

## Class #15 Page 1 of 6

Comprehensive Study of "The Law of the Land"

### Part IX: Amendment 4

Sunday - August 23, 2014 / 1 p.m. — 3 p.m.

Blog Talk: *Mhhs—Eyes Wide Open*

Chat Room OR Call In: 347 945-5899

## Definitions For Review:

**Affirmation** - In practice, a solemn and formal declaration or asseveration that an affidavit is true, that the witness will tell the truth, etc., this being substituted for an oath in certain cases. A solemn religious asseveration in the nature of an oath. **1 Greenl.Ev. § 371.**

Quakers, as a class, and other persons who have conscientious scruples against taking an oath, are allowed to make affirmation in any mode which they may declare to be binding upon their consciences, in confirmation of the truth of testimony which they are about to give. **1 Atk. 21, 46; Cowp. 340, 389; 1 Leach Cr.Cas. 64; 1 Ry. & M. 77.**

**AFFIRMATION OF FACT.** A statement concerning a subject-matter of a transaction which might otherwise be only an expression of opinion but which is affirmed as an existing fact material to the transaction, and reasonably induces the other party to consider and rely upon it, as a fact. **Stone v. McCarty, 64 Cal.App. 158, 220 P. 690, 694.**

**Oath-** Any form of attestation by which a person signifies that he is bound in conscience to perform an act faithfully and truthfully. **Vaughn v. State, 146 Tex.Cr.R. 586, 177 S.W.2d 59, 60.** An affirmation of truth of a statement, which renders one willfully asserting untrue statements punishable for perjury. **U. S. v. Klink, D.C.Wyo., 3 F. Supp. 208, 210.** An outward pledge by the person taking it that his attestation or promise is made under an immediate sense of responsibility to God. **Morrow v. State, 140 Neb. 592, 300 N.W. 843, 845.** A solemn appeal to the Supreme Being in attestation of the truth of some statement. **State v. Jones, 28 Idaho 428, 154 P. 378, 381; Tyler, Oaths 15.** An external pledge or asseveration, made in verification of statements made, or to be made,

coupled with an appeal to a sacred or venerated object, in evidence of the serious and reverent state of mind of the party, or with an invocation to a supreme being to witness the words of the party, and to visit him with punishment if they be false. **June v. School Dist. No. 11, Southfield Tp., 283 Mich. 533, 278 N.W. 676, 677, 116 A.L. R. 581.**

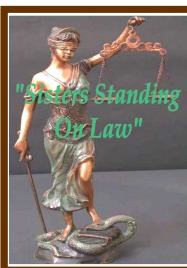
In its broadest sense, the term is used to include all forms of attestation by which a party signifies that he is bound in conscience to perform the act faithfully and truly. In a more restricted sense, it excludes all those forms of attestation or promise which are not accompanied by an imprecation. The term has been variously defined: as, "a solemn invocation of the vengeance of the Deity upon the witness if he do not declare the whole truth, so far as he knows it," **1 Stark.Ev. 22;** or, "a religious asseveration by which a person renounces the mercy and Imprecates the vengeance of Heaven if he do not speak the truth," **1 Leach 430;** or, as "a religious act by which the party invokes God not only to witness the truth and sincerity of his promise, but also to avenge his imposture or violated faith, or, in other words, to punish his perjury if he shall be guilty of it," **10 Toullier, n. 343; Puffendorff, b. 4, c. 2, § 4.** The essential idea of an oath would seem to be, however, that of a recognition of God's authority by the party taking it, and an undertaking to accomplish the transaction to which it refers as required by his laws.

**Probable Cause** - Having the appearance of truth; having the character of probability; appearing to be founded in reason or experience. **State v. Thiele, 119 Iowa, 659, 94 N.W. 256.** Having more evidence for than against; supported by evidence which inclines the mind to believe, but leaves some room for doubt; likely. **Barrett v. Green River Sr. Rock Springs Live Stock Co., 28 Wyo. 379, 205 P. 742, 743.** Apparently true, yet possibly false. **Spadra Creek Coal Co. v. Harger, 130 Ark. 374, 197 S.W. 705.**

**Probable Cause-** Reasonable cause. **State v. Baltes, 183 Wis. 545, 198 N.W. 282, 284.** Having more evidence for than against. **Ex parte Souza, 65 Cal.App. 9, 222 P. 869, 870.** A reasonable ground for belief in the existence of facts warranting the proceedings complained of. **Owens v. Graetzel, 149 Md. 689, 132 A. 265, 267.** An apparent state of facts found to exist upon reasonable inquiry, (that is, such inquiry as the given case renders convenient and proper,) which would induce a reasonably intelligent and prudent man to believe, in a criminal case, that the accused person had committed the crime charged, or, in a civil case, that a cause of action existed. **Brand v. Hinchman, 68 Mich. 590, 36 N.W. 664, 13 Am. St.Rep. 362; Cook v. Singer Sewing Mach. Co., 138 Cal.App. 418, 32 P.2d 430, 431.**

In malicious prosecution the existence of such facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted. **Lunsford v. Dietrich, 86 Ala. 250, 5 So. 461, 11 Am.St.Rep. 37.** A reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a prudent and cautious man to believe that the accused is guilty of the offense with which he is charged. **Sanders v. Palmer, N.Y., 55 F. 217, 5 C.C. A. 77.** Such a state of facts and circumstances known to the prosecutor personally or by information from others as would, in the judgment of the court, lead a man of ordinary caution, acting conscientiously in the light of such facts and circumstances, to believe that the person charged is guilty. **Keebey v. Stiff, 145 Ark. 8, 224 S. W. 396, 400.** See, also, **Galley v. Brennan, 216 N.Y. 118, 110 N.E. 179, 180.** Where defendant in an action for malicious prosecution shows that before commencing the prosecution he, in good faith, consulted an attorney of good standing and made a full disclosure of all of the facts reasonably obtainable, and in good faith acted upon such advice, this of itself constitutes "probable cause." **Gustason v. Speak, 85 Cal.App. 18, 258 P. 725, 726; Treloar v. Harris, 66 Ind. App. 159, 117 N.E. 975, 976.**

As justifying arrest without a warrant by one believed guilty of felony or to be engaged in commission of a felony, is a



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belief fairly arising out of facts and circumstances known to officer that a party is engaged in commission of a crime. **Day v. U. S., C.C.A.Neb., 37 F.2d 80, 81.**

For search warrant means reasonable ground of suspicion, supported by circumstances sufficiently strong to warrant cautious man in believing party is guilty of offense charged. **Shore v. U. S., 49 F.2d 519, 521, 60 App.D. C. 137.**

For arrest which must be shown *as* justification by defendants in action for false imprisonment is reasonable ground of suspicion supported by circumstances sufficient in themselves to warrant cautious man in believing accused to be guilty, but does not depend on actual state of case in point of fact, as it may turn out upon legal investigation, but on knowledge of facts which would be sufficient to induce reasonable belief in truth of accusation. **Christ v. McDonald, 152 Or. 494, 52 P.2d 655, 658.**

**Rights**— As a noun, and taken in an *abstract* sense, justice, ethical correctness, or consonance with the rules of law or the principles of morals. In this signification it answers to one meaning of the Latin "*jus*," and serves to indicate law in the abstract, considered as the foundation of all rights, or the complex of underlying moral principles which impart the character of justice to all positive law, or give it an ethical content.

**As a noun**, and taken in a *concrete* sense, a power, privilege, faculty, or demand, inherent in one person and incident upon another. "Rights" are defined generally as "powers of free action." And the primal rights pertaining to men are undoubtedly enjoyed by human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law. But leaving the abstract moral sphere, and giving to the term a juristic content, a

"right" is well defined as "a capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others." **Holl. Jur. 69.**

The noun substantive "a right" signifies that which jurists denominate a "faculty;" that which resides in a determinate person, by virtue of a given law, and which avails against a person (or answers to a duty lying on a person) other than the person in whom it resides. And the noun substantive "rights" is the plural of the noun substantive "a right." But the expression "right," when it is used as an adjective, is equivalent to the adjective "just." as the adverb "rightly" is equivalent to the adverb "justly." And, when used as the abstract name corresponding to the adjective "right," the noun substantive "right" is synonymous with the noun substantive "justice." **Aust. Jur. § 264, not.**

In a narrower signification, an interest or title in an object of property; a just and legal claim to hold, use, or enjoy it, or to convey or donate it, as he may please. **See Co. Litt. 345a.** The term "right," in civil society, is defined to mean that which a man is entitled to have, or to do, or to receive from others within the limits prescribed by law. **Atehison & N. R. Co. v. Baty, 6 Neb. 40, 29 Am. Rep. 356.**

That which one person ought to have or receive from another, it being withheld from him, or not in his possession. In this sense "right" has the force of "claim," and is properly expressed by the Latin "*jus*." Lord Coke considers this to be the proper signification of the word, especially in writs and pleadings, where an *estate is turned to a right*; as by discontinuance, disseisin, etc. **Co. Litt. 345a.** See, also, Droit; Jus; Recht. Classification Rights may be described as *perfect* or *imperfect*, according as their action or scope is clear, settled, and determinate, or is vague and unfixed.

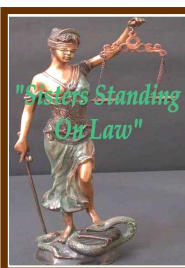
Rights are either *in personam* or *in rem*. A. right *in personam* is one which imposes an obligation on a definite person. A right *in rem* is one which imposes an obligation on persons generally; 1. *e.*, either on all the world or on all the world except certain determinate persons. Thus, if I am entitled to exclude all persons from a given piece of land, I have a right *in rem* in respect of that land; and, if there are one or more persons, A., B., and C., whom I am not entitled to exclude from it, my right is still a right *in rem*.

Rights may also be described as either *primary* or *secondary*. *Primary* rights are those which can be created without reference to rights already existing. *Secondary* rights can only arise for the purpose of protecting or enforcing primary rights. They are either preventive (protective) or remedial (reparative.)

*Preventive* or *protective secondary* rights exist in order to prevent the infringement or loss of primary rights. They are judicial when they require the assistance of a court of law for their enforcement, and extrajudicial when they are capable of being exercised by the party himself. *Remedial* or *reparative secondary* rights are also either judicial or extrajudicial. They may further be divided into (1) rights of restitution or restoration, which entitle the person injured to be replaced in his original position; (2) rights of enforcement, which entitle the person injured to the performance of an act by the person bound; and (3) rights of satisfaction or compensation.

With respect to the ownership of external objects of property, rights may be classed as absolute and *qualified*. An absolute right gives to -the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only. Such is the right of a bailee to recover the article bailed when it has been unlawfully taken from him by a stranger.

Rights are also either *legal* or *equitable*. The former is the case where the person seeking to enforce the right for his own benefit has the legal title and a remedy at law. The latter are such as are enforceable only in equity; as, at the suit of *cestui que trust*.



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### Constitutional Law

There is also a classification of rights, with respect to the constitution of civil society. Thus, according to Blackstone, "the rights of persons, considered in their natural capacities, are of two sorts,— absolute and *relative*: absolute, which are such as appertain and belong to particular men, merely as individuals or single persons; relative, which are incident to them as members of society, and standing in various relations to each other." 1 **Bl. Comm. 123. Johnson v. Johnson, 32 Ala. 637; People v. Berberich, 20 Barb. (N. Y.) 224.**

Rights are also classified in constitutional law as natural, civil, and political, to which there is sometimes added the class of "personal rights."

*Natural* rights are those which grow out of the nature of man and depend upon personality, as distinguished from such as are created by law and depend upon civilized society; or they are those which are plainly assured by natural law (**Borden v. State, 11 Ark. 519, 44 Am.Dec. 217**); or those which, by fair deduction from the present physical, moral, social, and religious characteristics of man, he must be invested with, and which he ought to have realized for him in a jural society, in order to fulfill the ends to which his nature calls him. 1 **Woolsey, Polit. Science, p. 26.** Such are the rights of life, liberty, privacy, and good reputation. See **Black, Const. Law (3d Ed.) 523.**

*Civil* rights are such as belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, protection by the laws, freedom of contract, trial by jury, etc. **Winnett v. Adams, 71 Neb. 817, 99 N.W. 681.** Or, as otherwise defined, civil rights are rights appertaining to a person in virtue of his citizenship in a state or community. Rights capable of being enforced or re-

dressd in a civil action. Also a term applied to certain rights secured to citizens of the United States by the thirteenth and fourteenth amendments to the constitution, and by various acts of congress made in pursuance thereof. **State of Iowa v. Railroad Co., C.C.Iowa, 37 F. 498, 3 L.R.A. 554; State v. Powers, 51 N.J.L. 432, 17 A. 969.**

*Political* rights consist in the power to participate, directly or indirectly, in the establishment or administration of government, such as the right of citizenship, that of suffrage, the right to hold public office, and the right of petition. **Black Const. Law (3d Ed.) 524; Winnett v. Adams, 71 Neb. 817, 99 N.W. 681.**

*Personal* rights is a term of rather vague import, but generally it may be said to mean the right of personal security, comprising those of life, limb, body, health, reputation, and the right of personal liberty.

### As an Adjective

The term "right" means just, morally correct, consonant with ethical principles or rules of positive law. It is the opposite of wrong, unjust, illegal.

### Old English Law

The term denoted an accusation or charge of crime. **Fitzh. Nat. Brev. 66 F.**

### Other Compound and Descriptive Terms

**Base right.** In Scotch law, a subordinate right; the right of a subvassal in the lands held by him.

**Secure**— To give security; to assure of payment, performance, or indemnity; to guaranty or make certain the payment of a debt or discharge of an obligation. **Ex parte Reynolds, 52 Ark. 330, 12 S.W. 570.** One "secures" his creditor by giving him a lien, mortgage, pledge, or other security, to be used in case the debtor fails to make payment.

Also, not exposed to danger; safe; so strong, stable or firm as to insure safety.

**Wenzel & Henoch Const. Co. v. Industrial Commission, 202 Wis. 595, 233 N.W. 777, 779.**

**Seizures**— To take possession of forcibly, to grasp, to snatch, or to put in possession. **Hardie v. State, 140 Tex.Cr.R. 368, 144 S.W.2d 571, 575.**

### Law of Copyholds

Seizure is where the lord of copyhold lands takes possession of them in default of a tenant. It is either seizure *quousque* or absolute seizure.

### Practice

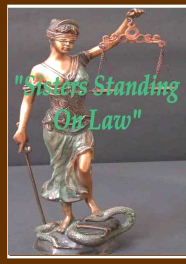
The act performed by an officer of the law, under the authority and exigence of a writ, in taking into the custody of the law the property, real or personal, of a person against whom the judgment of a competent court has passed, condemning him to pay a certain sum of money, in order that such property may be sold, by authority and due course of law, to satisfy the judgment. Or the act of taking possession of goods in consequence of a violation of public law. **Carey v. Insurance Co., 54 N.W. 18, 84 Wis. 80, 20 L.R.A. 267, 36 Am.St. Rep. 907.**

Seizure, even though hostile, is not necessarily capture, though such is its usual and probable result. The ultimate act or adjudication of the state, by which the seizure has been made, assigns the proper and conclusive quality and denomination to the original proceeding. A condemnation asserts a capture *ab initio*; an award of restitution pronounces upon the act as having been not a valid act of capture, but an act of temporary seizure only. **Appleton v. Crowninshield, 3 Mass. 443.**

**Unreasonable**— Irrational; foolish; unwise; absurd; silly; preposterous; senseless; stupid. Southern Kansas State Lines Co. v. Public Service Commission, 135 Kan. 657, 11 P.2d 985, 987. Not reasonable; immoderate; exorbitant. **Cass v. State, 124 Tex.Cr.R. 208, 61 S.W.2d 500.** Capricious; arbitrary; confiscatory. **Harris v. State Corporation Commission, 46 N.M. 352, 129 P.2d 323, 328.**

**Violation [ed]** — Injury; infringement; breach of right, duty or law; ravishment; seduction. The statute **25 Edw. III. St. 5, c. 2,** enacts that any person who shall violate the king's companion shall be guilty of high treason.





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**Warrants-** v. In contracts. To engage or promise that a certain fact or state of facts, in relation to the subject-matter, is, or shall be, as it is represented to be.

In conveyancing. To assure the title to property sold, by an express covenant to that effect in the deed of conveyance. To stipulate by an express covenant that the title of a grantee shall be good, and his possession undisturbed.

**Warrant**, *n.* 1. A writ or precept from a competent authority in pursuance of law, directing the doing of an act, and addressed to an officer or person competent to do the act, and affording him protection from damage, if he does it. **People v. Wood**, 71 N.Y. 376.

2. Particularly, a writ or precept issued by a magistrate, justice, or other competent authority, addressed to a sheriff, constable, or other officer, requiring him to arrest the body of a person therein named, and bring him before the magistrate or court, to answer, or to be examined, touching some offense which he is charged with having committed. See **People v. Baxter, City Ct.**, 32 N.Y.S.2d 325, 327. See, also, Bench-Warrant; Search-Warrant.

3. An order by which the drawer authorizes one person to pay a particular sum of money. **Shawnee County v. Carter**, 2 Kan. 130.

4. An authority issued to a collector of taxes, empowering him to collect the taxes extended on the assessment roll, and to make distress and sale of goods or land in default of payment.

5. A command of a council, board, or official whose duty it is to pass upon the validity and determine the amount of a claim against the municipality, to the treasurer to pay money out of any funds in the municipal treasury, which are or may become available for the purpose specified, to a designated person whose claim therefor has been duly adjusted and allowed. **Roe v. Roosevelt Water Conservation Dist.**,

41 Ariz. 197, 16 P.2d 967, 970; **State v.**

**State Board of Examiners**, 74 Mont 1, 238 P. 316, 328.

A "warrant" differs from a "bond" in that a bond is a "negotiable instrument", whereas a warrant is nonnegotiable and is subject at all times to the defenses it would be were it in the hands of the original payee, which is not the case with a negotiable bond. **Adams v. McGill, Tex.Civ.App.**, 146 S.W.2d 332, 334.

6. In England, a dividend warrant or coupon. See Coupons.

**Coupons.** Interest and dividend certificates; also those parts of a commercial instrument which are to be *cut*, and which are evidence of something connected with the contract mentioned in the instrument. They are generally attached to certificates of loan, where the interest is payable at particular periods, and, when the interest is paid, they are cut off and delivered to the payer. **Wharton. Toon v. Wapinitia Irr. Co.**, 117 Or. 374, 243 P. 554, 556.

In England, they are known as *warrants* or *dividend warrants*, and the securities to which they belong, debentures; 13 C. B. 372.

Coupons are written contracts for the payment of a definite sum of money on a given day, and being drawn and executed in a form and mode for the purpose, that they may be separated from the bonds and other instruments to which they are usually attached, it is held that they are negotiable and that a suit may be maintained on them without the necessity of producing the bonds. Each matured coupon upon a negotiable bond is a separable promise, distinct from the promises to pay the bonds or the other coupons, and gives rise to a separate cause of action. **Aurora v. West**, 7 Wall. 88, 19 L.Ed. 42. **Haven v. Depot Co.**, 109 Mass. 88; **Thompson v. Perrine**, 106 U.S. 589, 1 S.Ct. 564, 27 L.Ed. 298.

## Reminder Notes for Future Classes:

**State** - A People permanently occupying a fixed territory, bound together by common-law, habits, and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. *Black's Law Dictionary 4<sup>th</sup> Edition*

## Parties to the Constitution – United States:

1. **Moors** – Supreme Authority, *and*

2. **Union [United] States of America** – Europeans, the People adopted into the Nation.

**Status** – The etymology of the word **state** comes from the latin "Status" – stare – to stand; Status – manner of standing, attitude, position, carriage, manner, dress, apparel; and other senses.

All **legislative powers** herein granted shall be vested in a **Congress of the United States** - Moors, which shall **consist-[stands together with]** of a **Senate and House of Representatives** – [members elected from the Union States]

## The 3 Great Departments of Government:

♦ **Legislative** – pass law – this is appropriate if you comprehend that the Moors make up the United States and only the sovereign of the land can make any laws.

♦ **Executive** – approve and execute the laws that have been passed.

♦ **Judicial** – expound and enforce the laws that have been passed.

## 9 Lawful Questions:

1. Who does the 4<sup>th</sup> Bill of Right (Amendment) secure?
2. What of the People' is secured by the 4<sup>th</sup> Amendment?
3. What are the People secured against?
4. What must first be obtained in order to by pass the 4<sup>th</sup> Bill of Rights? Give an example?
5. In order for the 4<sup>th</sup> Bill of Rights to be effective what must be included? From who?
6. Who cannot utilize the 4<sup>th</sup> Bill of Rights? Why?
7. If they use the 4<sup>th</sup> Bill of Rights is used against the People what is that called?
8. What MUST be described in the warrant?
9. When MUST the warrant be obtained?

### Group Discussion Question

The purpose of the 4<sup>th</sup> Bill of Rights is to secure People from who and overall assure them of what?

### Supreme Laws for Review:

Section 1 the right of the people to be secure.

"...and it is the duty of the courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon." [Byars v. U.S., 273 US 28 \(1927\)](#)

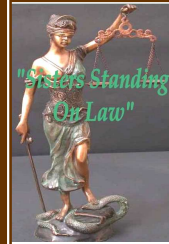
" The permissibility of a particular law enforcement practice is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests." [Delaware v. Prouse, 99 S.Ct. at 1396.](#)

"The Fourth Amendment is to be construed in the light of what was deemed an unreasonable search and seizure when it was adopted, and in a manner which will conserve public interests as well as the interests and rights of individual citizens." [Carroll v. U.S. 267 US 132, 149.](#)

"Stopping an automobile and detaining its occupants constitute a "seizure" within meaning of the Fourth Amendments, even though purpose of stop is limited and resulting detention is quite brief." [Delaware v. Prouse, 440 US 648,](#)

"Where property or evidence has been obtained through unconstitutional search and seizure, failure to return the same and to suppress the evidence learned thereby constitutes reversible error. - [Boyd v. United States, 116 US 616;](#) [Weeks v. United States, 232 US 383;](#) [Silverthorne Lumber Co. v. United States, 251 US 385;](#) [Gouled v. United States, 255 US 298;](#) [Amos v. United States, 255 US 313.](#)

"When officers detained defendant for the purpose of requiring him to identify himself, they performed a "seizure" of his person subject to the requirements of the Fourth Amendment." [Brown v. Texas, 443 US at 47 \).](#)



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### Concluding Lawful Perspective:

"The essential purpose of the proscriptions of the Fourth Amendment is to impose a standard of "reasonableness"\* upon the exercise of discretion by government officials, including law enforcement agents, in order 'to safeguard the privacy and security of individuals against arbitrary invasions...'"\*\* [Delaware v. Prouse, 99 S.Ct. at 1396.](#) \* See Marshall v. Barlow's Inc., 436 US 307, 315, 98 S.Ct. 1816, 1822 (1978); [U.S. v. Brignoni-Ponce, 422 US 873, 878, 95 S.Ct. 2574, 2578, 45 L.Ed.2d 607 \(1975\);](#) [Cady v. Dombrosky, 413 US 433, 439, 93 S.Ct. 2523, 2527, 37 L.Ed.2d 706 \(1973\);](#) [Terry v. Ohio, 392 US 1, 20-21, 88 S.Ct. 1868, 1879, 20 L.Ed.2d 889 \(1968\);](#) [Chambers v. Maroney 399 US 42, 51](#)

"In sum then, individuals accosted by police on the basis merely of reasonable suspicion have a right not to be searched, a right to remain silent, and, as a corollary, a right not to be searched if they choose to remain silent. Justices Brennan, Marshall and Stevens dissenting in [Michigan v. DeFillipo 443 US at 45](#)

### Next Class:

An Analysis of "The Spirit of the Supreme Law of the Land" Part X –5th Bill of Rights of the American Constitution 1791.

### Hint:

**1906: Hale v. Henkel, 201 U.S. 43.** Defined the distinction between natural persons and corporations as it pertains to 5th Amendment protections within the U.S. Constitution.

"...we are of the opinion that there is a clear distinction in this particular between an individual and [a corporation](#), and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen.

**He is entitled to carry on his private business in his own way.** His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the



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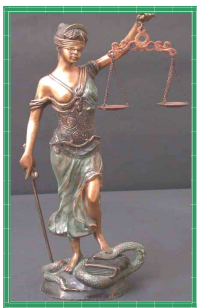
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law. He owes nothing to the public so long as he does not trespass upon their rights.

Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges. "



## Sistars Standing On Law

### 13 Month Syllabus Topics

Part 1 —Preamble	Part 7 — Bill of Right I
Part 2 —Article I	Part 8— Bill of Right II & III
Part 3 —Article II	Part 9 — Bill of Right IV
Part 4 —Article III	Part 10 — Bill Right V
Part 5 — Article IV & V	Part 11 — Bill of Right VI
Part 6 —Article VI & VII	Part 12 — Bill of Right VII & VIII
	Part 13 — Bill of Right IX & X

**This Series contains a total of 13 Classes and the first class began on December 15th, 2013, our 7th overall broadcast on MHHS-Eyes Wides Open Blog Talk "Sistars Standing On Law" .**