

Module 23: Rights and the Redefinition of Liberty

Substantive Rights, Civil Rights Expansion, and the Drift from Inherent Rights to Administrative Permissions

Section 1: Module Summary & History

Core Overview

Module 23 examines the structural inversion of the relationship between the individual and the state, specifically focusing on the transition from inherent, pre-political rights to administrative permissions. The founding constitutional premise posits that rights exist prior to the formation of government, which is subsequently established as a trustee to secure those pre-existing liberties. However, modern institutional practice has largely reversed this sequence, detaching authority from its original source through the mechanism of "Circularity." This process allows the state to validate its own power through self-defined rules, procedures, and institutional reviews.

The module is framed by the critical **Firewall Question**: *Are rights inherent and pre-political, or are they being treated as institutional permissions granted by government?* By applying a rigorous "Rights Audit," the module measures the cost of this constitutional drift. It reveals how the People have been transformed from the primary holders of unalienable liberty into applicants seeking discretionary approval from a government that now operates as a proprietor rather than a protector.

The Timeline of Drift (1776 to Present)

Phase Name	Historical Era	Key Developments & Case Law	Alteration of Procedural Baseline
The Inherent Baseline	1776 – Founding Era	Declaration of Independence; Virginia Declaration of Rights; Ninth Amendment; early state constitutions (e.g., PA, MD).	Rights were "excepted out" of government power. Government was established as a trustee with limited, delegated authority to protect pre-existing rights.
Judicial Boundary Maintenance	Late 19th – Early 20th Century	<i>Yick Wo v. Hopkins</i> (1886); <i>Meyer v. Nebraska</i> (1923); <i>Pierce v. Society of Sisters</i> (1925).	Courts recognized rights (labor, family, education) as individual possessions or "legal inheritances" rather than government franchises, rejecting arbitrary administrative discretion.
The Categorical Shift	Mid-20th Century – Modern Era	Development of "Standards of Review" and rights classification (Fundamental vs. Non-fundamental).	Liberty was subdivided into categories. Institutions began deciding the degree of protection a right receives based on institutional labels

The Rule of Law: Breakdown, Record and Exposure

The Permission Architecture	Modern Governance	Expansion of professional licensing, permitting, and "Government Interests" balancing tests.	rather than antecedent boundaries.
			Liberty was redefined as a "regulated activity." The administrative gate became the starting point, requiring citizens to justify their exercise of liberty through applications and fees.

Core Operational Concepts

- **The Burden Shift:** Under the original procedural baseline, liberty is the starting point, and the government carries the burden to identify specific delegated authority before imposing a restraint. In the modern administrative model, the burden is reversed: the citizen must identify a specific rule or obtain a permit to prove they are "allowed" to exercise an ordinary liberty.
- **The Operational Mechanism:** Administration normalizes drift by translating "liberty" into "regulated activity." This linguistic shift allows the government to apply a "Permission Architecture", a sequence of application, qualification, approval, and monitoring, that treats the underlying right as if it were a government-owned franchise.

Glossary of Key Terms

- **Antecedent Right:** A right that exists prior to and independently of any governmental action or recognition.
- **Circularity:** The process by which government validates its own authority using its own internal rules, precedents, and procedures as the sole proof of lawfulness.
- **Government Interest:** A justification used by courts to permit burdens on liberty; it is only constitutionally valid if traced to a specifically delegated public purpose.
- **Inherent/Unalienable:** Rights that are possessed by nature and cannot be surrendered to or manufactured by government.
- **Permission Architecture:** The structural sequence (applications, fees, licenses) that places a gate between a citizen and the exercise of a right.
- **Prior Restraint:** An administrative intervention that stops or conditions an act before it occurs, based on the possibility of future misuse rather than demonstrated injury.
- **Retained Rights:** Liberties that were never delegated to the government and remain "excepted out" of general governmental powers.
- **Socratic Binary:** A tool of analysis that forces a choice between a lawful constitutional premise (Option A) and a drift-based institutional practice (Option B) to expose the necessity of a proof burden.
- **Trustee:** The constitutional role of government as an agent exercising limited authority for the benefit of the People, without acquiring ownership of the rights it protects.

Section 2: Assessment and Review

Multiple-Choice Quiz

1. **According to Rule One of the Rights Audit, what is the first question to ask regarding a liberty?** A. Where did the government grant this right? B. Did the liberty exist before government entered the picture? C. Is the exercise of this right reasonable? D. Which administrative agency oversees this activity?
2. **Rule Two states that a collective possesses no right greater than:** A. The authority its members could lawfully delegate. B. The will of the majority. C. The power of the institutional precedent. D. The statutory mandate provided by the legislature.
3. **In the context of the Rights Audit, how is a "permission" distinguished from a "right"?** A. A right requires a fee; a permission does not. B. A right is granted by a court; a permission is granted by an agency. C. A right exists independently of approval; a permission exists because an authority placed a gate before the activity. D. There is no structural difference; they are synonymous.
4. **The Supreme Court case *Yick Wo v. Hopkins* is significant because it described liberty as:** A. A gift from the Board of Supervisors. B. An individual possession secured by law rather than a favor distributed at discretion. C. Subject to any neutral-appearing administrative ordinance. D. Secondary to the municipal interest in fire safety.
5. **Which case established that "the child is not the mere creature of the State"?** A. *Meyer v. Nebraska* B. *Yick Wo v. Hopkins* C. *Pierce v. Society of Sisters* D. *Maryland v. Trustees*
6. **Under the founding structure, what is the constitutional role of government regarding rights?** A. Owner and dispenser. B. Administrator and classifier. C. Trustee and protector. D. Author and grantor.
7. **The "Linguistic Shift" described in Slide 15 refers to the transformation of:** A. Civil rights into substantive rights. B. "Liberty" into "Regulated Activity." C. Laws into administrative "Rules." D. "Trustees" into "Magistrates."
8. **What is the "proof burden" if an institution asserts it can classify rights to determine their level of protection (Option B)?** A. Identify the public interest served by the classification. B. Identify the constitutional delegation authorizing the ranking of retained rights. C. Provide notice and a hearing for the affected parties. D. Prove that the classification is efficient for administration.
9. **Which concept describes a situation where a government responds to an actual, demonstrated injury?** A. Prior Restraint B. Permission Structure C. Liability D. Licensing
10. **The "Final Rights Binary" concludes that if Option B (government defines and controls rights) is asserted, the People have:** A. Retained their status as the source of power. B. Reduced themselves to applicants for their own liberty. C. Enhanced their security through administrative expertise. D. Fulfilled the original intent of the Tenth Amendment.

The Rule of Law: Breakdown, Record and Exposure

Answer Key and Explanations Table

Question	Answer	Explanation
1	B	Rule One asserts rights are pre-political; therefore, the analysis must begin with existence prior to the state.
2	A	This prevents the manufacture of authority; a collective cannot do what an individual has no right to do.
3	C	A permission implies a "gate" where an authority claims the power to open or close access to an act.
4	B	The court rejected the idea that livelihoods depend on official discretion, reinforcing rights as personal property.
5	C	<i>Pierce</i> affirmed that the parent-child relationship is an antecedent sphere government did not create.
6	C	Founding documents (e.g., MD and MA constitutions) define officers as trustees/agents, not owners of liberty.
7	B	Redefining liberty as an "activity" makes it easier to justify placing it inside a regulatory/licensing system.
8	B	In a delegated system, the institution must show where the People gave it the power to rank their retained rights.
9	C	Liability is the lawful response to injury; prior restraint stops peaceful acts before any injury occurs.
10	B	This is the "cost of circularity"—the inversion where the trustee becomes the gatekeeper/owner of liberty.

Essay Format Questions

1. **The Trustee vs. Proprietor Distinction:** Analyze the structural implications of defining government as a "Trustee" versus an "Owner" of rights. How does this distinction dictate who carries the burden of proof when a liberty is restrained?
2. **The Progression of Circularity:** Trace the "continuous chain" from Inherent Right to Institutional Review. Explain how each step (Categorization, Standard of Review, Interest Balancing) moves the right further from its constitutional source.
3. **The Socratic Method as a Remedy:** Based on the transition from Module 23 to Module 24, explain how the Socratic Binary is used to challenge a "Permission Architecture." Why must the institution be required to identify an "antecedent lawful source"?

Section 3: Exemplars Summary and Relevance

Exemplar	Summary	Relevance to Material
The Backyard Shed Scenario	A homeowner building a shed on their own land with their own materials is stopped by an inspector solely for lacking a permit.	Illustrates the "Permission Architecture" where the threshold for intervention is not "injury" but "lack of government approval."

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<i>Yick Wo v. Hopkins</i>	A municipal ordinance required laundry permits for wooden buildings, which were then used to discriminate against Chinese owners.	Demonstrates the danger of placing ordinary liberties (earning a living) under the discretionary "will of another."
<i>Meyer v. Nebraska / Pierce v. Society of Sisters</i>	Challenges to state laws prohibiting foreign language instruction and requiring public school attendance.	Reinforces that family autonomy and occupations are "antecedent spheres" that the state did not create and cannot fully own.

Section 4: Expanded Homework Assignment

Case File / Background

You are a resident in a jurisdiction that has recently implemented a "Professional Harmonization Act." This act requires all individuals who provide "specialized advice" (including gardening, interior design, and home repair) to register with a municipal board, pay a \$500 annual fee, and obtain a "Consultant's License." Failure to do so results in administrative fines. You have been providing free gardening advice to neighbors for years, but you have now received a "Cease and Desist" order because you are not a licensed "Horticultural Consultant."

Procedural Review Assignment

Apply the Module 23 "Rights Audit" to this scenario using the following steps:

1. **Step One: Identify the Antecedent Right:** Document whether the use of your knowledge and labor to speak with neighbors existed before the "Consultant's License" was created.
2. **Step Two: Preserve Chronology:** Record that your exercise of this liberty precedes the municipal board's claim of authority.
3. **Step Three: Identify the Gate:** Document the specific requirements (fee, application, board approval) that constitute the "Permission Architecture."
4. **Step Four: The Injury Audit:** Determine if the government has alleged any demonstrated injury (fraud, trespass, violence) or if the restraint is based solely on "Prior Permission."

Required Document Preparation

Draft a "Notice of Source Trace" addressed to the licensing board. The document must:

- State the lawful proposition that your right to labor and speech is inherent and retained.
- Identify the board's contrary proposition (that speech and labor require government permission).
- Formally require the board to identify the **antecedent lawful source** (the specific constitutional delegation) by which the People transferred ownership of their labor and speech to the municipality.
- Explicitly record that administrative procedure (the Harmonization Act itself) cannot serve as its own proof of authority.

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Final Review Question

Upon completing the Rights Audit and the Source Trace, answer the following: **"If the licensing board cannot produce a constitutional act of transfer for the underlying liberty, does the board's continued enforcement constitute a protective function of a trustee, or the proprietary exercise of an owner?"**

THE FIREWALL STANDARD

Thirteen-Colonies Enumerated Rights Catalogue (Twelve Colonies)

A Catalogue of Founding-Era Enumerated Rights

Drawn Verbatim from the Original Declarations of Rights of Massachusetts, Virginia, Maryland, Connecticut, Delaware, Georgia, New Jersey, New York, North Carolina, Pennsylvania, and South Carolina, and Sorted Against Weisman's Maxims of Law

Read Under the Interpretive Method Fixed in the Preceding Supplement to Principle 5

Publius Custos

Draft for Review — Rhode Island excluded from this pass

A Note on This Catalogue

This catalogue lists, verbatim and individually, every enumerated right identified in the founding-era declarations of rights of twelve of the thirteen original colonies (Rhode Island is excluded from this pass; it had no founding-era declaration of rights, having operated under its 1663 royal charter until 1842). Nothing here is paraphrased, compressed, or synthesized into maxims. Each clause is sorted under the heading it best fits: Weisman's own heading, drawn from his 105-heading index, where a genuine match exists, or a category the clause itself naturally suggests where no Weisman heading fits — Weisman's index was built for general legal maxims, not a catalogue of constitutional rights, so a substantial share of these categories are necessarily novel.

Where a founding-era clause bundles a right together with a governmental proviso or delegation of power in the same sentence, the right is stated on its own terms and the proviso is flagged immediately below it, separately and distinctly — never folded into the statement of the right itself, per the delegation-versus-right principle already fixed for this project.

Total: 152 individually catalogued clauses across 12 colonies, sorted into 25 categories.

The Nature of Rights: Natural, Inherent, and Unalienable

Weisman heading: Natural Rights

Massachusetts (1780), Art. I

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.

Virginia (1776), Sec. 1

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.

Pennsylvania (1776), Art. I

That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

Sovereignty of the People Over Their Own Government

Weisman heading: Government

Massachusetts (1780), Art. IV

The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not... expressly delegated to the United States of America.

Maryland (1776), Art. I

That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

Maryland (1776), Art. II

That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

Maryland (1776), Art. V

That the right in the people to participate in the Legislature is the best security of liberty, and the foundation of all free government.

Connecticut (1818), Sec. 2

That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that they have at all times an undeniable and indefeasible right to alter their form of government in such manner as they may think expedient.

Delaware (1776), Sect. 1

That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

Delaware (1776), Sect. 4

That people of this state have the sole exclusive and inherent right of governing and regulating the internal police of the same.

Georgia (1777), Preamble

We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare...

North Carolina (1776), Sec. I

That all political power is vested in and derived from the people only.

North Carolina (1776), Sec. II

That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

Pennsylvania (1776), Art. III

That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

Government Officers as Trustees and Agents of the People

Weisman heading: Authority, Power

Massachusetts (1780), Art. V

All power residing originally in the people, and being derived from them, the several magistrates and officers of government... are their substitutes and agents, and are at all times accountable to them.

Virginia (1776), Sec. 2

That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Maryland (1776), Art. IV

That all persons invested with the legislative or executive powers of government are the trustees of the public, and, as such, accountable for their conduct; wherefore, whenever the ends of government are perverted... the people may, and of right ought, to reform the old or establish a new government. The doctrine of non-resistance... is absurd, slavish, and destructive of the good and happiness of mankind.

Delaware (1776), Sect. 5

That persons intrusted with the Legislative and Executive Powers are the Trustees and Servants of the public, and as such accountable for their conduct; wherefore whenever the ends of government are perverted... the people may, and of right ought to establish a new, or reform the old government.

Pennsylvania (1776), Art. IV

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 accountable to them.

The People's Right to Alter or Abolish Government

Weisman heading: Government

Massachusetts (1780), Art. VII

Government is instituted for the common good... and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestible unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

Virginia (1776), Sec. 3

That government is, or ought to be, instituted for the common benefit, protection, and security of the people... a majority of the community bath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it.

Pennsylvania (1776), Art. V

That government is, or ought to be, instituted for the common benefit, protection and security of the people... and that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish government.

Separation of Governmental Powers

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Massachusetts (1780), Art. XXX

In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers... to the end it may be a government of laws and not of men.

Maryland (1776), Art. VI

That the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other.

North Carolina (1776), Sec. IV

That the legislative, executive, and supreme judicial powers of government, ought to be forever separate and distinct from each other.

Suspension of Laws Only by Consent of Representatives

Weisman heading: Authority, Power

Massachusetts (1780), Art. XX

The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it.

Virginia (1776), Sec. 7

That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Maryland (1776), Art. VII

That no power of suspending laws, or the execution of laws, unless by or derived from the Legislature, ought to be exercised or allowed.

North Carolina (1776), Sec. V

That all powers of suspending laws, or the execution of laws, by any authority, without consent of the Representatives of the people, is injurious to their rights, and ought not to be exercised.

Property, Taxation, and Consent to Public Charges

Weisman heading: Property Rights & Possession

Massachusetts (1780), Art. X

Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws... no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people.

Massachusetts (1780), Art. XXIII

No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

Virginia (1776), Sec. 6

That elections of members to serve as representatives... ought to be free; and that all men, having sufficient evidence of permanent common interest with and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent.

Maryland (1776), Art. XII

That no aid, charge, tax, fee, or fees, ought to be set, rated, or levied, under any pretence, without consent of the Legislature.

Connecticut (1818), Sec. 11

The property of no person shall be taken for public use, without just compensation therefor.

Delaware (1776), Sect. 10

That every member of society hath a right to be protected in the enjoyment of life, liberty and property... but no part of a man's property can be justly taken from him or applied to public uses without his own consent or that of his legal Representatives: Nor can any man that is conscientiously scrupulous of bearing arms in any case be justly compelled thereto if he will pay such equivalent.

North Carolina (1776), Sec. XVI

That the people of this State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their Representatives in General Assembly, freely given.

Pennsylvania (1776), Art. VIII

That every member of society hath a right to be protected in the enjoyment of life, liberty and property... But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives.

Against Exclusive Emoluments, Monopolies, and Hereditary Privilege

Weisman heading: Benefits, Privileges

Massachusetts (1780), Art. VI

No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public... the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

Virginia (1776), Sec. 4

That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

Maryland (1776), Art. XXXIX

That monopolies are odious, contrary to the spirit of a free government, and the principles of commerce; and ought not to be suffered.

Maryland (1776), Art. XL

That no title of nobility, or hereditary honours, ought to be granted in this State.

Connecticut (1818), Sec. 1

That all men when they form a social compact, are equal in rights; and that no man, or set of men are entitled to exclusive public emoluments or privileges from the community.

Connecticut (1818), Sec. 20

No hereditary emoluments, privileges or honors, shall ever be granted, or conferred in this state.

North Carolina (1776), Sec. III

That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

North Carolina (1776), Sec. XXII

That no hereditary emoluments, privileges or honors ought to be granted or conferred in this State.

North Carolina (1776), Sec. XXIII

That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

Liberty of Conscience and Religious Worship

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Massachusetts (1780), Art. II

It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING... And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments.

Governmental proviso / delegation flagged separately: Proviso: '...provided he doth not disturb the public peace, or obstruct others in their religious worship.'

Virginia (1776), Sec. 16

That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience.

Maryland (1776), Art. XXXIII

That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to him; all persons, professing the Christian religion, are equally entitled to protection in their religious liberty; wherefore no person ought by any law to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice.

Governmental proviso / delegation flagged separately: Proviso: 'unless, under colour of religion, any man shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others, in their natural, civil, or religious rights.'

Connecticut (1818), Sec. 3

The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this state.

Governmental proviso / delegation flagged separately: Proviso: 'provided, that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the state.'

Delaware (1776), Sect. 2

That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings; and that no man ought or of right can be compelled to attend any religious worship or maintain any ministry contrary to or against his own free will and consent, and that no authority can or ought to be vested in, or assumed by any power whatever that shall in any case interfere with, or in any manner controul the right of conscience in the free exercise of religious worship.

Georgia (1777), Art. LVI

All persons whatever shall have the free exercise of their religion; and shall not, unless by consent, support any teacher or teachers except those of their own profession.

Governmental proviso / delegation flagged separately: Proviso: 'provided it be not repugnant to the peace and safety of the State.'

New Jersey (1776), Art. XVIII

That no person shall ever, within this Colony, be deprived of the inestimable privilege of worshipping Almighty God in a manner, agreeable to the dictates of his own conscience; nor, under any pretence whatever, be compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person... ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any... place of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right.

New Jersey (1776), Art. XIX

That there shall be no establishment of any one religious sect in this Province, in preference to another; and that no Protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of his religious principles.

New York (1777), Art. XXXVIII

The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this State, to all mankind.

Governmental proviso / delegation flagged separately: Proviso: 'Provided, That the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.'

New York (1777), Art. XL

The militia of this State, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this State being of the people called Quakers as, from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature... and do pay to the State such sums of money, in lieu of their personal service.

North Carolina (1776), Sec. XIX

That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.

Pennsylvania (1776), Art. II

That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding... Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship.

South Carolina (1778), Art. XXXVIII

All persons and religious societies who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated. The Christian Protestant religion shall be deemed, and is hereby constituted and declared to be, the established religion of this State... That all denominations of Christian Protestants in this State, demeaning themselves peaceably and faithfully, shall enjoy equal religious and civil privileges.

Freedom of Speech and of the Press

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Massachusetts (1780), Art. XVI

The liberty of the press is essential to the security of freedom in a state it ought not, therefore, to be restricted in this commonwealth.

Virginia (1776), Sec. 12

That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

Maryland (1776), Art. XXXVIII

That the liberty of the press ought to be inviolably preserved.

Connecticut (1818), Sec. 5

Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Connecticut (1818), Sec. 6

No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

Delaware (1776), Sect. 23

That the liberty of the press ought to be inviolably preserved.

Georgia (1777), Art. LXI

Freedom of the press and trial by jury to remain inviolate forever.

North Carolina (1776), Sec. XV

That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

Pennsylvania (1776), Art. XII

That the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained.

South Carolina (1778), Art. XLIII

The liberty of the press be inviolably preserved.

Right of Assembly and Petition

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Massachusetts (1780), Art. XIX

The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body... redress of the wrongs done them, and of the grievances they suffer.

Maryland (1776), Art. XI

That every man hath a right to petition the Legislature, for the redress of grievances, in a peaceable and orderly manner.

Connecticut (1818), Sec. 16

The citizens have a right, in a peaceable manner, to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances.

Delaware (1776), Sect. 9

That every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner.

North Carolina (1776), Sec. XVIII

That the people have a right to assemble together, to consult for their common good, to instruct their Representatives, and to apply to the Legislature, for redress of grievances.

Pennsylvania (1776), Art. XVI

That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition, or remonstrance.

Arms

Weisman heading: Arms

Massachusetts (1780), Art. XVII

The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Virginia (1776), Sec. 13

That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

Maryland (1776), Art. XXV

That a well-regulated militia is the proper and natural defence of a free government.

Connecticut (1818), Sec. 17

Every citizen has a right to bear arms in defence of himself and the state.

Delaware (1776), Sect. 18

That a well regulated militia is the proper, natural and safe defence of a free government.

North Carolina (1776), Sec. XVII

That the people have a right to bear arms, for the defence of the State; and, as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

Pennsylvania (1776), Art. XIII

That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.

War and the Subordination of the Military to Civil Power

Weisman heading: War, Law of Nations

Massachusetts (1780), Art. XXVII

In time of peace, no soldier ought to be quartered in any house without the consent of the owner.

Maryland (1776), Art. XXVI

That standing armies are dangerous to liberty, and ought not to be raised or kept up, without consent of the Legislature.

Maryland (1776), Art. XXVII

That in all cases, and at all times, the military ought to be under strict subordination to and control of the civil power.

Maryland (1776), Art. XXVIII

That no soldier ought to be quartered in any house, in time of peace, without the consent of the owner.

Connecticut (1818), Sec. 18

The military shall, in all cases, and at all times, be in strict subordination to the civil power.

Connecticut (1818), Sec. 19

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner.

Delaware (1776), Sect. 19

That standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the Legislature.

Delaware (1776), Sect. 21

That no soldier ought to be quartered in any house in time of peace without the consent of the owner.

South Carolina (1778), Art. XLII

The military be subordinate to the civil power of the State.

Search and Seizure

Weisman heading: Homes, House

Massachusetts (1780), Art. XIV

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... and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

Virginia (1776), Sec. 10

That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named... are grievous and oppressive, and ought not to be granted.

Maryland (1776), Art. XXI

That no freeman ought to be taken, or imprisoned, or dis seized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land.

Maryland (1776), Art. XXIII

That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants... are illegal, and ought not to be granted.

Connecticut (1818), Sec. 8

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 describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

Delaware (1776), Sect. 17

That all warrants without oath to search suspected places, or to seize any person or his property, are grievous and oppressive; and all general warrants... are illegal and ought not to be granted.

North Carolina (1776), Sec. XI

That general warrants... are dangerous to liberty, and ought not to be granted.

North Carolina (1776), Sec. XII

That no freeman ought to be taken, imprisoned, or dis seized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

Pennsylvania (1776), Art. X

That the people have a right to hold themselves, their houses, papers, and possessions free from search and seizure, and therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them... are contrary to that right, and ought not to be granted.

South Carolina (1778), Art. XLI

No freeman of this State be taken or imprisoned, or dis seized of his freehold, liberties, or privileges, or outlawed, exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or by the law of the land.

Rights of the Accused in Criminal Prosecutions

Weisman heading: Evidence, Proof & Witnesses

Massachusetts (1780), Art. XII

No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially, and formally, described to him; or be compelled to accuse, or furnish evidence against himself... no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

Maryland (1776), Art. XX

That no man ought to be compelled to give evidence against himself, in a common court of law, or in any other court.

Connecticut (1818), Sec. 9

In all criminal prosecutions, the accused shall have a right to be heard by himself and by counsel; to demand the nature and cause of the accusation; to be confronted by the witnesses against him... He shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, but by due course of law.

Delaware (1776), Sect. 15

That no man in the Courts of Common Law ought to be compelled to give evidence against himself.

New Jersey (1776), Art. XVI

That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

North Carolina (1776), Sec. VII

That, in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

North Carolina (1776), Sec. VIII

That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.

Trial by Jury

Weisman heading: Jury, Jurors

Massachusetts (1780), Art. XV

In all controversies concerning property, and in all suits between two or more persons... the parties have a right to a trial by jury; and this method of procedure shall be held sacred.

Virginia (1776), Sec. 8

That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his

vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

Virginia (1776), Sec. 11

That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

Maryland (1776), Art. III

That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the course of that law, and to the benefit of such of the English statutes, as existed at the time of their first emigration... subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State.

Maryland (1776), Art. XVII

That every freeman, for any injury done him in his person or property, ought to have remedy, by the course of the law of the land, and ought to have justice and right freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

Maryland (1776), Art. XIX

That, in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment... to be allowed counsel: to be confronted with the witnesses against him... and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

Connecticut (1818), Sec. 12

All courts shall be open, and every person, for an injury done him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Connecticut (1818), Sec. 21

The right of trial by jury shall remain inviolate.

Delaware (1776), Sect. 12

That every freeman for every injury done him in his goods, lands or person, by any other person, ought to have remedy by the course of the law of the land.

Delaware (1776), Sect. 13

That trial by jury of facts where they arise is one of the greatest securities of the lives, liberties and estates of the people.

Delaware (1776), Sect. 14

That in all prosecutions for criminal offences, every man hath a right to be informed of the accusation against him, to be allowed counsel, to be confronted with the accusers or witnesses, to examine evidence on oath in his favour, and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

Georgia (1777), Art. XLI

The jury shall be judges of law, as well as of fact, and shall not be allowed to bring in a special verdict; but if all or any of the jury have any doubts concerning points of law, they shall apply to the bench.

New Jersey (1776), Art. XXII

That the common law of England, as well as so much of the statute law, as have been heretofore practiced in this Colony, shall still remain in force, until they shall be altered by a future law of the Legislature... and that the inestimable right of trial by jury shall remain confirmed as a part of the law of this Colony, without repeal, forever.

New York (1777), Art. XLI

Trial by jury, in all cases in which it hath heretofore been used in the colony of New York, shall be established and remain inviolate forever. And that no acts of attainder shall be passed by the legislature of this State for crimes, other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood.

North Carolina (1776), Sec. IX

That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.

North Carolina (1776), Sec. XIV

That 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 ought to remain sacred and inviolable.

Pennsylvania (1776), Art. IX

That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury of the country... nor can he be compelled to give evidence against himself; nor can any man be justly deprived of his liberty except by the laws of the land, or the judgment of his peers.

Pennsylvania (1776), Art. XI

That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

Bail, Fines, and Cruel or Unusual Punishments

Weisman heading: Punishment

Massachusetts (1780), Art. XXVI

No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

Virginia (1776), Sec. 9

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Maryland (1776), Art. XIV

That sanguinary laws ought to be avoided, as far as is consistent with the safety of the State: and no law, to inflict cruel and unusual pains and penalties, ought to be made in any case, or at any time hereafter.

Maryland (1776), Art. XXII

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted, by the courts of law.

Connecticut (1818), Sec. 13

Excessive bail shall not be required, nor excessive fines imposed.

Delaware (1776), Sect. 16

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Georgia (1777), Art. LIX

Excessive fines shall not be levied, nor excessive bail demanded.

North Carolina (1776), Sec. X

That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Retrospective Laws and Bills of Attainder

Weisman heading: Crime, Criminal Acts

Massachusetts (1780), Art. XXIV

Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

Maryland (1776), Art. XV

That retrospective laws, punishing facts committed before the existence of such laws... are oppressive, unjust, and incompatible with liberty; wherefore no ex post facto law ought to be made.

Maryland (1776), Art. XVI

That no law, to attain particular persons of treason or felony, ought to be made in any case, or at any time hereafter.

Connecticut (1818), Sec. 15

No person shall be attained of treason or felony, by the legislature.

Delaware (1776), Sect. 11

That retrospective laws, punishing offences committed before the existence of such laws, are oppressive and unjust, and ought not to be made.

North Carolina (1776), Sec. XXIV

That retrospective laws, punishing facts committed before the existence of such laws... are oppressive, unjust, and incompatible with liberty; wherefore no ex post facto law ought to be made.

Habeas Corpus

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Connecticut (1818), Sec. 14

All prisoners shall, before conviction, be bailable by sufficient sureties, except for capital offences, where the proof is evident, or the presumption great; and the privileges of the writ of Habeas Corpus shall not be suspended, unless, when in case of rebellion or invasion, the public safety may require it; nor in any case, but by legislature.

Georgia (1777), Art. LX

The principles of the habeas-corpus act shall be a part of this constitution.

North Carolina (1776), Sec. XIII

That every freeman, restrained of his liberty, is entitled to a remedy, to inquire into the lawfulness thereof, and to remove the same, if unlawful; and that such remedy ought not to be denied or delayed.

Due Process and Right to a Certain Remedy

Weisman heading: Legal Rights

Massachusetts (1780), Art. XI

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. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

New York (1777), Art. XIII

No member of this State shall be disfranchised, or deprived of any the rights or privileges secured to the subjects of this State by this constitution, unless by the law of the land, or the judgment of his peers.

The Common Law and Prior Statutes Retained

Weisman heading: Common Law

New York (1777), Art. XXXV

Such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April... 1775, shall be and continue the law of this State, subject to such alterations and provisions as the legislature of this State shall, from time to time, make.

Right to Plead One's Own Cause

Weisman heading: Legal Rights

Georgia (1777), Art. LVIII

No person shall be allowed to plead in the courts of law in this State, except those who are authorized so to do by the house of assembly... This is not intended to exclude any person from that inherent privilege of every freeman, the liberty to plead his own cause.

Right to Emigrate and Form New Communities

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Pennsylvania (1776), Art. XV

That all men have a natural inherent right to emigrate from one state to another that will receive them, or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness.

Frequent Recurrence to Fundamental Principles

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Massachusetts (1780), Art. XVIII

A frequent recurrence to the fundamental principles of the constitution... [is] absolutely necessary to preserve the advantages of liberty... they have a right to require of their lawgivers and magistrates an exact and constant observance of them.

Virginia (1776), Sec. 15

That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

North Carolina (1776), Sec. XXI

That a frequent recurrence to fundamental principles is absolutely necessary, to preserve the blessings of liberty.

Miscellaneous / Structural Rights Provisions

Not among Weisman's 105 headings — sorted here as a category the clauses themselves naturally suggest.

Massachusetts (1780), Art. XXIX

It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice.