa* – *Broom*, Max. 113).
 - A judge must be impartial (*Judex debet esse impar*).
 - The condition of the defendant must be favored (*Dig. 50, 17, 125*).
- **State Constitutional Provisions:**
 - California: Felonies shall be prosecuted... after examination and commitment by a magistrate, by information. A person charged with a felony... shall be taken without unnecessary delay before a magistrate (California Const. art. 1, § 14).
 - Arizona: ...no person shall be prosecuted for felony by information without having had a preliminary examination before a magistrate (Arizona Const. art. 2, § 30).
- **Affirming Affirming Supreme Court Rulings:**
 - *Coolidge v. New Hampshire*, 403 U.S. 443 (1971): Required neutral magistrate for warrants. "The warrant requirement... is the point we have considered basic: the notion of an objective predetermination of probable cause by a neutral and detached magistrate."
 - *Shadwick v. City of Tampa*, 407 U.S. 345 (1972): Affirmed that magistrates must be neutral. "Whatever else neutrality and detachment might entail, it is clear that they require severance and disengagement from activities of law enforcement."

IV. SUFFICIENT CAUSE FOR CHARGE

No person may be subjected to legal process unless the accusation is supported by clear evidence capable of establishing a reasonable basis for the charge.

- **Maxims:**
 - Proof must be clearer than the thing to be proved (Probatio debet esse evidentior quam res probanda).
 - Proofs ought to be evident, to-wit, clear and easily understood (Co. Litt. 283).
 - The burden of proof lies on him who asserts the fact (39n from maxims).
 - That which is clearly apparent need not be proved (10 Mod. 150).

- **State Constitutional Provisions:**
 - **Arkansas:** No person shall be held to answer a criminal charge unless on the presentment or indictment of a grand jury (Arkansas Const. art. 2, § 8).
 - **California:** The magistrate shall immediately give the defendant a copy of the complaint... and on the defendant's request read the complaint (California Const. art. 1, § 14).
 - **Mississippi:** ...no warrant shall be issued without probable cause, supported by oath or affirmation (Mississippi Const. art. III, § 23).

- **Affirming Affirming Supreme Court Rulings:**
 - *Brinegar v. United States*, 338 U.S. 160 (1949): Defined probable cause as sufficient facts for charge. "Probable cause exists where the facts and circumstances within their knowledge... are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed."
 - *Aguilar v. Texas*, 378 U.S. 108 (1964): Required sufficient cause in sworn form. "The magistrate must be informed of some of the underlying circumstances..."

V. LAWFUL CHARGE ISSUED UPON CAUSE

A formal charge must arise from lawful authority grounded in established law, identifying the specific violation alleged.

- **Maxims:**
 - Summonses or citations should not be granted before it is expressed on what ground (12 Coke, 47).
 - An action is a plaint or complaint (Co. Litt. 292a).
 - Law is a rule of right (Jus est norma recti – Wing. Max. 486).

- **State Constitutional Provisions:**
 - **Alabama:** That no person shall be accused or arrested, or detained, except in cases ascertained by law, and according to the form which the same has prescribed (Alabama Const. art. 1, § 7).
 - **Connecticut:** No person shall be arrested, detained or punished, except in cases clearly warranted by law (Connecticut Const. art. 1, § 9).

- **Georgia:** ...no warrant shall issue except upon probable cause supported by oath or affirmation (Georgia Const. art. I, § XIII).
- **Affirming Supreme Court Rulings:**
 - Giordenello v. United States, 357 U.S. 480 (1958): Held that charges must be based on lawful process.
 - Beck v. Ohio, 379 U.S. 89 (1964): Invalidated charges without sufficient cause.

VI. PUBLIC HEARING BEFORE TRIBUNAL

No person may be condemned or deprived of rights without the opportunity to be heard in a public proceeding before a court of record.

- **Maxims:**
 - Hear the other side (*Audi alteram partem*).
 - Let the other side be heard (*Audiatur et altera pars*).
 - No man should be condemned unheard (*Broom, Max. 113*).
 - The practice of the court is the law of the court (*3 Bulst. 53*).
- **State Constitutional Provisions:**
 - **Alabama:** That in all criminal prosecutions, the accused has a right to be heard by himself and counsel... and, in all prosecutions by indictment, a speedy, public trial (Alabama Const. art. 1, § 6).
 - **Alaska:** In all criminal prosecutions, the accused shall have the right to a speedy and public trial (Alaska Const. art. 1, § 11).
 - **Arkansas:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial (Arkansas Const. art. 2, § 10).
 - **Georgia:** In criminal cases, the defendant shall have a public and speedy trial by an impartial jury (Georgia Const. art. I, § XI).
- **Affirming Supreme Court Rulings:**
 - *In re Oliver*, 333 U.S. 257 (1948): Affirmed right to public trial. "The guarantee has always been recognized as a safeguard against any attempt to employ our courts as instruments of persecution."
 - *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980): Extended public hearing to due process.
 - *Goldberg v. Kelly*: Establishes the necessity of a hearing before the deprivation of certain rights.

VII. IMPARTIAL TRIBUNAL AND JURY

Judgment must be rendered by a neutral body, preventing the consolidation of prosecutorial and judicial power.

- **Maxims:**
 - A judge must be impartial (*Judex debet esse impar*).
 - No one may be both accuser and judge (*Nemo potest esse simul actor et judex*).
 - The trial should always be had where the jurors can be best informed (*7 Coke, 1b*).

- **State Constitutional Provisions:**
 - **Alabama:** That the right of trial by jury shall remain inviolate (Alabama Const. art. 1, § 11).
 - **California:** Trial by jury is an inviolate right and shall be secured to all (California Const. art. 1, § 16).
 - **Florida:** The right of trial by jury shall be secure to all and remain inviolate (Florida Const. art. 1, § 22).
 - **Indiana:** In all criminal cases whatever, the jury shall have the right to determine the law and the facts (Indiana Const. art. 1, § 19).

- **Affirming Supreme Court Rulings:**
 - *Duncan v. Louisiana*, 391 U.S. 145 (1968): Held jury trial essential to due process. "Trial by jury in criminal cases is fundamental to the American scheme of justice."
 - *Hurtado v. California*, 110 U.S. 516 (1884): Affirmed the necessity of an impartial tribunal acting according to the law of the land.

VIII. BURDEN OF PROOF ON ACCUSER

The party making the accusation must substantiate it; the law does not presume guilt or liability.

- **Maxims:**
 - The burden of proof lies upon the plaintiff (*Actori incumbit probatio*).
 - He who affirms must prove (*Porter v. Stevens*, 9 Cush. (Mass.) 535).
 - Proofs ought to be evident (*Co. Litt.* 283; *Steph. Pl.* 84).
 - Everyone is presumed to be innocent until his guilt is established beyond a reasonable doubt (C.L.M.).
 - Every uncondemned person is held by the law as innocent (*Lofft*, 121).

- **State Constitutional Provisions:**
 - Alabama: That the right of trial by jury shall remain inviolate (Alabama Const. art. 1, § 11).
 - California: Trial by jury is an inviolate right and shall be secured to all (California Const. art. 1, § 16).
 - Florida: The right of trial by jury shall be secure to all and remain inviolate (Florida Const. art. 1, § 22).
 - Indiana: In all criminal cases whatever, the jury shall have the right to determine the law and the facts (Indiana Const. art. 1, § 19).

- **Affirming Supreme Court Rulings:**
 - *In re Winship*, 397 U.S. 358 (1970): Held burden on state in criminal cases. "The Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary..."
 - *Speiser v. Randall*, 357 U.S. 513 (1958): Shifted burden violates due process.

IX. JUDGMENT ACCORDING TO LAW

Courts do not create law; they apply fixed rules to proved facts. The authority of judgment depends on the integrity of the preceding process.

- **Maxims:**
 - A judgment is accepted as truth (*Judicium semper pro veritate accipitur*).
 - Judgment is to be given according to what is proved (*Lofft. 42*).
 - The judge in his decision ought to follow the rule, when the exception is not proved (*Black's, 2d. 669; Bouv. 133*).
 - The laws consist not in being read, but in being understood (*8 Coke, 167a*).
 - The law is the definition and limitation of power (*Yick Wo v. Hopkins, 118 U.S. 356*).
 - Judgment without due process is void (*Norton v. Shelby County, 118 U.S. 425*).

- **State Constitutional Provisions:**
 - **Arizona:** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (*Arizona Const. art. 2, § 32*).
 - **California:** This Constitution shall not be construed... to afford greater rights... than those afforded by the Constitution of the United States (*California Const. art. 1, § 24*).
 - **South Carolina:** The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory (*South Carolina Const. art. 1, § 23*).

- **Affirming Supreme Court Rulings:**
 - *The State v. Post, 20 N.J.L. 368, 370 (1845):* "A court can only declare what the law is, and whether consistent with the law of God, and the fundamental or constitutional law of society."
 - *Davidson v. New Orleans, 96 U.S. 97 (1877):* "A party has... a fair trial in a court of justice, according to the modes of proceeding applicable to such a case."

X. NO PUNISHMENT WITHOUT LAWFUL JUDGMENT

Coercive force and penalty must follow a lawful adjudication; enforcement without judgment lacks legal foundation.

- **Maxims:**
 - No punishment without judgment (*Nulla poena sine iudicio*).
 - An act of the court shall prejudice no man (*Jenk. Cent. 118*).
 - Delays in law are odious (*Branch, Prine.*).
 - The law always abhors delays (*2 Inst. 240*).

- **State Constitutional Provisions:**
 - **Massachusetts:** He ought to obtain right and justice freely... completely, and without any denial; promptly, and without delay; conformably to the laws (*Massachusetts Const. pt. I, art. XI*).
 - **Alabama:** ...no person shall be punished but by virtue of a law established and promulgated prior to the offense and legally applied (*Alabama Const. art. 1, § 7*).

- **Arkansas:** No person shall be taken, or imprisoned... or in any manner destroyed, or deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land (Arkansas Const. art. 2, § 21).
- **Maine:** The accused shall not be... deprived of life, liberty, property or privileges, but by judgment of that person's peers or the law of the land (Maine Const. art. I, § 6).

- **Affirming Supreme Court Rulings:**

- *Penneyer v. Neff*, 95 U.S. 714 (1877): Enforcement requires due process.
- *Griffin v. Griffin*, 327 U.S. 220 (1946): Enforcement without notice violates due process.

XI. SAFEGUARDS IN CRIMINAL CASES

Stricter protections exist because criminal prosecution threatens liberty and reputation; punishment must follow law previously defined.

- **Maxims:**

- No punishment without law (*Nulla poena sine lege*).
- No punishment is imposed unless by law (*Poena non irrogatur nisi lege*).
- No one can be made to testify against himself or betray himself (C.L.M.; *Broom*, Max. 968).
- No one is bound to accuse himself, except before God (*Accusare nemo se debet nisi coram Deo* – 12 *Coke*, 47; *Wing*, Max. 486).
- The decision of twelve good and upright men is thought by the common law to be the dictate of truth (*Halk*, Max. 73).
- There can be no valid trial jury of less than 12 men, and a consent even by the defendant to a trial by a less number is absolutely void (*Hunt v. State*, 61 *Miss.* 577, 580, 581).

- **State Constitutional Provisions:**

- **Alabama:** ...he shall not be compelled to give evidence against himself (Alabama Const. art. 1, § 6).
- **Alaska:** The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return an indictment (Alaska Const. art. 1, § 8).
- **Indiana:** Murder or treason shall not be bailable, when the proof is evident, or the presumption strong (Indiana Const. art. 1, § 17).

- **Affirming Supreme Court Rulings:**

- *United States v. Hudson and Goodwin*, 11 U.S. 32 (1812): "The legislative authority of the Union must first make an act a crime, affix a punishment to it."
- *Apprendi v. New Jersey*, 530 U.S. 466 (2000): Any fact that increases the penalty beyond the statutory maximum must be submitted to a jury.

XII. DUE PROCESS AS THE BARRIER AGAINST ARBITRARY POWER

Due process is the structural gate and "condition precedent" that prevents the rule of men from replacing the rule of law.

- **Maxims:**
 - A condition precedent must be fulfilled before the effect can follow (Conditio (præcendens) adimpleri debet priusquam sequatur effectus).
 - The welfare of the people is the supreme law (Salus populi suprema lex esto).
 - Justice is to give each his due (Suum cuique tribuere – Aristotle).
 - Law favors truth, faith, and certainty (Wing. Max. max. 154).
 - The law rejects superfluous, contradictory, and incongruous things (Jenk. Cent. 133).
 - No freeman shall be deprived of life, liberty or property but by the lawful judgment of his peers, or by the law of the land (C.L.M.)|

- **State Constitutional Provisions:**
 - **Massachusetts:** Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws... conformably to the laws (Massachusetts Const. pt. I, art. XI).
 - **Georgia:** No person shall be deprived of life, liberty, or property except by due process of law (Georgia Const. art. I, § I).
 - **Mississippi:** No person shall be deprived of life, liberty, or property except by due process of law (Mississippi Const. art. III, § 14).
 - **Washington:** No person shall be deprived of life, liberty, or property, without due process of law (Washington Const. art. 1, § 3).
 - **Wyoming:** No person shall be deprived of life, liberty or property without due process of law (Wyoming Const. art. 1, § 6).

- **U.S. Constitutional Provisions:**
 - U.S. Fifth and Fourteenth Amendments: Mandate that no person shall be deprived of life, liberty, or property without "due process of law".

- **Affirming Supreme Court Rulings:**
 - Cooper v. Aaron, 358 U.S. 1 (1958): No officer can war against the Constitution. "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it."
 - Yick Wo v. Hopkins, 118 U.S. 356 (1886): Due process protects against laws applied with an "evil eye and an unequal hand."
 - Marbury v. Madison: A law repugnant to the constitution is void.

PRINCIPLE 8 — JURIES ARE THE PEOPLE’S CHECK

The people retain judgment through the jury, which serves as a fundamental protection of liberty by interposing the judgment of the community between the accused and the power of the state. If the role of the people is bypassed, the act is void.

- **Maxims:**
 - The jury is to determine "the law and the facts" in certain cases (e.g., libel).

- Juries are the judges of fact and law in American jurisprudence (State of Georgia v. Brailsford, 3 Dall. 1, 4; U.S. v. Dougherty, 473 F.2d 1132-33).
 - The decision of twelve good and upright men is thought by the common law to be the dictate of truth (Halk. Max. 73).
 - There can be no valid trial jury of less than 12 men, and a consent even by the defendant to a trial by a less number is absolutely void (Hunt v. State, 61 Miss. 577, 580, 581).
 - No freeman shall be deprived of life, liberty or property but by the lawful judgment of his peers, or by the law of the land—that is by the common law (C.L.M.).
 - The trial should always be had where the jurors can be best informed (7 Coke, 1b).
- **State Constitutional Provisions:**
 - **Alabama:** That the right of trial by jury shall remain inviolate (Alabama Const. art. 1, § 11).
 - **Alaska:** In all criminal prosecutions, the accused shall have the right to a... public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not less than six in courts not of record (Alaska Const. art. 1, § 11).
 - **Arizona:** The right of trial by jury shall remain inviolate (Arizona Const. art. 2, § 23).
 - **Arkansas:** The right of trial by jury shall remain inviolate, and shall extend to all cases at law (Arkansas Const. art. 2, § 7).
 - **California:** Trial by jury is an inviolate right and shall be secured to all (California Const. art. 1, § 16).
 - **Colorado:** The right of trial by jury shall remain inviolate in criminal cases (Colorado Const. art. 2, § 23).
 - **Connecticut:** The right of trial by jury shall remain inviolate (Connecticut Const. art. 1, § 19).
 - **Delaware:** Trial by jury shall be as heretofore (Delaware Const. art. 1, § 4).
 - **Florida:** The right of trial by jury shall be secure to all and remain inviolate (Florida Const. art. 1, § 22).
 - **Georgia:** The right to trial by jury shall remain inviolate (Georgia Const. art. I, § I, ¶ XI).
 - **Hawaii:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury (Hawaii Const. art. I, § 14).
 - **Idaho:** The right of trial by jury shall remain inviolate (Idaho Const. art. I, § 7).
 - **Illinois:** The right of trial by jury as heretofore enjoyed shall remain inviolate (Illinois Const. art. I, § 13).
 - **Indiana:** In all criminal cases whatever, the jury shall have the right to determine the law and the facts (Indiana Const. art. 1, § 19).
 - **Iowa:** The right of trial by jury shall remain inviolate (Iowa Const. art. I, § 9).
 - **Kansas:** The right of trial by jury shall be inviolate (Kansas Const. Bill of Rights § 5).
 - **Kentucky:** Ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate (Kentucky Const. Bill of Rights § 7).

- **Louisiana:** Every person charged with a crime... is entitled to a speedy, public, and impartial trial (Louisiana Const. art. I, § 16).
- **Maine:** In all criminal prosecutions, the accused shall have a right to... a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity (Maine Const. art. I, § 6).
- **Maryland:** That in the trial of all criminal cases, the Jury shall be the Judges of Law, as well as of fact, except that the Court may pass upon the sufficiency of the evidence to sustain a conviction (Maryland Const. Declaration of Rights art. 23).
- **Massachusetts:** In all controversies concerning property—and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred (Massachusetts Const. pt. I, art. XV).
- **Michigan:** The right of trial by jury shall remain (Michigan Const. art. I, § 14).
- **Minnesota:** The right of trial by jury shall remain inviolate (Minnesota Const. art. 1, § 4).
- **Mississippi:** The right of trial by jury shall remain inviolate (Mississippi Const. art. III, § 31).
- **Missouri:** That the right of trial by jury as heretofore enjoyed shall remain inviolate (Missouri Const. art. I, § 22(a)).
- **Montana:** The right of trial by jury is inviolate (Montana Const. art. II, § 26).
- **Nebraska:** The right of trial by jury shall remain inviolate (Nebraska Const. art. I, § 6).
- **Nevada:** The right of trial by jury shall be secured to all and remain inviolate forever (Nevada Const. art. 1, § 3).
- **New Hampshire:** In all controversies concerning property—and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practiced, and except in courts martial, the parties have a right to a trial by jury and this method of procedure shall be held sacred (New Hampshire Const. pt. I, art. 20).
- **New Jersey:** The right of trial by jury shall remain inviolate (New Jersey Const. art. I, ¶ 9).
- **New Mexico:** The right of trial by jury as it has heretofore existed shall be secured to all and remain inviolate (New Mexico Const. art. II, § 12).
- **New York:** Trial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever (New York Const. art. 1, § 2).
- **North Carolina:** In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable (North Carolina Const. art. 1, § 25).
- **North Dakota:** The right of trial by jury shall be secured to all, and remain inviolate (North Dakota Const. art. 1, § 13).
- **Ohio:** The right of trial by jury shall be inviolate (Ohio Const. art. 1, § 5).
- **Oklahoma:** The right of trial by jury shall be and remain inviolate (Oklahoma Const. art. 2, § 19).
- **Oregon:** In all civil cases the right of Trial by Jury shall remain inviolate (Oregon Const. art. 1, § 17).

- **Pennsylvania:** Trial by jury shall be as heretofore, and the right thereof remain inviolate (Pennsylvania Const. art. 1, § 6).
 - **Rhode Island:** The right of trial by jury shall remain inviolate (Rhode Island Const. art. 1, § 15).
 - **South Carolina:** The right of trial by jury shall be preserved inviolate (South Carolina Const. art. 1, § 14).
 - **South Dakota:** The right of trial by jury shall remain inviolate and shall extend to all cases at law (South Dakota Const. art. VI, § 6).
 - **Tennessee:** That the right of trial by jury shall remain inviolate (Tennessee Const. art. 1, § 6).
 - **Texas:** The right of trial by jury shall remain inviolate (Texas Const. art. 1, § 15).
 - **Utah:** The right of trial by jury shall remain inviolate (Utah Const. art. 1, § 10).
 - **Vermont:** That when any issue in fact, proper for the cognizance of a jury is joined in a court of law, the parties have a right to trial by jury, which ought to be held sacred (Vermont Const. ch. I, art. 12).
 - **Virginia:** That in controversies respecting property, and in suits between man and man, the trial by jury is preferable to any other, and ought to be held sacred (Virginia Const. art. I, § 11).
 - **Washington:** The right of trial by jury shall remain inviolate (Washington Const. art. 1, § 21).
 - **West Virginia:** In suits at common law... the right of trial by jury, if required by either party, shall be preserved (West Virginia Const. art. III, § 13).
 - **Wisconsin:** The right of trial by jury shall remain inviolate, and shall extend to all cases at law (Wisconsin Const. art. 1, § 5).
 - **Wyoming:** The right of trial by jury shall remain inviolate in criminal cases (Wyoming Const. art. 1, § 9).
- **Federal Constitutional Provisions:**
 - U.S. Seventh Amendment: In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.
 - U.S. Sixth Amendment: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed.
 -
 - **Affirming Supreme Court Rulings:**
 - **Strauder v. West Virginia, 100 U.S. 303 (1880):** The denial of the right to participate as jurors is a violation of constitutional protections.
 - **Duncan v. Louisiana, 391 U.S. 145 (1968):** Held jury trial essential to due process; "Trial by jury in criminal cases is fundamental to the American scheme of justice".
 - **Apprendi v. New Jersey, 530 U.S. 466 (2000):** Jury must find facts for punishment; "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury".

PRINCIPLE 9 — FORCE REQUIRES PRIOR AUTHORITY

Force must follow lawful authority, not precede it. Lawful authority must be established through due process before force is used; otherwise, the act is unlawful imposition rather than enforcement.

- **Maxims:**
 - Force without prior authority is "imposition," not enforcement.
 - Execution is the execution of the law according to the judgment (3 Inst. 212).
 - The minister of the law is not bound, in the execution of his office, either to fly or retreat (6 Coke, 68).
 - The effect of the law consists in the execution (Co. Litt. 289b).
 - He will not be considered as using force who exercises his rights and proceeds by forms of law (Dig. 50, 17, 155, 1).
 - The execution of law does no injury (2 Rolle. 301).
 - Those things which are properly transacted in our courts ought to be committed to a due execution (Co. Litt. 289).
 - Execution is the end and the fruit of the law, and is very aptly called the life of the law (Co. Litt. 289; Bank of U.S. v. Halstead, 10 Wheat. (23 U.S.) 51, 64).

- **State Constitutional Provisions (Security from Unlawful Force):**
 - **Alabama:** That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizure or searches, and that no warrants shall issue to search any place or to seize any person or thing without probable cause, supported by oath or affirmation (Alabama Const. art. 1, § 5).
 - **Alaska:** The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation (Alaska Const. art. 1, § 14).
 - **Arizona:** No person shall be disturbed in his private affairs, or his home invaded, without authority of law (Arizona Const. art. 2, § 8).
 - **Arkansas:** 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 warrant shall issue but upon probable cause, supported by oath or affirmation (Arkansas Const. art. 2, § 15).
 - **California:** The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation (California Const. art. 1, § 13).
 - **Colorado:** The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place or seize any person or thing shall issue... without probable cause, supported by oath or affirmation (Colorado Const. art. 2, § 7).
 - **Connecticut:** The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrant to search any place, or to seize any person or things, shall issue... without probable cause supported by oath or affirmation (Connecticut Const. art. 1, § 7).

- **Delaware:** The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and no warrant... shall issue... unless there be probable cause supported by oath or affirmation (Delaware Const. art. 1, § 6).
- **Florida:** The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures... shall not be violated. No warrant shall issue except upon probable cause, supported by affidavit (Florida Const. art. 1, § 12).
- **Georgia:** 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 warrant shall issue except upon probable cause supported by oath or affirmation (Georgia Const. art. I, § I, ¶ XIII).
- **Hawaii:** The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation (Hawaii Const. art. I, § 7).
- **Idaho:** 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 warrant shall issue without probable cause shown by affidavit (Idaho Const. art. I, § 17).
- **Illinois:** The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit (Illinois Const. art. I, § 6).
- **Indiana:** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation (Indiana Const. art. 1, § 11).
- **Iowa:** The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation (Iowa Const. art. I, § 8).
- **Kansas:** The right of the people to be secure in their persons and property against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation (Kansas Const. Bill of Rights § 15).
- **Kentucky:** The people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches; and no warrant... shall issue... without probable cause supported by oath or affirmation (Kentucky Const. Bill of Rights § 10).
- **Louisiana:** Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy. No warrant shall issue without probable cause supported by oath or affirmation (Louisiana Const. art. I, § 5).

- **Maine:** The people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures; and no warrant... shall issue... without probable cause — supported by oath or affirmation (Maine Const. art. I, § 5).
- **Maryland:** That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive (Maryland Const. Declaration of Rights art. 26).
- **Massachusetts:** Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation (Massachusetts Const. pt. I, art. XIV).
- **Michigan:** The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant... shall issue... without probable cause, supported by oath or affirmation (Michigan Const. art. I, § 11).
- **Minnesota:** 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 warrant shall issue but upon probable cause, supported by oath or affirmation (Minnesota Const. art. 1, § 10).
- **Mississippi:** The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search; and no warrant shall be issued without probable cause, supported by oath or affirmation (Mississippi Const. art. III, § 23).
- **Missouri:** That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant... shall issue... without probable cause, supported by oath or affirmation (Missouri Const. art. I, § 15).
- **Montana:** The people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures. No warrant... shall issue... without probable cause, supported by oath or affirmation (Montana Const. art. II, § 11).
- **Nebraska:** 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 warrant shall issue but upon probable cause, supported by oath or affirmation (Nebraska Const. art. I, § 7).
- **Nevada:** The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation (Nevada Const. art. 1, § 18).
- **New Hampshire:** Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial... are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation (New Hampshire Const. pt. I, art. 19).

- **New Jersey:** 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 warrant shall issue except upon probable cause, supported by oath or affirmation (New Jersey Const. art. I, ¶ 7).
- **New Mexico:** The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant... shall issue... without probable cause, supported by oath or affirmation (New Mexico Const. art. II, § 10).
- **New York:** 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 (New York Const. art. 1, § 12).
- **North Carolina:** The people shall be secure in their persons, houses, papers, and effects from unreasonable searches and seizures; and no warrant shall issue but upon probable cause, supported by oath or affirmation (North Carolina Const. art. 1, § 20).
- **North Dakota:** 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 warrant shall issue but upon probable cause, supported by oath or affirmation (North Dakota Const. art. 1, § 8).
- **Ohio:** The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation (Ohio Const. art. 1, § 14).
- **Oklahoma:** The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation (Oklahoma Const. art. 2, § 30).
- **Oregon:** No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation (Oregon Const. art. 1, § 9).
- **Pennsylvania:** The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant... shall issue... without probable cause, supported by oath or affirmation (Pennsylvania Const. art. 1, § 8).
- **Rhode Island:** The right of the people to be secure in their persons, papers and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation (Rhode Island Const. art. 1, § 6).
- **South Carolina:** 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 (South Carolina Const. art. 1, § 10).
- **South Dakota:** 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 warrant shall issue but upon probable cause supported by affidavit (South Dakota Const. art. VI, § 11).

- **Tennessee:** That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that ten thousand warrants... are dangerous to liberty and ought not to be granted (Tennessee Const. art. 1, § 7).
- **Texas:** The people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures or searches, and no warrant... shall issue... without probable cause, supported by oath or affirmation (Texas Const. art. 1, § 9).
- **Utah:** The people shall be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation (Utah Const. art. 1, § 14).
- **Vermont:** That the people have a right to hold themselves, their houses, papers, and possessions, free from search or seizure; and therefore warrants, without oath or affirmation first made... are contrary to that right, and ought not to be granted (Vermont Const. ch. I, art. 11).
- **Virginia:** That all warrants, without oath or affirmation first made, to search suspected places, or to seize any person or property not particularly described, are grievous and oppressive, and ought not to be granted (Virginia Const. art. I, § 10).
- **Washington:** No person shall be disturbed in his private affairs, or his home invaded, without authority of law (Washington Const. art. 1, § 7).
- **West Virginia:** The rights of the citizens to be secure in their houses, persons, papers and effects, against unreasonable searches and seizures, shall not be violated. No warrant shall issue except upon probable cause, supported by oath or affirmation (West Virginia Const. art. III, § 6).
- **Wisconsin:** 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 warrant shall issue but upon probable cause, supported by oath or affirmation (Wisconsin Const. art. 1, § 11).
- **Wyoming:** 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 warrant shall issue but upon probable cause, supported by affidavit (Wyoming Const. art. 1, § 4).
- **Federal Constitutional Provision:**
 - U.S. Fourth Amendment: 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, and the persons or things to be seized.
- **Affirming Supreme Court Rulings:**
 - **Miranda v. Arizona, 384 U.S. 436 (1966):** Rules for the exercise of authority must be established before the state can use its force against an individual's constitutional rights.

- **Miller v. U.S., 230 F. 2d 286, 489 (1956):** Agents of government are serving law when they respect, not override, constitutional guarantees; the exercise of a right cannot be converted into a crime.
- **Sherar v. Cullen, 481 F.2d 945, 947 (9th Cir. 1973):** There shall be no sanction or penalty imposed upon one because of his exercise of constitutional rights.

PRINCIPLE 10 — COURTS DECLARE, NOT CREATE

Courts are limited to the declaration and application of law, not its creation or alteration. If a court creates, redefines, or substitutes law through policy or personal inclination, the act is a structural overreach and is void.

- **Maxims:**

- It is the duty of a judge to declare [enunciate] the Law, not to enact the law or make it (Lofft, 42; Tray. Leg. Max. 283; Lofft. App. 42).
- A new judgment does not make a new law, but declares the old (*Novum judicium non dat jus novum, sed declarat antiquum*).
- To declare the law, not to give/make the law (*Jus dicere, non jus dare*).
- Concerning the fidelity and official conduct of a judge, no question is [will be] entertained; but his decisions may be impugned for the error committed of law or fact (Bacon, Max. 68, reg. 17; 1 N.Y. 45; Broom, Max. 85).
- A good judge should do nothing of his own arbitrary will, nor on the dictate of his personal inclination, but should decide according to law and justice (7 Coke, 27a).
- That law is best which leaves least to the discretion of the judge; that judge is best who leaves least to his own opinion (Broom, Max. 84; 1 Kent, Comm. 478; Bacon, Aph. 8, 46).
- Whatever is subject to the authority of a judge is not subject to innovation (4 Inst. 66).
- A judge should keep his jurisdiction within the limits of his commission (4 Inst. 163; Black's, 2d. 1056).
- Judges are by no means favorable to things raised recently and subtly against the common law (Halk. Max. 73).
- A judge who exceeds his office or jurisdiction is not to be obeyed (Jenk. Cent. p. 139, case 84; Bouv. 133).
- In presumption of law, a judgment is given against inclination (Co. Litt. 248b, 314b).
- The judge in his decision ought to follow the rule, when the exception is not proved (Black's, 2d. 669; Bouv. 133).
- Nothing in law is more intolerable than that the same case or matter should be subject (in different courts) to different views of the law (4 Coke, 93).
- Judgment must be by the laws, not by examples (C.L.M.; 4 Coke, 33b; 4 Bl. Comm. 405; Skinner v. Dayton, 19 Johns. (N.Y.) 513).

- A new adjudication does not make a new law, but declares the old; because adjudication is the utterance of the law, and by adjudication the law is newly revealed which was for a long time hidden (10 Coke, 42).
 - Jurisdiction is the power to declare the law; and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause (Bullington v. Angel, 220 N.C. 18).
 - One who exercises jurisdiction out of his territory is not obeyed with impunity (*Extra territorium jus dicenti non paretur impune*) (Dig. 2, 1, 20; Branch, Princ.; 10 Coke, 77).
 - He who exercises judicial authority beyond his proper limits cannot be obeyed with safety (Story, Confl. Laws, s. 539).
 - Jurisdiction is the power of a court to apply the law and to enter and enforce judgment (Jones v. Brinson, (N.C.) 78 S.E.2d 334, 337).
 - He does contrary to the law who does what the law prohibits; he acts in fraud of the law who, the letter of the law being inviolate, uses the law contrary to its intention (Dig. 1, 3, 29).
 - No court which has not a record can impose a fine, or commit any person to prison; because those powers belong only to courts of record (8 Coke, 60).
- **State Constitutional Provisions:**
 - **Massachusetts:** In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers... the executive shall never exercise the legislative and judicial powers... the judicial shall never exercise the legislative and executive powers... to the end it may be a government of laws and not of men (Massachusetts Const. pt. I, art. XXX).
 - **Arizona:** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Arizona Const. art. 2, § 32).
 - **Alabama:** The powers of the government of the State of Alabama shall be divided into three distinct departments... to the end that it may be a government of laws and not of men (Alabama Const. art. III, § 42, 43).
 - **South Carolina:** The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory (South Carolina Const. art. 1, § 23).
 - **Washington:** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise (Washington Const. art. 1, § 29).
 - **Virginia:** That the legislative and executive powers of the State should be separate and distinct from the judiciary (Virginia Const. art. I, § 5).
 - **West Virginia:** The legislative, executive and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others (West Virginia Const. art. V, § 1).
- **U.S. Constitutional Provision:**
 - **U.S. Constitution Art. III, § 2:** The judicial power shall extend to all cases... arising under this Constitution, the laws of the United States... meaning the law must already exist to be applied.
- **Affirming Supreme Court Rulings:**

- **Wayman v. Southard, 23 U.S. 1 (1825):** The difference is that the "legislature makes, the executive executes, and the judiciary construes, the law".
- **The State v. Post, 20 N.J.L. 368, 370 (1845):** A court can only declare what the law is, and whether consistent with the law of God, and the fundamental or constitutional law of society.
- **Osborn v. Bank of the United States, 22 U.S. 738 (1824):** Judicial power is never exercised for the purpose of giving effect to the will of the judge, but always for the purpose of giving effect to the will of the law.

PRINCIPLE 11 — NO IMMUNITY FROM LAW

All actors remain subject to accountability. Authority cannot exist where accountability is removed. If immunity exists to shield unlawful acts, the system fails and the act is void.

- **Maxims:**
 - *Respondeat superior* (Let the principal answer).
 - "Authority cannot exist where accountability is removed".
 - Laws should bind their own maker (Fleta, lib. 1, c. 17, s. 11).
 - A dispensation is a wound, because it wounds a common right (Dav. 69; Branch, Princ.).
 - Nothing in law is more intolerable than that the same case or matter should be subject (in different courts) to different views of the law (4 Coke, 93).
 - It is just that every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character (American Maxim).
 - The law wills that, in every case where a man is wronged and endamaged, he shall always have a remedy (Co. Litt. 197b; Branch, Princ.; Broom, Max. 192; Bouv. Inst. 2411).
 - What I cannot do by myself, I cannot do by another [i.e., an agent] (*Quod per me non possum, nec per alium*) (4 Coke, 24b; 11 Coke, 87a; Jenk. Cent. 237).
 - Nothing is so becoming to authority as to live in accordance with the laws (Fleta, lib. 1, c. 17, s. 11).
 - Power can never be delegated which the authority said to delegate never possessed itself (N.J. Steam Co. v. Merch Bank, 6 How. (47 U.S.) 344, 407).
- **State Constitutional Provisions (The Remedy Clause):**
 - **Alabama:** That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law (Alabama Const. art. 1, § 13).
 - **Arkansas:** Every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character (Arkansas Const. art. 2, § 13).
 - **Colorado:** Courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character (Colorado Const. art. 2, § 6).

- **Connecticut:** All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law (Connecticut Const. art. 1, § 10).
- **Delaware:** All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of the law (Delaware Const. art. 1, § 9).
- **Florida:** The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay (Florida Const. art. 1, § 21).
- **Georgia:** All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. **Public officers are the trustees and servants of the people and are at all times amenable to them.** (Georgia Const. art. I, § II, ¶ I).
- **Indiana:** All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law (Indiana Const. art. 1, § 12).
- **Kentucky:** All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law (Kentucky Const. Bill of Rights § 14).
- **Louisiana:** All courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights (Louisiana Const. art. I, § 22).
- **Maine:** Every person, for an injury done him in his person, reputation, property or immunities, shall have remedy by due course of law (Maine Const. art. I, § 19).
- **Maryland:** 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.**" (While not using the exact phrase "at all times," it explicitly defines the "Trustee" status as the grounds for accountability) (Maryland Const. Declaration of Rights art. 6). That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the land (Maryland Const. Declaration of Rights art. 19).
- **Massachusetts:** 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 Const. pt. I, art. V). Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character (Massachusetts Const. pt. I, art. XI).
- **Minnesota:** Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character (Minnesota Const. art. 1, § 8).
- **Mississippi:** All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law (Mississippi Const. art. III, § 24).

- **Missouri:** That the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character (Missouri Const. art. I, § 14).
- **Montana:** Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property, or character (Montana Const. art. II, § 16).
- **Nebraska:** All courts shall be open, and every person, for any injury done him in his lands, goods, person or reputation, shall have a remedy by due course of law (Nebraska Const. art. I, § 13).
- **New Hampshire:** All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their **substitutes and agents, and at all times accountable to them** (New Hampshire Const. pt. I, art. 8). Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character (New Hampshire Const. pt. I, art. 14).
- **North Carolina:** All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law (North Carolina Const. art. 1, § 18).
- **North Dakota:** All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have a remedy by due process of law (North Dakota Const. art. 1, § 9).
- **Ohio:** All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law (Ohio Const. art. 1, § 16).
- **Oklahoma:** The courts of justice shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation (Oklahoma Const. art. 2, § 6).
- **Oregon:** ...every man shall have remedy by due course of law for injury done him in his person, property, or reputation (Oregon Const. art. 1, § 10).
- **Pennsylvania:** All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law (Pennsylvania Const. art. 1, § 11).
- **Rhode Island:** Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which may be received in one's person, property, or character (Rhode Island Const. art. 1, § 5).
- **South Carolina:** All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained (South Carolina Const. art. 1, § 9).
- **South Dakota:** All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law (South Dakota Const. art. VI, § 20).
- **Tennessee:** That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law (Tennessee Const. art. 1, § 17).
- **Texas:** All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law (Texas Const. art. 1, § 13).

- **Utah:** All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law (Utah Const. art. 1, § 11).
 - **Vermont:** Every person ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character (Vermont Const. ch. I, art. 4). That all power being originally inherent in and consequently derived from the people; therefore, all officers of government, whether legislative or executive, are their **trustees and servants; and at all times, in a legal way, accountable to them** (Vermont Const. ch. I, art. 5).
 - **West Virginia:** The courts of this State shall be open, and every person, for an injury done to him, in his person, property or reputation, shall have remedy by due course of law (West Virginia Const. art. III, § 17).
 - **Wisconsin:** Every person is entitled to a certain remedy in the laws for all injuries, or wrongs which he may receive in his person, property, or character (Wisconsin Const. art. 1, § 9).
 - **Wyoming:** All courts shall be open and every person for an injury done to person, property or reputation shall have remedy by due course of law (Wyoming Const. art. 1, § 8).
- **Affirming Supreme Court Rulings:**
 - **Ex parte Young, 209 U.S. 123 (1908):** Officers are stripped of their representative character and subjected to individual responsibility when they act unconstitutionally.
 - **Butz v. Economou, 438 U.S. 478 (1978):** Rejects absolute immunity for executive officials, requiring accountability to the law.
 - **United States v. Lee, 106 U.S. 196 (1882):** "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it".

PRINCIPLE 12 — COMPLETE CHAIN OF AUTHORITY

All governmental power must trace back through a complete and unbroken chain from the People to the Constitution, through a specific delegation, and finally to its execution. If any link in this chain fails, specifically if an act is grounded in a void beginning or an unconstitutional delegation, the act is void and the authority is non-existent.

- **Maxims:**
 - All authority must trace back through the full chain: People → Constitution → Delegation → Execution.
 - Broken chain = no authority.
 - That which is valid in law has legal strength, force, and effect, or is incapable of being rightfully overthrown or set aside (Emerson v. Knapp, 75 Mo. App. 92, 97).
 - Things grounded upon an ill and void beginning cannot have a valid or good perfection (Finch, Law, b. 1, c. 3, n. 8).

- An unconstitutional Act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed (*Norton v. Shelby County*, 118 U.S. 425, 442).
 - Power can never be delegated which the authority said to delegate never possessed itself (*N.J. Steam Co. v. Merch Bank*, 6 How. (47 U.S.) 344, 407).
 - 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).
- **State Constitutional Provisions:**
 - **Alabama:** That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their fame, safety, and happiness (*Alabama Const. art. 1, § 2*).
 - **Alaska:** All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole (*Alaska Const. art. 1, § 2*).
 - **California:** All political power is inherent in the people. Government is instituted for their protection, security, and benefit (*California Const. art. 1, § 26*).
 - **Colorado:** All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only (*Colorado Const. art. 2, § 1*).
 - **Florida:** All political power is inherent in the people (*Florida Const. art. 1, § 1*).
 - **Georgia:** All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole (*Georgia Const. art. I, § II, ¶ I*).
 - **Idaho:** All political power is inherent in the people. Government is instituted for their equal protection and benefit (*Idaho Const. art. I, § 2*).
 - **Indiana:** ...all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority (*Indiana Const. art. 1, § 1*).
 - **Iowa:** All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people (*Iowa Const. art. I, § 2*).
 - **Kansas:** All political power is inherent in the people, and all free governments are founded on their authority (*Kansas Const. Bill of Rights § 2*).
 - **Kentucky:** All power is inherent in the people, and all free governments are founded on their authority (*Kentucky Const. Bill of Rights § 4*).
 - **Louisiana:** All government, of right, originates with the people, is founded on their will alone (*Louisiana Const. art. I, § 1*).
 - **Maine:** All power is inherent in the people; all free governments are founded in their authority (*Maine Const. art. I, § 2*).
 - **Maryland:** That all Government of right originates from the People, is founded in compact only (*Maryland Const. Declaration of Rights art. 1*).

- **Massachusetts:** All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority... are their substitutes and agents (Massachusetts Const. pt. I, art. V).
- **Mississippi:** All political power is vested in, and derived from, the people; all government of right originates with the people (Mississippi Const. art. III, § 5).
- **Missouri:** That all political power is vested in and derived from the people; that all government of right originates from the people (Missouri Const. art. I, § 1).
- **New Hampshire:** All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents (New Hampshire Const. pt. I, art. 8).
- **New Jersey:** All political power is inherent in the people (New Jersey Const. art. I, ¶ 2).
- **New Mexico:** All political power is vested in and derived from the people; all government of right originates with the people (New Mexico Const. art. II, § 2).
- **North Carolina:** All political power is vested in and derived from the people; all government of right originates from the people (North Carolina Const. art. 1, § 2).
- **North Dakota:** All political power is inherent in the people (North Dakota Const. art. 1, § 2).
- **Ohio:** All political power is inherent in the people (Ohio Const. art. 1, § 2).
- **Oklahoma:** All political power is inherent in the people (Oklahoma Const. art. 2, § 1).
- **Oregon:** ...all power is inherent in the people, and all free governments are founded on their authority (Oregon Const. art. 1, § 1).
- **Pennsylvania:** All power is inherent in the people, and all free governments are founded on their authority (Pennsylvania Const. art. 1, § 2).
- **South Carolina:** All political power is vested in and derived from the people only (South Carolina Const. art. 1, § 1).
- **South Dakota:** All political power is inherent in the people, and all free government is founded on their authority (South Dakota Const. art. VI, § 26).
- **Tennessee:** That all power is inherent in the people, and all free governments are founded on their authority (Tennessee Const. art. 1, § 1).
- **Texas:** All political power is inherent in the people, and all free governments are founded on their authority (Texas Const. art. 1, § 2).
- **Utah:** All political power is inherent in the people; and all free governments are founded on their authority (Utah Const. art. 1, § 2).
- **Vermont:** That all power being originally in and therefore derived from the people; therefore, all officers of government... are their trustees and servants (Vermont Const. ch. I, art. 6).
- **Virginia:** That all political power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants (Virginia Const. art. I, § 2).
- **Washington:** All political power is inherent in the people, and governments derive their just powers from the consent of the governed (Washington Const. art. 1, § 1).
- **West Virginia:** All power is vested in, and consequently derived from, the people. Magistrates are their trustees and servants (West Virginia Const. art. II, § 2).

- **Wyoming:** All political power is inherent in the people, and all free governments are founded on their authority (Wyoming Const. art. 1, § 1).
- **Affirming Supreme Court Rulings:**
 - **McCulloch v. Maryland, 17 U.S. 316 (1819):** Reinforces that the government derives its powers from the people, who are the ultimate source of authority.
 - **Marbury v. Madison, 5 U.S. 137 (1803):** Establishes the Constitution as the fundamental and paramount law of the nation, to which all links in the chain of authority are subordinate.
 - **Yick Wo v. Hopkins, 118 U.S. 356 (1886):** Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people.