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Comprehensive Study of "The Law of the Land"

Part VIII: Amendment 2 & 3

Sunday - July 20th, 2014 / 1 p.m. — 3 p.m.

Blog Talk: *Mhhs—Eyes Wide Open*

Chat Room OR Call In: 347 945-5899

Definitions For Review:

Militia - The body of citizens in a state, enrolled for discipline as a military force, but not engaged in actual service except in emergencies, as distinguished from regular troops or a standing army. *Ex parte McCants*, 39 Ala. 112; *Worth v. Craven County*, 118 N.C. 112, 24 S.E. 778; *Story v. Perkins*, D.C.Ga., 243 F. 997, 999.

Keep- v. To continue. *People v. Roseberry*, 23 Cal.App.2d 13, 71 P.2d 944; *Briggs v. U. S.*, C.C.A. Mich., 45 F.2d 479, 480. To have or retain in one's power or possession; not to lose or part with; to preserve or retain. *Deans v. Gay*, 132 N.C. 227, 43 S.E. 643.

To maintain, carry on, conduct, or manage; as, to "keep" a liquor saloon, bawdy house, gaming table, nuisance, inn, hotel or policy game. *State v. Irvin*, 117 Iowa 469, 91 N.W. 760; *State v. Cox*, 52 Vt. 474; *State v. Cieri*, 128 Conn. 149, 20 A.2d 733, 734.

To maintain, tend, harbor, feed, and shelter; as, to "keep" a dangerous animal, to "keep" a horse at livery, to "keep" a dog. *Allen v. Ham*, 63 Me. 536; *Skinner v. Caughey*, 64 Minn. 375, 67 N.W. 203; *Elender v. White*, La.App., 14 So.2d 280.

To maintain continuously and methodically for the purposes of a record; as, to "keep" books. *See Backus v. Richardson*, 5 Johns., N.Y., 483; *Hammond v. Niagara Fire Ins. Co.*, 92 Kan. 851, 142 P. 936, 937. Thus to "keep" records of court means, not only to preserve the manual possession of the records, books, and papers, but to correctly transcribe therein the proceedings of the court. *Myers v. Colquitt*, Tex.Civ.App., 173 S.W. 993, 997.

To maintain continuously and without stoppage or variation; as, when a vessel is said to "keep her course," that is, continue in motion in the same general direction in which she was previously

sailing. *See The Britannia*, 153 U.S. 130, 14 S.Ct. 795, 38 L.Ed. 660; to maintain, to cause to continue without essential change of condition. *Are. den v. Boone*, Tex.Com.App., 221 S.W. 265, 266. To take care of and to preserve from danger, harm, or loss. *Tannenbaum v. Seacoast Trust Co. of Asbury Park*, 16 N.J.Misc. 234, 198 A. 855, 869.

A place where liquor is "possessed" is subject to abatement as place where liquor is "kept". *Butler Hotel Co. v. U. S.*, C.C.A.Wash., 35 F.2d 76. As applied to school refers to conduct of school activities. *Borchers v. Taylor*, 83 N.H. 564, 145 A. 666, 668, 63 A.L.R. 874. As used in commitment order commanding marshal "to take and keep and safely deliver" prisoner to custody of penitentiary warden means to keep prisoner in local jail until time to take train for penitentiary. *Smith v. Swope*, C.C.A.Wash., 91 F.2d 260, 261.

As used in statute concerning voting by persons "kept" at public or charitable institutions, the word implies being beneficiaries of charity. *Rathbun v. Smith*, 23 N.Y.S.2d 95, 97, 175 Misc. 246. As used in statute declaring it unlawful to keep a gaming house, implies duration. *State v. Cieri*, 128 Conn. 149, 20 A.2d 733, 734. As used in statute that vehicles shall keep to right side of center of road or highway, means that drivers should get on right side of highway as quickly as possible and remain there. *Mahoning Savings & Trust Co. v. Kellner*, 131 Ohio St. 69, 1 N.E.2d 616, 619. The word "kept" in policies providing that gasoline shall not be "kept, used, or allowed" on premises implies some degree of permanence of storage thereof. *Bouchard v. Dirigo Mut. Fire Ins. Co.*, 113 Me. 17, 92 A. 899, 900, L.R. A.1915D, 187; *D. I. Felsenthal Co. v. Northern Assur. Co., Limited*, of London, 284 Ill. 343, 120 N.E. 268, 271, 1 A.L.R. 602; *Home Ins. Co. of New York v. Bridges*, 172 Ky. 161, 189 S.W. 6, 7, L.R.A.1917C, 276; while "keeping in possession" con-

triband liquors means to have habitually in possession, *State v. Burns*, 133 S.C. 238, 130 S.E. 641, 642. Within statutory provision defining common nuisance the word means kept for sale or barter or other commercial purposes. *Burner v. Commonwealth*, 140 Va. 508, 125 S.E. 324, 325; *Singer v. U. S.*, C.C.A.N.J., 288 F. 695, 696; *Ayers v. U. S.*, C.C.A.Ark., 58 F.2d 607, 610; *Cuttera v. U. S.*, C.C.A.La., 31 F.2d 439. Within statute relating to slot machine for gaming, means holding the machine in readiness for purpose of obtaining bettors, or for gaming. *Mooney v. State*, 146 Tex.Cr. R. 64, 171 S.W.2d 494, 495.

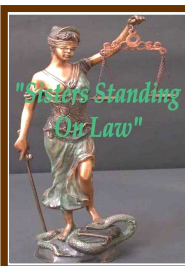
Bear - To support, sustain, or carry; to give rise to, or to produce, something else as an incident or auxiliary. *See Stevenson v. Mellor*, 252 Pa. 219, 97 A. 393, 394; to render, to manage, or direct, or to conduct; to carry on, or maintain; to be answerable for, and to defray. *Teeter v. Mid-West Enterprise Co.*, 174 Okl. 644, 52 P.2d 810, 812.

BEAR ARMS. To carry arms as weapons and with reference to their military use, not to wear them about the person as part of the dress. *Aymette v. State*, 2 Humph. (Tenn.) 158. As applied to fire-arms, includes the right to load and shoot them, and to use them as such things are generally used. *Hill v. State*, 53 Ga. 480.

Arms—Anything that a man wears for his defense, or takes in his hands, or uses in his anger, to cast at or strike at another. *Co.Litt. 161b, 162a; State v. Buzzard*, 4 Ark. 18. Arms, or coat of arms, signifies *insignia*, *i. e.* ensigns of honor, such as were formerly assumed by soldiers of fortune, and painted on their shields to distinguish them; or nearly the same as armorial bearings (*q. v.*).

Infringe(d)(ment) - A breaking into; a trespass or encroachment upon; a violation of a law, regulation, contract, or right. Used especially of invasions of the rights secured by patents, copyrights, and trademarks. *Goodyear Shoe Machinery Co. v. Jackson*, C.C.A.Mass., 112 F. 146, 50 C.C. 159, 55 L.R.A. 692.

Quartered - be stationed or lodged in a specified place. synonyms: accommodate, house, board, lodge, put up, take in, install, shelter; billet Middle



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English: from Old French *quartier*, from Latin *quartarius* 'fourth part of a measure,' from *quartus* 'fourth,' from *quattuor* 'four.'

Consent — A concurrence of wills. Voluntarily yielding the will to the proposition of another; acquiescence or compliance therewith. **Twin Ports Oil Co. v. Pure Oil Co., D.C.Minn., 26 F.Supp. 366, 371.** Agreement; the act or result of coming into harmony or accord. **Glantz v. Gabel, 66 Mont. 134, 212 P. 858, 860.**

Consent is an act of reason, accompanied with deliberation, the mind weighing as in a balance the good or evil on each side. **1 Story, Eq.Jur. § 222; Lervick v. White Top Cabs, La.App., 10 So.2d 67, 73.** It means voluntary agreement by a person in the possession and exercise of sufficient mentality to make an intelligent choice to do something proposed by another. **People v. Kangisser, 44 Cal. App. 345, 186 P. 388, 389.** It supposes a physical power to act, a moral power of acting, and a serious, determined, and free use of these powers. **Fonblanque, Eq. b. 1, c. 2, s. 1; New Jersey Mfrs' Casualty Ins. Co., 148 A. 790, 791, 106 N.J.L. 238.** Consent is implied in every agreement. It is an act unclouded by fraud, duress, or sometimes even mistake. **Heine v. Wright, 76 Cal.App. 338, 244 P. 955, 956.**

There is a difference between consenting and submitting. Every consent involves a submission; but a mere submission does not necessarily involve consent. **9 Car. & P. 722.**

"Consent" is an active acquiescence as distinguished from "assent," meaning a silent acquiescence. **People v. Lowe, 205 N.Y.S. 77, 78, 209 App.Div. 498.** "Consent" means an active circumstance of concurrence; "assent" is a passive act of concurrence before another does the act charged. **Perryman v. State, 63 Ga.App. 819, 12 S.E.2d 388, 390.** But the two terms may be used interchangeably. **Bartlett v. Sundin, 169 N.Y.S. 391, 393, 182**

App.Div. 117. "Consent" is sometimes synonymous merely with "waiver." **Dahlquist v. Denver & R. G. R. Co., 52 Utah, 438, 174 P. 833, 844.** See, also, **Seegmiller v. Day, C.C.A.Ill., 249 F. 177, 178; Toledo Fence & Post Co. v. Lyons, C.C.A.Ohio, 290 F. 637, 640.** As used in the law of rape "consent" means consent of the will, and submission under the influence of fear or terror cannot amount to real consent. **Hallmark v. State, 22 Okl. Cr. 422, 212 P. 322, 328.** There must be an exercise of intelligence based on knowledge of its significance and moral quality and there must be a choice between resistance and assent. **State v. Schwab, 109 Ohio St. 532, 143 N. E. 29, 31.** And if woman resists to the point where further resistance would be useless or until her resistance is overcome by force or violence, submission thereafter is not "consent". **People v. McIlvain, 130 P.2d 131, 135, 55 Cal. App.2d 322.**

Prescribed — To assert a right or title to the enjoyment of a thing, on the ground of having hitherto had the uninterrupted and immemorial enjoyment of it. To lay down authoritatively as a guide, direction, or rule; to impose as a peremptory order; to dictate; to point; to direct; to give as a guide, direction, or rule of action; to give law. **State v. Truax, 130 Wash. 69, 226 P. 259, 260, 33 A.L.R. 1206; McMahon v. Devlin, 254 N.Y. 397, 173 N.E. 560, 561.** To direct; define; mark out. **Field v. Marye, 83 Va. 882, 3 S.E. 707.** In modern statutes relating to matters of an administrative nature, such as procedure, registration, etc., it is usual to indicate in general terms the nature of the proceedings to be adopted, and to leave the details to be *prescribed* or regulated by rules or orders to be made for that purpose in pursuance of an authority contained in the act. Sweet. **Mansfield v. People, 164 Ill. 611, 45 N.E. 976.** In a medical sense prescribe means to direct, designate, or order use of a remedy. **State v. Whipple, 143 Minn. 403, 173 N.W. 801, 802.**

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 4th 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.

5 Lawful Questions:

1. What is the purpose of the militia?
2. In the 2nd Bill of Rights, what do the people have a right to do?
3. Can anyone violate the liberty of the people to engage in the 2nd Bill of Rights?
4. Whose consent must first be obtained in order for soldiers to be in any house?
5. Where would the law have to first be prescribed in order to alter the 3rd Bill of Rights?

Group Discussion Question

6. In which of the Seven Articles of the Organic American Constitution 1791 does it specify just who can make a call to war?

Supreme Laws for Review:

Section 1. the right of the people to keep and bear arms, shall not be infringed.

"The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service." **Annals of Congress 434 (1789).**

"arms or weapons he may have in his house or possession for the defense of his person, family, or property" was "intended to enforce the well-known constitutional provisions guaranteeing the right in the citizen 'keep and bear arms'." **H.R. Rep. No. 37, 41st Cong., 3d sess., p. 3 (1871).**

Concluding Lawful Perspective:

"The right of self-defense is the first law of nature; in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and when the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction." - **Henry St. George Tucker, in Blackstone's 1768 "Commentaries on the Laws of England."**



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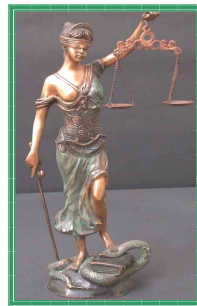
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Next Class:

An Analysis of "The Spirit of the Supreme Law of the Land" Part IX –4th Bill of Rights of the American Constitution 1791.

Hint:

"The makers of our Constitution undertook...to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment." **Olmstead v. U.S., 277 US 438 (1928).**



Sisters Standing On Law

13 Month Syllabus Topics

Part I —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 "Sisters Standing On Law" .