

Citations Focused in Support of Assembling “Qualified Electors”;
& for Organizing Townships & Precincts,
& for Electing Executive & Judicial Peace-Officers there-in.

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Bible Citations:

“One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established.”  
Deuteronomy 19:15.

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Case-Law Citations:

“Jurisdiction: ‘Jurisdiction’ in courts is the power and authority to declare the law. The very word in it’s origin imports as much. It is derived from ‘Juris’ and ‘dicto’ -- ‘I speak the law.’ And that sentence ought to be inscribed in living light on every tribunal of criminal power. It is the right of administering justice through the laws, by the means which the law has provided for that purpose. ...”
Johnston v. Hunter, 40 S. E. 448, ...

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“Black’s Law Dictionary”, Fifth Edition, Citations:

Afforce the Assize: In old English practice, a method of securing a verdict, where the jury disagreed, either by confining them without meat and drink, or, more anciently, by adding other jurors to the panel, to a limited extent, until twelve could be found who were unanimous.

Assembly, right of: Right guaranteed by First Amendment, US Constitution, allowing people to meet for any purpose connected with government; it encompasses meeting to protest governmental policies and actions, and the promotion of ideas.

Assize: ... An ancient species of court consisting of ... men, ... twelve, who were summoned together to try a disputed cause, performing the functions of a jury, ... they gave a verdict from their own investigation and knowledge and not upon evidence adduced. From the fact that they sat together (assideo), they were called the assize. ... A court composed of an assembly of knights and other substantial men, with the baron or justice, in a certain place, at an appointed time. ... Anything reduced to a certainty, in respect to time, number, quantity, quality, weight, measure, etc. ... The verdict or findings of the jury ...

Bones gents: In old English law, good men (of the jury).

Boni homines: In old European law, good men; a name given in early European jurisprudence to the tenants of the lord, who judged each other in the lord’s courts. 3 Bl.Comm 349.

Comitatus: In old English law, a county or shire, the body of a county. ... The county court, a court of great antiquity and of great dignity in early times. Also, the retinue or train of a prince or high governmental official. ... The personal following of professional warriors.

Comites: Counts or earls. Attendants or followers. Persons composing the retinue of a high functionary. Persons who are attached to the suite of a public minister.

Comity: Courtesy; complaisance; respect; a willingness to grant a privilege, ... . Recognition that one sovereignty allows within its territory to the legislative, executive, or judicial act of another sovereignty, having due regard to rights of its own citizens. ... In general, principle of "comity" is that courts of one state or jurisdiction will give effect to laws and judicial decisions of another state or jurisdiction, ... out of deference and mutual respect. ... See also full faith and credit clause.

Compurgator: One of several neighbors of a person accused of a crime, ... , who appeared and swore that they believed him on his oath.

Comte: A count or earl; ... an officer having jurisdiction over a particular district or territory,

with functions partly military and partly judicial.

Common-Law Courts: In England; those administering the common law.

Common-Law Crime: One punishable by the force of the common law, as distinguished from crimes created by statute.

Common-Law Extortion: Corrupt collection of unlawful fee by an office under color of office.

Common-Law Jurisdiction: Jurisdiction of a court to try and decide such cases as were cognizable by the courts of law under the English common law. The jurisdiction of those courts which exercise their judicial powers according to the course of the common law.

Community: Neighborhood, vicinity, synonymous with locality. ... People who reside in a locality in more or less proximity. A society or body of people living in the same place, under the same laws and regulations, who have common rights, privileges, or interests. ... It connotes a congeries of common interests arising from associations - social, business, religious, governmental, scholastic, recreational.

Community of Interest: ... mixture or identity of interest in venture wherein each and all are reciprocally concerned and from which each and all derive mutual benefit and sustain mutual responsibility.

Compact: n: An agreement or contract between persons, nations, or states. Commonly applied to working agreements between and among states concerning matters of mutual concern. ...

Compact: adj: Closely or firmly united or packed, ... as a ... compact order or formation of troops.

Conservators of the Peace: Officers authorized to preserve and maintain the public peace. In England, these officers were locally elected by the people until the reign of Edward III, when their appointment was vested in the king. Their duties were to prevent and arrest breaches of the peace, they acquired the ... appellation of justices of the peace.

Constable: An officer ... (usually elected) whose duties are similar to those of the sheriff, though ... his jurisdiction is smaller. He is to preserve the public peace, execute the process of ... courts, ... attend the sessions of criminal courts, have the custody of juries, and discharge other functions sometimes assigned to him by local law ... . Powers and duties of constables have generally been replaced by sheriffs. ... In Medieval law, high functionary under the French and English kings, the dignity and importance of whose office was second only to that of the monarch. He was in general the leader of the royal armies, and had cognizance of all matters pertaining to war and arms, exercising both civil and military jurisdiction. He was also charged with conservation of the peace of the nation.

Constant: Fixed or invariable, uniform. Continually recurring, regular, steady.

Constat: It is clear or evident; it appears; it is certain, there is no doubt.

Constate: To establish, constitute, or ordain. 'Constituting instruments' of a corporation are its charter, organic law, or the grant of powers to it.

Constituency: The inhabitants of an electoral district.

Constituent: He who gives authority to another to act for him. The term is used as a correlative to 'attorney', to denote one who constitutes another his agent or invests the other with authority to act for him. It is also used in the language of politics as a correlative to 'representative', the constituents of a legislator being those whom he represents and whose interests he is to care for in public affairs; usually the electors of his district.

Constitution: The organic and fundamental law of a nation or state, which may be written or unwritten, establishing the character and conception of it's government, laying the basic principles to which its internal life is to be conformed, organizing the government, and regulating, distributing, and limiting the functions of the different departments, and prescribing the extent and manner of the exercise of sovereign powers. A charter of government deriving its whole authority from the governed. The written instrument agreed upon by the people of the Union or of a particular state, as the absolute rule of action and decision for all departments and officers of the government in respect to points covered by it, which must control until it shall be changed by the authority which established it, and in opposition to which any act or ordinance of any such department or officer is null and void. ... any fundamental or important law

or edict; as.

**Constitutional Law:** (1) That branch of the public law of a nation or state which treats of the organization, powers and frame of government, the distribution of political and governmental authorities and functions, the fundamental principles which are to regulate the relations of government and citizen, and which prescribes generally the plan and method according to which the public affairs of the nation or state are to be administered. (2) That department of the science of law which treats of constitutions, their establishment, construction, and interpretation, and of the validity of legal enactments as tested by the criterion of conformity to the fundamental law. (3) A constitutional law is one which is consonant to , and agrees with, the constitution; one which is not in violation of any provision of the constitution of the particular state.

**Corpus Delicti:** ... The body (material substance) upon which a crime has been committed, e.g., the corpse of a murdered man, the charred remains of a house burned down. ... the substance or foundation of a crime; the substantial fact that a crime has been committed. ...

**County:** The largest territorial division for local government in a State. Its powers and importance vary from state to state. In certain New England states, it exists mainly for judicial administration. ...

**County courts:** The powers and jurisdiction of such courts are governed by state constitutions or statutes ... some with only criminal jurisdiction ... some with exclusive jurisdictions ... .

**County palatine:** A term bestowed upon certain counties in England, the lords of which in former times enjoyed especial privileges. They might pardon treasons, murders, and felonies. All writs and indictments ran in their names; as in other counties in the king's; and all offenses were said to be done against their peace ... these privileges have in modern times nearly disappeared.

**Court:** A space which is uncovered ... . . . A legislative assembly. Parliament is called in the old books a court of the king, nobility, and commons assembled. ... An organ of government, ... whose functions is the application of laws to controversies brought before it and the public administration of justice. The presence of a sufficient number of the members of such a body regularly convened in an authorized place at an appointed time, engaged in the full and regular performance of its functions. A body in the government to which the administration of justice is delegated. A body organized to administer justice, and including both judge and jury.

**Court of General Jurisdiction:** A court having unlimited trial jurisdiction, both civil and criminal, though its judgements and decrees are subject to appellate review. A superior court, a court having full jurisdiction within its own jurisdictional area.

**Court of Law:** ... in a narrower sense, a court proceeding according to the rules of the common law and governed by its rules and principles.

**Decanatus:** A deaconry. A company of ten persons. Also a town or tithing consisting originally of ten families of freeholders. Ten tithings compose a hundred.

**Decanus:** In Ecclesiastical & old European law, an officer having supervision over ten, a dean. A term applied not only to ecclesiastical, but to civil and military, officers. An officer among the Saxons who presided over a friborg, tithing, decannary, or association of ten inhabitants; otherwise called a tithing man or borsholder, his duties being those of an inferior judicial officer.

**Decanus militarius:** a military officer having command of ten soldiers. In Roman law, an officer having the command of a company ... of ten soldiers.

**Elector:** A duly qualified voter; one who has a vote in the choice of any officer; a constituent. One who has the general right to vote, and the right to vote for public officers.

**Elisors:** Electors or choosers. Persons appointed by the court to execute writs of venire, in cases where both the sheriff and the coroner are are disqualified from acting, and whose duty it is to chose; that is, name and return; the jury. 3. Bl.Comm. 355. Persons appointed to execute any writ, in default of the sheriff and coroner, are also called elisors. An elisor may be appointed to take charge of a jury retiring to deliberate on a verdict, when both sheriff and coroner are dis-qualified or unable to act.

**Exclusive Jurisdiction:** That power which a court or other tribunal exercises over an action or over

a person to the exclusion of all other courts. That forum in which an action must be commenced because no other forum has the jurisdiction to hear and determine the action. ...

**Fasting Men:** Approved men, who were strong armed; *habentes homines* or rich men, men of substance; pledges or bondsmen, who, by Saxon custom, were bound to answer for each other's good behavior.

**Freeman:** A person in the possession and enjoyment of all civil and political rights accorded to the people under a free government. ... the opposite of slave.

**Freeman's roll:** A list of persons admitted as burgesses or freemen for the purposes of the rights reserved ... . The term was used, in early colonial history, in some of the American Colonies.

**Free men:** Before the Norman Conquest, a free man might be a man of small estate dependent on a lord. Every man not himself a lord, was bound to have a lord or be treated as unworthy of a free man's right. ...

**Governmental functions:** The functions of a municipality which are essential to its existence, in sense of servicing public at large, and are to be distinguished from those which are private, ... Those ... promoting the public welfare generally. ...

**Governmental purpose:** One which has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of the inhabitants of a given political division.

**Guardian of the Peace:** A warden or conservator of the peace.

**Homo Liber:** A free man; a freeman lawfully competent to act as a juror. An allodial proprietor, as distinguished from a vassal or feudatory. This was the sense of the term in the laws of the barbarous nations of Europe.

**Hundred:** Under the Saxon organization of England, each county or shire was composed of an indefinite number of *hundreds*, each hundred containing ten *tithings*, or groups of ten families of freeholders or frank-pledges. The hundred was governed by a high constable, and had its own court; but its most remarkable feature was the corporate responsibility of the whole for the crimes or defaults of the individual members. The introduction of this plan of organization into England is commonly ascribed to Alfred, but the idea, as well of the collective liability as of the division, was probably known to the ancient German peoples, ... Bl.Comm. ...

**Hundredarius:** In old English Law, a hundredary or hundredor. A name given to the chief officer of a hundred, as well as to the freeholders who composed it.

**Hundred Court:** In English law, a larger court-baron, being held for all the inhabitants of a particular hundred, ... The free suitors were the judges, and the steward the registrar, ...

**Hundred gemote:** Among the Saxons, a meeting or court of the freeholders of a hundred court. Persons impaneled or fit to be impaneled upon juries dwelling within the hundred where the cause of action arose. It was formerly necessary to have some of these upon every panel of jurors.

**Hundred secta:** The performance of suit and service at the hundred court. **Hundred setena:** In Saxon law, the dwellers or inhabitants of a hundred.

**Infidel:** One who does not believe in the existence of a God who will reward or punish in this world or in that which is to come. One who professes no religion that can bind his conscience to speak the truth.

...

**Judex Ordinarius:** ... an ordinary judge; one who had the right of hearing and determining causes as a matter of his own proper jurisdiction (ex propria jurisdictione), and not by virtue of a delegated authority. ...

**Judge:** An officer so named in his commission, who presides in some court; a public officer, appointed to preside and to administer the law in a court of justice, the chief member of a court, and charged with the the control of proceedings and the decision of questions of law or discretion. ... A public

officer who, by virtue of his office, is clothed with judicial authority. ... "Judge", "justice", and "court" are often used synonymously or interchangeably. ...

Judge-made law: a phrase used to indicate judicial decisions which construe away the meaning of statutes, or find meanings in them the legislature never intended. It is perhaps more commonly used as meaning, simply, the law established by judicial precedent and decisions. Laws having their source in judicial decisions as opposed to laws having their source in statutes or administrative regulations.

Judgement: ... The official and authentic declaration of a court of justice, upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination.

Default Judgement: A judgement rendered in consequence of the non-appearance of the defendant. One entered upon the failure of a party to appear or plead at the appointed time. The term is also applied to judgements entered under statutes or rules of court, for want of affidavit of defense, plea, answer, and the like, or for failure to take some required step in the cause. ...

Foreign Judgement: One rendered by the courts of a state or country politically and judicially distinct from that where the judgement or its effects are brought into question. One pronounced by a tribunal of a foreign country or a sister state. ...

Interlocutory Judgement: One given in the cause upon some plea, proceeding, or default, which is only intermediate, and does not finally determine or complete the suit. One which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties, or finally put the case out of court.

Merits, Judgement On: One rendered after argument and investigation, and when it is determined which party is in the right, as distinguished from a judgement rendered on some preliminary or formal or merely technical point, or by default & without trial. A decision that was rendered on the basis of the evidence introduced. Normally, a judgement based solely on some procedural error is not a judgement on the merits. The latter kind of judgement is often referred to as dismissal without prejudice.

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Nil Dicit: Judgement By: Judgement for Plaintiff, rendered when defendant has appeared but failed to answer, or when answer has been withdrawn or abandoned, and no further defense is made. At common law, it may be taken against defendant who omits to plead or answer whole or any substantial part of the declaration. It amounts to judgement by confession with reference to cause of action states. Under current rules practice, such judgement is substantially identical with default judgement.

Judgement, Estoppel By: The estoppel raised by the rendition of a valid judgement by a court having jurisdiction. The essence of estoppel by judgement is that there has been judicial determination of a fact. ... It rests upon principles forbidding one to relitigate matters in dispute between parties which has been determined by a competent court, on ground that record of judgement imputes absolute veracity. Where subsequent proceeding is on same cause of action between same parties a former adjudication is conclusive. ... Ordinarily, estoppel of judgement does not extend to matters not expressly adjudicated.

Judicial: Belonging to the office of a Judge, as judicial authority. Relating to or connected with the the administration of justice, as a judicial officer. Having the character of judgement or formal legal procedure, as a judicial act. Proceeding from a court of justice; as a judicial writ, a judicial determination. Involving the exercise of judgement or discretion, as distinguished from ministerial.

Judicial Activism: Judicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor of progressive or new social policies ... . It is commonly marked by decisions calling for social engineering ...

Judicial Comity: Principle in accordance with which courts of one state or jurisdiction give effect to laws and judicial decisions of another state out of deference and respect, not obligation. ...

Judicial District: One of the circuits or precincts into which a state is commonly divided for judicial purposes ; a court of general jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority; ...

Judicial Power: The authority exercised by that department of government which is charged with declaring what law is, and with its construction. ... Courts have general powers to decide and pronounce

a judgement and carry it into effect between two persons and parties who bring a case before it for decision; ... A power involving exercise of judgement and discretion in determination of questions of right in specific cases affecting interests of persons or property, as distinguished from ministerial power involving no discretion. ... Power to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before court for decision. Power that adjudicates upon and protects the rights and interests of persons and property and to that end declares, construes and applies the law.

Judicium Deli: ... Judgement of God ...

Jural: Pertaining to natural or positive right, or to the doctrines of rights & obligations. Of or pertaining to Jurisprudence; juristic; judicial. ... embraced within or covered by, the rules and enactments of positive law. Founded in law; organized upon the basis of a fundamental law, and existing for the recognition and protection of rights. The "jural sphere" is to be distinguished from the "moral sphere"; the latter denoting the whole scope or range of ethics or the science of conduct, the former embracing only such portions of the same as have been made the subject of legal sanction or recognition. The term "jural society" is used as a synonym of "state" or "organized political community".

Jurare est deum in testum vocare, ... : To swear is to call God to witness, and is an act of religion.

Juramentum Calumnie: ... an oath of calumny. An oath imposed on both parties to a suit, as a preliminary to its trial, to the effect that they are not influenced by malice or any sinister motives in prosecuting or defending the same, but by a belief in the justice of their cause. It was also required of the attorneys and proctors.

Jura Nature Sunt Immutabilia: The Laws of Nature are Unchangable.

Jura Publica Anteferenda Privatis: Public rights are to be preferred to private.

Jura Publica Ex Privatio ...: Public rights ought not to be decided promiscuously with private.

Jurare Est Deum In Testum Vocare, Et Est Actus Divini Cultus: To swear is to call God to witness, and is an act of religion.

Jura Regalia: Royal Rights .

Jurata: In old English law; a jury of twelve men sworn. Especially, a jury of the common law, ... .

Juration: The act of swearing; the administration of an oath.

Jurato Creditur in judicio: He who makes oath is to be believed in judgement.

Jurator: A juror; a compurgator.

Juratores Debent Esse Vicini, Sufficientes, Et Minus Suspecti: Jurors ought to be neighbors of sufficient estate, and free from suspicion.

Jure: By right; by the law.

Jure divino: By divine right.

Jurisconsult: A jurist, a person skilled in the science of law, particularly ... public law.

Jure: By right, in right; by the law.

Jurisdiction: The word is of large and comprehensive import, and embraces every kind of judicial action. ... It is the authority by which courts and judicial officers take cognizance of and decide cases. ... The legal right by which judges exercise their authority. ... It exists when court has cognizance of class of cases involved, proper parties are present, and point to be decided is within the powers of the court. ... Power and authority of a court to hear and determine a judicial proceeding. ... Areas of authority; the geographical area in which the court has power, or types of cases it has power to hear.

Jurisdictional Dispute: ... There must be evidence of a threat of coercive action ...

Jurisdictional Facts: The matters of fact which must exist before the court can properly take jurisdiction of the particular case, ...

Jurisprudence: The philosophy of law, or the science which treats of the principles of positive law and legal relations. In the proper sense of the word "Jurisprudence" is the science of law, namely, that science which has for its function to ascertain the principles on which legal rules are based so as not only to classify those rules in their proper order, and to show the relation in which they stand to one another, but also to settle the manner in which new or doubtful cases should be brought under the appropriate

rules. Jurisprudence is more a formal than a material science. ... when a new or doubtful case arises to which two different rules seem, when taken literally, to be equally applicable, it may be, and often is, the function of jurisprudence to consider the ultimate effect which would be produced if each rule were applied to an indefinite number of similar cases, and to choose that rule which, when so applied, will produce the greatest advantage to the community.

**Juris Publici:** Of common right; of common or public use; of such things as, at least in their own use, are common to all the king's subjects; as common highways, common bridges, common rivers, and common ports.

**Jurist:** One who is versed or skilled in law; ... . A legal scholar. The term is commonly applied by those who have distinguished themselves by their writings on legal subjects or to judges.

**Jury:** A certain number of men and women selected according to law, and sworn (juriati) to inquire of certain matters of fact, and declare the truth upon evidence to be laid before them. ... a body of persons temporarily selected from the citizens of a particular district, and invested with power to present or indict a person for a public offense or to try a question of fact. ...

**Foreign Jury:** A jury obtained from a county or jurisdiction other than that in which the issue was joined.

**Jury Size:** ... at common law, and traditionally, a jury consisted of twelve members, ...

**Inquest Jury:** A jury of inquest is a body of persons summoned from a particular district before the sheriff, coroner, or other ministerial officers, to inquire of particular facts.

**Special Jury:** A jury ordered by the court, on the motion of either party, in cases of unusual importance or intricacy. Called, from the manner in which it is constituted, a "struck jury". At common law, a jury composed of persons above the rank of ordinary freeholders, usually summoned to try questions of greater importance than those usually submitted to common juries.

**Jus est ars boni et aequi:** Law is the science of what is good and just.

**Jus privatum:** Private law; the law regulating the rights, conduct, and affairs of individuals, as distinguished from public law, which relates to the constitution and functions of government and the administration of criminal justice.

**Jus publicum:** Public law, or the law relating to the constitution and functions of government and its officers and the administration of criminal justice. It implies a right in a sovereign or public capacity to be exercised for the interest or benefit of the state or the public, as distinguished from the exercise in a proprietary capacity of a right of the sovereign or a right possessed by an individual in common with the public. Sovereign's right of jurisdiction & dominion for governmental purposes over all lands & waters within its territorial limits.

**Justice:** ... Proper Administration of Laws. In Jurisprudence, the constant and perpetual disposition of legal matters or disputes, to render to every man his due. In Feudal law, jurisdiction: judicial cognizance of causes or offenses: High justice was the jurisdiction or right of trying crimes of every kind, even the highest. This was a privilege claimed and exercised by the great lords or barons of the middle ages.

**Justices of the hundred:** Hundredors, lords of the hundreds. In Old English law, they who had the jurisdiction of hundreds and held the hundred courts.

**Justificators:** A kind of compurgators, or those who by oath justified the innocence or oaths of others; as in the case of wager of law.

**Justitia debet esse libera ... :** Justice ought to be free, because nothing is more iniquitous than venal justice; full, because Justice ought not to halt; and speedy, because delay is a kind of denial.

**Justitia est constas ... :** Justice is a steady & unceasing disposition to render to every man his due.

**Justitia est virtus excellens et ... :** Justice is excellent virtue and pleasing to the most high.

**Justitia firmatur solium:** By justice is the throne established.

**Justitia non est neganda non differenda:** Justice is neither to be denied or delayed.

**Justitia non novit ... :** Justice knows not father nor mother; justice looks at truth alone.

**Law Enforcement Officer:** Those whose duty it is to preserve the peace.

**Lawful Authorities:** Those persons who have the right to exercise public power, to require obedience to their lawful commands, to command or act in the public name; ... .

**Law of the Land:** Due process of law. By the law of the land is most clearly intended the general law which hears before it condemns, which proceeds upon inquiry, and renders judgement only after trial. ... The meaning is that every citizen shall hold his life liberty, property and immunities under the protections of the general rules which govern society.

**Legem vadaire:** In old English law, to wage law; to offer or to give pledge to make defense, by oath, with compurgators.

**Leges non scripta:** In English law, unwritten or customary laws, including those ancient acts of parliament which were made before time of memory, ...

**Leges vigilantibus non dormientibus, subveniunt:** The laws aid the vigilant, not the negligent.

**Legitimate:** That which is lawful, legal, recognized by law, or according to law; ... .

**Lex Ley de ... :** The law of God and the law of the land are all one; and both preserve and favor the common and public good of the land.

**Le ley est ... :** The law is the highest inheritance that the king possesses, for by the law both he and all his subjects are ruled; and if there were no law, there would be neither king nor inheritance.

**Levying War:** In criminal law, the assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war within the meaning of the constitution. The words include forcible opposition, as the result of a combination of individuals, to the execution of any public law of the United States; and to constitute treason within the meaning of the Federal Constitution, there must be a combination of individuals united for the common purpose of forcibly preventing the execution of some public law and the actual or threatened use of force by the combination to prevent its execution. ...

**Lex Est Dictamen Rationis:** Law is the dictate of reason. The common law will judge according to the law of nature and the public good.

**Lex Est Norma Recti:** Law is a rule of right.

**Lex Non Scripta:** The unwritten or common law, which included general and particular customs, and particular local laws.

**Lex Scripta:** Written law; law deriving its force ... from express legislative enactment, statute law.

**Lex Terra:** The law of the land. The common law, or the due course of the common law; the general law of the land. Equivalent to due process of law. In the strictest sense, trial by oath; the privilege of making oath.

**Liberties:** Privileged districts exempt from the sheriff's jurisdiction; as goal liberties. In colonial times, laws or legal rights resting upon them. The early colonial ordinances in Massachusetts were termed laws & liberties, and the code of 1641 the Body of Liberties. ... political subdivisions ... .

**Liberty:** ... Freedom from all restraints except such as are justly imposed by law. Freedom from restraint, under conditions essential to the equal enjoyment of the same right by others; ... The absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community. ... Liberty ... on its negative side it denotes the necessary restraint on all, which is needed to promote the greatest possible amount of liberty for each. ... In the derivative sense, the place, district, or boundaries within which a special franchise is enjoyed, an immunity claimed, or a jurisdiction exercised. In this sense, the term is commonly used in the plural; as the liberties of the city.

**Liberty to Hold Pleas:** The liberty of having a court of one's own. Thus certain lords had the privilege of holding pleas within their own manors.

**Liberum Servitum:** Free Service. Service of a war-like sort by a feudatory tenant; also Servitium liberum. Service not unbecoming the character of a freeman and a soldier to perform; as to serve under the lord in his wars, to pay a sum of money, and the like.

**Local Government:** City, county, or other governing body at a level smaller than a state. Local



government has the greatest control over real property, zoning, and other local matters.

Locality of a Lawsuit: Place where judicial authority may be exercised. ... See also Venue.

Local Law: ... The law of a particular jurisdiction as contrasted with the law of a foreign state.

Term is used in conflicts to describe the power of the forum to determine questions of procedure while acknowledging the law of the situs to govern substantive questions.

Local Option: An option of self-determination available to municipality or other governmental unit to determine a particular course of action without specific approval from state officials. Local option is often used in local elections ... also ... for determining the structure of local government units. ...

Magisterial Precinct: In some American states, a local subdivision of a county, defining the territorial jurisdiction of justices of the peace and constables; also called magisterial district.

Mens Rea: A guilty mind; a guilty or wrongful purpose, a criminal intent. Guilty knowledge and willfulness.

Mala in se: Wrongs in themselves; acts morally wrong; offenses against conscience.

Malum in se: A wrong in itself; an act or case involving illegality from the very nature of the transaction, upon principles of natural, moral, and public law. An act is said to be malum in se when it is inherently and essentially evil, that is, immoral in its nature and injurious in its consequences, without any regard to the fact of its being noticed or punished by the law of the state. Such are most or all of the offences cognizable at common law (without the denouncement of statute); as murder larceny, etc.

Mala Prohibita: Prohibited wrongs or offences; acts which are made offenses by positive law, and prohibited by such. Acts or omissions which are made criminal by statute: but which, of themselves, are not criminal. Generally, no criminal intent, or mens rea is required and the mere accomplishment of the act or omission is sufficient for criminal liability. Term is used in contrast to mala in se which are acts which are wrongs in themselves such as robbery.

Malum Prohibitum: A wrong prohibited; a thing which is wrong because prohibited; an act which is not inherently immoral, but becomes so because its commission is expressly forbidden by positive law; an act involving illegality resulting from positive law. Contrasted with malum in se.

Malice: The intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or under circumstances that the law will imply an evil intent. ... A condition of the mind showing a heart regardless of social duty and fatally bent on mischief. ... it is that state of mind which is reckless of law and of the rights of the citizen.

Malice a-fore-thought: A predetermination to commit an act without legal justification or excuse. A malicious design to injure. The intentional doing of an unlawful act which was determined upon before it was executed. ... an intent to act in callous and wanton disregard to the consequences to human life ... .

Nation: A people, or aggregate of men, existing in the form of an organized jural society, usually inhabiting a distinct portion of the earth, speaking the same language, using the same customs, possessing historic continuity, ... but not necessarily living under the same government and sovereignty.

Necessitas facit licitum ... : Necessity makes that lawful which otherwise is not lawful.

Necessitas publica major est quam privata: Public necessity is greater than private. ... the law imposes it upon every subject that he prefer the urgent service of his king and country before the safety of his own life.

“Neighborhood: ... a more immediate vicinity, vicinage ... As used with reference to a person's reputation, neighborhood means in general any community or society where person is well known and has established a reputation.

Ordinarius ita dicitur ...: The ordinary is so called because he has an ordinary jurisdiction in his own right, and not a deputed one.

Ordinary: (noun): At common law, one who had exempt and immediate jurisdiction in causes ecclesiastical. Also, a bishop; ... a judge who has authority to take cognizance of causes by his own right, and not by deputation.

**Ordinary:** (adj): Ordinary Proceeding: Such a proceeding as was known to the common law, and was formerly conducted in accordance with proceedings of the common-law courts, ... results in a judgement enforceable by execution.

**Organic Law:** The fundamental law, or constitution, of a state or nation, written or unwritten. That law or system of laws or principles which defines and establishes the organization of its government.

**Organize.** To establish or furnish with organs; to systemize; to put into working order; to arrange in order for normal exercise of its appropriate functions.

**Organized County:** A county which has its lawful officers, legal machinery, and means for carrying out the powers and performing the duties pertaining to it as a quasi municipal corporation.

**Original Jurisdiction:** Jurisdiction in the first instance. Jurisdiction to take cognizance of a cause at its inception, try it, and to pass judgement on the law and the facts. Distinguished from Appellate jurisdiction.

**Outlaw:** In English law, one who is put out of the protection or aid of the law. ...

**Outlawry:** In old English law, a process by which a ... person ... was declared an outlaw.

**Peace:** That state & sense of safety which is necessary to the comfort & happiness of every citizen, & which government is instituted to secure. ... means tranquility enjoyed by citizens of the municipality or community where good order reigns among its members. The tranquility enjoyed by a political society internally, by the good order which reigns among its members, & externally by the good understanding which it has with all other nations.

**Public Peace:** The peace or tranquility of the community in general; the good order and repose of the people comprising a state or municipality. That invisible sense of security which every man feels so necessary to his comfort, and for which all governments are instituted.

**Public peace and quiet:** Peace, tranquility, and order & freedom from agitation or disturbance; the security, good order, & decorum guaranteed by civil society and by the law.

**Peace of the state:** The protection security & immunity from violence which the state undertakes to secure & extend to all persons within its jurisdiction & entitled to the benefit of its laws. This is part of the definition of murder, it being necessary that victim should be in the peace of the state, which now practically includes all persons except armed public enemies.

**Policy: Public Policy:** That principle of the law which holds that no subject can lawfully do that which has a tendency to be injurious to the public good. The principles under which the freedom of contract or private dealings is restricted by law for the good of the community. The term 'policy', as applied to a statute, regulation, or rule of law, course of action, and the like, refers to its probable effect, tendency, or object, considered with reference to the social or political well-being of the state. Thus, certain classes of acts are said to be 'against public policy', when the law refuses to enforce or recognize them, on the ground that they have mischievous tendency, so as to be injurious to the interests of the state, apart from illegality or morality.

**Political:** ... Pertaining to, or incidental to, the exercise of the functions vested in those charged with the conduct of government; relating to the management of affairs of state, as political theories; of or pertaining to exercise of the rights and privileges or the influence by which individuals of a state seek to determine or control its public policy; having to do with organization or action of individuals, parties, or interests that seek to control appointment or action of those who manage affairs of state.

**Political Crime:** In general, any crime directly against the government; e.g. treason; sedition. It includes any violent political disturbance without reference to a specific crime.

**Political Law:** That branch of jurisprudence which treats of the science of politics, or the organization and administration of government. More commonly called 'Political Science'.

**Political Offenses:** As a designation or a class of crimes usually excepted from extradition treaties,

...

**Political Questions:** Questions of which (civil) courts will refuse to take cognizance, ...

**Political Rights:** Those which may be exercised in the formation or administration of the government. Rights of citizens recognized or established by constitutions which give them the power to participate directly or indirectly in the establishment or administration of government.

**Political subdivision.** A division of the state made by proper authorities there of, acting within their constitutional powers, for purpose of carrying out a portion of those functions of state which by long usage and inherent necessities of government have always been regarded as public. ...

**Political Trial:** Term loosely applied to trials in which the parties represent fundamentally different political convictions and in which the parties or one of them attempts to litigate their political beliefs.

**Poll:** v. To single-out, one by one, of a number of persons. To examine each juror separately, ...

**Poll:** n. A head; an individual person; a register of persons. ...

**Polling the Jury:** ... jurors are asked individually whether they assented, and still assent, to the verdict.

**Posse:** ... Group of people acting under authority of police or sheriff and engaged in searching for a criminal or in making an arrest.

**Posse Comitatus:** The power or force of the county. The entire population of a county above the age of fifteen, which the sheriff may summon to his assistance in certain cases, as to aid him in keeping the peace, in pursuing and arresting felons, etc.

**Precinct:** A constable's or police district. A small geographical unit of government. An election district, created for convenient localization of polling places. A county or municipal subdivision for casting and counting votes in elections.

**Probatio Plena:** ... full proof; proof by two witnesses, ... .

**Probatio Semi-Plena:** ... half-proof. Proof by one witnesses, or a public instrument.

**Probatio Viva:** Living proof; that is, proof by the mouth of living witnesses.

**Probus et legalis homo:** A good & lawful man. A phrase particularly applied to a juror or witness who was free from all exception, and competent in point of law to serve on juries.

**Ordinary Proceeding:** Those founded on the regular and usual mode of carrying on a suit by due course at common law.

**Public Building:** One which the possession and use, as well as the property in it, are in the public. Any building held, used, or controlled exclusively for public purposes. A building belonging to or used by the public for the transaction of public or quasi public business.

**Public Corporations:** An artificial person (e.g. municipality or a government corporation) created for the administration of public affairs. ...

**Public Juris:** Of public right. The word 'public' in this sense means pertaining to the people, or affecting the community at large; that which concerns a multitude of people, and the word 'right', as so used, means a well-founded claim; an interest; concern; advantage, benefit. This term, as applied to a thing of right, means that it is open to or exercisable by all persons; it designates things which are owned by 'the public'; that is, the entire state or community, and not by any private person.

**Public Interest:** Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. ... Interests shared by citizens generally in affairs of local, state or national government. ... If by public permission one is making use of public property and he chances to be the only one with whom the public can deal with respect to the use of that property, his business is affected with a public interest which requires him to deal with the public on reasonable terms. The circumstances which cloth a particular kind of business with a 'public interest', as to be subject to regulation, must be such as to create a peculiarly close relation between the public and those engaged in it and raise implications of an affirmative obligation on their part to be reasonable in dealing with the public.

**Public Law:** A general classification of law; consisting generally of constitutional, administrative, criminal, and international law, concerned with the organization of the state, the relation between the

state and the people who compose it, the responsibilities of public officers to the state, to each other, and to private persons, and the relations of states to one another. ... is concerned with the state in its political or sovereign capacity, including constitutional and administrative law; and with the definition, regulation, and enforcement of rights in cases where the state is regarded as the subject of the right or object of the duty, — including criminal law and criminal procedure, ... . That portion of the law that is concerned with political conditions; that is to say, with the powers, rights, duties, capacities, and incapacities which are peculiar to political superiors, supreme and subordinate. In one sense, a designation given to international law, as distinguished from the laws of a particular nation or state. In another sense, a law or statute that applies to the people generally of the nation or state adopting or enacting it, is denominated a public law, as contradistinguished from a private law, affecting only an individual or a small number of persons.

**Public Office:** Essential characteristics of 'public office' are 1: authority conferred by law, 2: fixed tenure of office, and 3: power to exercise some portion of sovereign functions of government; key element of such test is that 'officer' is carrying out sovereign function. ... portion of sovereign power of government must be delegated to position, duties & powers must be defined, ... duties must be performed independently without control of superior power other than law, and position must have some permanency and continuity.

**Public Official:** ... not all persons in public employment are public officials, because public official's position requires the exercise of some portion of the sovereign power, whether great or small.

**Public Place:** A place to which the public has a right to resort; ... a place in which the public has an interest in affecting the safety, health, morals, and welfare of the community.

**Public Purpose:** ... The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of public power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons. The term is synonymous with governmental purpose. ....

**Public Safety:** A state may exercise its police power (derivatively, as city or town) by enacting laws for protection of the public from injury and dangers.

**Purgation:** The act of cleansing or exonerating ones self of a crime, accusation or suspicion of guilt by denying the charge on oath or by ordeal. Canonical purgation was made by a party's taking his own oath that he was innocent of the charge, which was supported by the oath of 12 compurgators, who swore they believed he spoke the truth. ...

**Reason:** A faculty of the mind by which it distinguishes truth from falsehood, good from evil, and which enables the possessor to deduce inferences from facts or from propositions. Also an inducement, motive, or ground for action, as in the phrase reasons for appeal.

**Reasonable and probable cause:** Such grounds as justify any one in suspecting another of a crime, and placing him in custody thereon. It is suspicion founded upon circumstances sufficiently strong to warrant reasonable man in belief that charge is true.

**Reasonable belief:** Reasonable belief or probable cause to make an arrest without a warrant exists when the facts and circumstances within arresting officer's knowledge, and which he had reasonably trustworthy information, are sufficient in themselves to justify a man of average caution in belief that a felony has been or is being committed.

**Reasonable cause:** As basis for arrest without warrant, in such state of facts as would lead man of ordinary care and prudence to believe and conscientiously entertain honest and strong suspicion that person sought to be arrested is guilty of crime.

**Reasonable man doctrine or standard:** The standard which one must observe to avoid liability for negligence is the standard of the reasonable man under all the circumstances, including the foreseeability of harm to one such as the plaintiff.

**Reasonable suspicion:** Reasonable suspicion which will justify officer in stopping defendant in public place is quantum of knowledge sufficient to induce ordinarily prudent and cautious man under

circumstances to believe criminal activity is at hand.

**Republic:** A commonwealth; that form of government in which the administration of affairs is open to all the citizens. In another sense, it signifies the state, independently of its form of government.

**Republican Government:** ... a government of the people, a government by representatives chosen by the people.

**Right:** As a Noun, and taken in the abstract sense, means 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 ethical content. ... 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. ... A legally enforceable claim of one person against another, that the other shall do a given act or not do a given act. *Natural-rights* are those which grow out of the nature of man ... as distinguished from such as ... depend upon civilized society; ... 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.

**Right of local self government:** Power of citizens to govern themselves, as to matters purely local in nature, through officers of their own selection.

**Tithing Man:** A constable. ... annually elected to preserve order ... and to make complaint of any dis-orderly conduct. ... the head or chief of a tithing or decenary of ten families; he was to decide all lesser causes between neighbors. ...

**Tithing:** One of the civil divisions of England, being a portion of the greater division called a hundred. It was so called because ten freeholders with their families composed one. It is said that they were all knit together in one society, and bound ... for the peaceable behavior of each other. In each of these societies there was one chief or principle person, who, from his office, was called teothing-man now tithing-man.

**Trust:** ... **Constructive Trust:** a trust ... or arising by operation of law ... . ... arise by operation of law, and fraud, ... their forms and varieties are practically without limit, being raised by courts of equity whenever it becomes necessary to prevent a failure of justice.

**Public Trust:** One constituted for the benefit either of the public at large or some considerable portion of it ... ; public trusts and charitable trusts may be considered in general as synonymous expressions.

**Two witness rule:** This rule requires that falsity element of a perjury conviction be supported either by direct testimony of two witnesses or by direct testimony of one witness plus corroborating evidence.

**Venire facias:** Lat. A judicial writ, directed to the sheriff of the county in which a cause is to be tried, commanding him that he cause to come before the court, on a certain day therein mentioned, twelve good and lawful men of the body of his county, qualified according to law, by whom the truth of the matter may be the better known, and who are in no wise of kin either to the plaintiff or to the defendant, to make a jury of the country between the parties in the action, because as well the plaintiff as the defendant, between whom the matter in variance is, have put themselves upon that jury, and that he return the names of the jurors, ... .

**Venire facias de novo:** A fresh or new venire, which the court grants, when there has been some impropriety or irregularity in returning the jury, or where the verdict is so imperfect or ambiguous that no judgement can be given upon it, ...

**Venire facias juratores:** A common law judicial writ directed to the sheriff, when issue was joined in an action, commanding him to cause to Westminster, on such a day, twelve free and lawful men of his county by whom the truth of the matter at issue might be better known.

Venue: ... In common law pleading and practice, a neighborhood; the neighborhood, place, or county in which an injury is declared to have been done, or fact declared to have happened. 3 Bl.Comm. 294. ... Venue deals with locality of suit, that is, with question of which court, or courts, of those that posses adequate personal and subject matter jurisdiction may hear the specific suit in question. ... It related to a place where or a territory within which either party may require case to be tried. ... It has relation to convenience of litigants and may be waived or laid by consent of parties.

Violence: Unjust or unwarranted use of force, ... Physical force unlawfully exercised; abuse of force; that force which is employed against common right, against the laws, and against public liberty. ...

Wager of Law: In old practice, the giving of gage or sureties by a defendant ... that at a certain day assigned he would make his law; that is, would take oath in open court that he did not owe the debt, and at the same time bring with him eleven neighbors (called compurgators), who should avow upon their oaths that they believed in their consciences that he said the truth.

Wapentake; In English law, a local division of the country; the name is in use ... to denote a hundred. The ... name is said to be from "weapon" and "take", and indicates that the division was ordinarily of a military character. Also a hundred court.

Witam: The purgation from an offense by the oath of the requisite number of witnesses.

Witan: In Saxon law, wise men; persons of information, especially in the laws; the kings advisers; members of the king's council; the opiates, or principal men of the kingdom.

Wite: Sax. A punishment, pain, penalty, mulct, or criminal fine. An atonement among the early Germans by a wrong-doer to the king or community. It is said to be the germ of the idea that wrong is not simply the affair of the injured individual, and is therefore a condition precedent to the growth of a criminal law.

Witenagemote: The assembly of wise men. This was the great national council or parliament of the Saxons in England, comprising noblemen, high ecclesiastics, and other great thanes of the kingdom, advising and aiding the king in the general administration of government. It was the grand council of the kingdom, and was held generally in the open air, by public notice or particular summons, in or near some city or populace town. These notices or summonses were issued by the king's select council, or the body met without notice, when the throne was vacant, to elect a new king. Subsequently to the Norman Conquest it was called ... and finally parliament; but it's character had become considerably changed. ... The casual loss of title-deeds was supplied & a very extensive equity jurisdiction exercised. ... It passed out of existence with the Norman Conquest, & the subsequent Parliament was a separate growth, & not a continuation of the Witenagemot.

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Scholarly Citations, from various sources:

"The law which governs daily living in the United States is a single system of law; it speaks in relation to any particular situation with only one ultimately authoritative voice, however difficult it may be on occasion to discern in advance which of two or more conflicting voices really carries authority. In the long run and in the large, this must be so. People repeatedly subjected, like Pavlov's dogs, to two or more inconsistent sets of directions, without means of resolving the inconsistencies, could not fail in the end to react like the dogs did. The society, collectively, would suffer a nervous breakdown." ...

Professor Hart; 1954: 54 Columbia Law Review, 489-497.

"Before the Norman conquest of England in 1066, the people were the fountainhead of Justice. The Anglo-Saxon courts of those days were composed of large numbers of freemen, and the law which they administered, was that which had been handed down by oral tradition from generation to generation. In competition with these popular, non-professional courts, the Norman King, who insisted that he was the fountainhead of justice, set up his own tribunals. The judges who presided over these royal courts were

the agents or representatives of the king, not of the people; but they were professional lawyers * * * and the courts over which they presided ... gradually all but displaced the popular, non-professional courts."

"The Anglo-Saxon tribunals had been open to all; every freeman could appeal to them for justice. But there was no corresponding right to sue in the king's courts. That was a privilege which had to be purchased by any suitor who wished to avail himself of * * * royal justice. These privileges were issued to suitors by the king's secretary or chancellor, and the document which evidenced the privilege was called an original writ. "Common Law Pleading"; Opening Chapter. George L. Clark; Lawyers Co-Op, 1947.

"The texts of the Anglo-Saxons were much copied and used even after the Norman Conquest, and as late as the 12th century, the law generally in force was still essentially Anglo-Saxon, ...The pre-Conquest kings, like all Christian Rulers, admitted a general responsibility for law and order, but did not claim more than a vague supervision. They avoided the direct administration of the law in all but the most exceptional cases, leaving local institutions to apply traditional rules and procedures which evidently varied from place to place." Encyclopedia Americana, International Ed., 1963. Common Law / Historical Survey / Anglo-Saxon Law.

"Republic: A government for the protection of the citizen against the exercise of all unjust power; a government administered by a few, as the representatives of the people and for their benefit; an independent sovereign power. ..." Volume 77.

"Sheriffs, ss 33 Elisors; Where neither the sheriff nor the coroner can act in the performance of functions of the sheriff's office, the emergency may in a proper case be met by appointment of a special officer called an 'elisor', to perform the required duties." Volume 80.

Corpus Juris Secundum. West Pub. Co. St. Paul, Minn.; 1972.

"... all Englishmen twelve years of age or older were ... members of a frankpledge group, a group of about ten men who ... assumed the duties of maintaining the peace & providing a sort of collective suretyship. ... it compelled the populace to police itself by ... 'the most efficient police system in Western Europe.'"

"Origins of the Common Law"; Author Hogue; Professor of History - Harvard University. Pg-137. Liberty Fund, 1985. Quoting: "Constitutional & Legal History of Medieval England", 1960; Bryce Lyon.

"In most of the state Constitutions there are provisions, varying slightly in terms, which stipulate that justice shall be administered to all without delay or denial, without sale or prejudice, and that the courts shall always be open to all alike. These provisions are based largely upon the Magna Charta, chap. 40, which provides; We will sell to no man. We will not deny to any man either justice or right. The chief purpose of the Magna Charta provision was to prohibit the King from selling justice by imposing fees on litigants through his courts and to deal a death blow to the attendant venal and disgraceful practices of a corrupt judiciary in demanding oppressive gratuities for giving or withholding decisions in pending causes. It has been appropriately said that in a free government the doors of litigation are already wide open and must constantly remain so. The extent of the constitutional provision has been regarded as broader than the original confines of Magna Charta, and such constitutional provision has been held to prohibit the selling of justice not merely by magistrates but by the State itself. / American Jurisprudence: Constitutional Law: §326. Free Justice & Open Courts; Remedy for All Injuries.

Sec. 2. Fundamental Federalism Principles. ... Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government closest to the people. The people of the States created the national government and delegated to it enumerated governmental powers. All other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people. ... The people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Acts of Congress, to define the moral, political, and legal character of their lives. The Framers recognized that the States

possess unique authorities, qualities, and abilities to meet the needs of the people and should function as laboratories of democracy. The nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires. In the search for enlightened public policy, individual States and communities are free to experiment with a variety of approaches to public issues. One-size-fits-all approaches to public policy problems can inhibit the creation of effective solutions to those problems. Acts of the national government - whether legislative, executive, or judicial in nature - that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the Framers. Policies of the national government should recognize the responsibility of - and should encourage opportunities for - individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort. The national government should be deferential to the States when taking action that affects the policymaking discretion of the States and should act only with the greatest caution where State or local governments have identified uncertainties regarding the constitutional or statutory authority of the national government. "Executive Order 13132"; as issued by Ex "President Clinton", 4-August-1999.

"To ... the men ... of the Middle Ages ... law was a transcendental force, "the breath of God, the harmony of the world," clothed with an inherent and independent authority, & ruling the sovereign from above and without, as the sovereign in his own turn ruled from above and without the individuals and groups who were his subjects. This was the idea which had been used as a weapon against kings in the Middle Ages; one of the counts in the indictment against Richard II was that he had enforced enactments which were erroneous and repugnant to the law and to reason. And this was the idea for which Coke did battle against James.

What was the nature and content of this law, which was not the creature of government but was above government? The idea, as a practical force appears to have had a Teutonic and not Roman origin. The Romans ... had come to recognize positive law as deriving its authority from the will of the emperor The Germanic conception of positive law, ... was custom - the immemorial usages which had crystallized within the tribe and were pronounced from time to time in the solemn dooms of the elders. 'It was part of the national or tribal life; it had grown with the tribe, changing, no doubt, but the people or the tribe were hardly conscious of the changes.' 'To them the law was not something made or created at all ... legislative acts were not expressions of will, but records or promulgations of that which was recognized as already binding upon men.' Law was thus naturally conceived as a permanent thing, something always existing and to be found by the elders in council, announced by them but not made. In fact, the greatest possible violation of law was to change it. Hence the clamor against progressive kings raised throughout the Middle Ages by people, demanding back their "good old laws"; every reform had to be distinguished under the appearance of a restoration of long lost legal rights. Gradually from Roman courses filtered in the idea of a law of nature, in England spoken of as simply a law of reason ... Forescure, whom Coke follows in the main on this point, says ... statute does not make new law; it promulgates, and gives greater emphasis and clarity to, what had always been law before.

It is the peculiar relation which subsisted in England between "natural law" or the "law of reason," on the one hand, and the customary law of the land on the other, that lends the English common law its distinctive flavor. Common law was essentially custom, but it was also something more: it consisted of customs which were regarded as reasonable The common law thus conceived was fused of ... custom (and) ... the "perfection of reason". So ... was the manner in which these two elements united to form it, that it was a science ... to be known only after hard ... study. On the other hand, such was the intrinsic and independent authority of the elements themselves, natural reason and immemorial tradition, that the common law, so intimately compounded of both, was well qualified from the standpoint of the times to occupy in mens minds a position more venerable than even the sovereign power of a monarch. ... (as) described by Father Figgs:

"The Common Law is pictured invested with a halo of dignity peculiar to the embodiment of deepest principles and to the highest expression of human reason and of the law of nature implanted by

God in the heart of man.... there shall be in England as system, older than Kings and Parliament, of immemorial majesty and almost divine authority. ... The Common Law is the perfect ideal of law; for it is natural reason, developed and expounded by collective wisdom of many generations.” *Divine Right of Kings*, 1st ed., pp.226-228.”

Footnotes: P. 96 97: "Jefferson indicates his belief that common law was a survival of lost enactments of the Saxon period: ... The other ... doctrine, ... that common law was natural justice, was adopted by Alexander Hamilton ... 'The common law is natural law & natural reason applied to the state & condition of society.' ...

23: ... Mr Justice Holmes has phrased it, a brooding in the sky,”

27: ... This notion of law as something not made, but existing and to be found, was common to European peoples so long as their institutions remained fairly primitive. Thus it forms a part of the well-known definition of law attributed to Demosthenes: 'Every law is a discovery, a gift from the Gods, a precept to wise men, a righting of intentional and unintentional wrongs, a compact between all the members of the state, in accordance with which all who are within the state should live', ... law is a “discovery,” Calvin Coolidge, ... "Men do not make laws. They do but discover them. ... That state is most fortunate in its form of government which has the aptest instruments for the discovery of laws. ...”

“Administrative Justice and the Supremacy of Law in the United States”; John Dickenson, 1927; by the President and Fellows of Harvard College; 1955. Pages 84-88.

Federalism (Theory): “Federal democracy is the authentic American contribution to democratic thought & republican government. Its conception represents a synthesis of the Puritan idea of the covenant relationship as the foundation of all proper human society & the constitutional ideas of the English natural rights school of the seventeenth & early eighteenth centuries. Contractual noncentralization - the structured dispersion of power among many centers whose legitimate authority is constitutionally guaranteed - is the key to the widespread & entrenched diffusion of power that remains the principle characteristic of & argument for federal democracy. Federal democracy is a composite notion that includes a strong religious component. The religious expression of federalism was brought to the United States through the theology of the Puritan, who viewed the world as organized through binding covenants that God had made with mankind, binding God and man into a lasting union and partnership to work for the redemption of the world

According to federal theology, all social and political relationships are derived from that original covenant. This theological perspective found its counterpart in congregationalism as the basis of church polity and the town meeting as the basis of civil polity. Thus communities of believers were required to organize themselves by covenant into congregations just as communities of citizens were required to organize themselves by covenant into towns. The entire structure of religious and political organization in New England reflected this application of a theological principle to social and political life.

... The behavioral pattern resurfaced on every frontier ... in the wagon trains that crossed the plains, whose members compacted together to provide for their internal governance during the long trek westward.

In strictly governmental terms, federalism is a form of political organization that unites separate polities within an overarching political system, enabling all to maintain their fundamental political integrity and distributing power among general and constituent governments so that they all share in the system’s decision-making and executing processes. In a larger sense, federalism represents the linking of free people and their communities through lasting but limited political arrangements to protect certain rights or liberties and to achieve specific common ends while preserving their respective integrities. To reverse the order, federalism has to do, first and foremost, with a relationship among the entities, and then with the structure that embodies that relationship and provides the means for sustaining it. Originally federalism was most widely recognized as a relationship to which structural questions were incidental” / “Encyclopedia of the American Constitution: Levy, Karst, & Mahoney; Claremont Graduate School, Ca. & U.S.C.-L.A.; McMillian Publishing Co., N.Y.; 1986.

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Oregon Citations:

“The word county is from the French word "conte," meaning the domain of a count. However, the American county, defined by Webster as "the largest territorial division for local government within a state ...," is based on the Anglo-Saxon county of England dating back to about the time of the Norman Conquest. Counties were brought to America by the colonists and were later established in the central and western parts of this country by the pioneers as they moved westward. ...”

(Oregon Secretary of State's “Blue Book”; County Government section, 1997-98)

“The common law of England ... as it existed at the time of the American Revolution as far as it was general and not incompatible with the nature of our political institutions, or in conflict with the Constitution and laws of the United States or of Oregon has been adopted as part of the law of the state, in view of Article 1 Section 2, of the Organic Law of the Civil Government of Oregon, Adopted July 26, 1845, and of Constitution of 1857, Article 18, Section 7. ... (United States F. & G. Co. v. Bramwell, 217 Pac. 332, 1923; affirmed in: 1999.)

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Oregon Constitution:

Article 4, Section 23. Certain local and special laws prohibited.

The Legislative Assembly, shall Not Pass special or local Laws, in any of the following enumerated cases, that is to say: Regulating the Jurisdiction, and Duties of Justices of the Peace, and of Constables; ... Regulating the practice in Courts of Justice; Providing for changing the Venue ... Summoning and empanneling grand, and petit Jurors; for the assessment & collection of Taxes, ... Providing for opening, and conducting the elections of State, County, and Township officers, and designating the places of voting;

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Oregon Revised Statutes:

51.450 Qualifications for office. A person shall not be eligible to the office of constable of a justice of the peace district unless the person is an elector registered in the county in which the court is located. ...

51.500 Deputies; appointment; revocation; oath of office; authority and powers; compensation. ... a constable may have one or more deputies, who shall be appointed by the constable in writing. Each such appointment ... shall be revocable at any time by the constable, ... Each deputy shall have authority and power to perform any duty or act that the appointing constable has the authority and power to perform, and the constable shall be responsible on the official bond of the constable for any act or omission of any deputy. ... (These last two statutes above have been “Repealed”, in 1995 or so.)

133.005 Definitions ... . As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise: ... (3) “Peace Officer” Means: (a) A member of the Oregon State Police; (b) A sheriff, Constable, marshal, municipal police officer ... .

133.020 Magistrate defined. A magistrate is an officer having power to issue a warrant for the arrest of a person charged with the commission of a crime.

133.030 Who are magistrates. The following persons are magistrates: (1) Judges of the Supreme Court;(2) Judges of the Court of Appeals; (3) Judges of the circuit court; (4) County judges and justices of the peace; and (5) Municipal judges.

133.033 Peace officer; community caretaking functions. (1) Except as otherwise expressly prohibited by law, any peace officer is authorized to perform community caretaking functions.

(2) As used in this section, “community caretaking functions” means any lawful acts that are inherent in the duty of the peace officer to serve and protect the public. “Community caretaking functions” includes, but is not limited to: (a) The right to enter or remain upon the premises of another if it reasonably appears to be necessary to: (A) Prevent serious harm to any person or property; ... (3) Nothing contained in this section shall be construed to limit the authority of a peace officer that is inherent in the office or that is granted by any other provision of law.

133.120 Authority to issue warrant. A judge of the Supreme Court or the Court of Appeals may issue a warrant of arrest for any crime committed or triable within the state, and any other magistrate mentioned in ORS 133.030 may issue a warrant for any crime committed or triable within the territorial jurisdiction of the magistrate's court.

133.235 ... (1) A peace officer may arrest a person for a crime at any hour of any day or night. (2) A peace officer may arrest a person for a crime, pursuant to ORS 133.310 (1), whether or not such crime was committed within the geographical area of such peace officer's employment, and the peace officer may make such arrest within the state, regardless of the situs of the offense. (3) The officer shall inform the person to be arrested of the officer's authority and reason for the arrest, and, if the arrest is under a warrant, shall show the warrant, unless the officer encounters physical resistance, flight or other factors rendering this procedure impracticable, in which case the arresting officer shall inform the arrested person and show the warrant, if any, as soon as practicable. (4) In order to make an arrest, a peace officer may use physical force as justifiable under ORS 161.235, 161.239 and 161.245. (5) In order to make an arrest, a peace officer may enter premises in which the officer has probable cause to believe the person to be arrested to be present. (6) If after giving notice of the officer's identity, authority and purpose, the officer is not admitted, the officer may enter the premises, and by a breaking, if necessary. ...

133.310 ... (1) A peace officer may arrest a person without a warrant if the officer has probable cause to believe that the person has committed any of the following: (a) A felony. (b) A misdemeanor. ... (d) Any other crime committed in the officer's presence. (2) A peace officer may arrest a person without a warrant when the peace officer is notified by telegraph, telephone, radio or other mode of communication by another peace officer of any state that there exists a duly issued warrant for the arrest of a person within the other peace officer's jurisdiction. ...

133.315 ... (1) No peace officer shall be held criminally or civilly liable for making an arrest ... provided the peace officer acts in good faith and without malice. ...

133.450 After arrest; within or without county in which warrant was issued. (1) If the defendant is arrested in the county in which the warrant issued, the defendant shall be taken before the magistrate who issued the warrant, or, if the magistrate is absent or unable to act, before the nearest or most accessible magistrate in the same county; but if the defendant is arrested in another county and the crime charged in the warrant is a misdemeanor, the officer shall, upon being required by the defendant, take the defendant before a magistrate of that county, who shall make a release decision as provided in ORS 135.230 to 135.290. The officer shall at the same time deliver to the magistrate the warrant with the return of the officer indorsed and subscribed by the officer.

161.195 "Justification" described. (1) Unless inconsistent ... , conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by law or by a judicial decree or is performed by a public servant in the reasonable exercise of official powers, duties or functions. ... laws and judicial decrees" include but are not limited to (a) Laws defining duties and functions of public servants; (b) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions;(c) Laws governing the execution of legal process; (d) Laws governing the military services and conduct of war; and (e) Judgments and orders of courts.

161.200 Choice of evils. (1) Unless inconsistent ... , conduct which would otherwise constitute an offense is justifiable and not criminal when (a) That conduct is necessary as an emergency measure to avoid an imminent public or private injury; and (b) The threatened injury is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute

defining the offense in issue.

**161.260 Use of physical force in resisting arrest prohibited.** A person may not use physical force to resist an arrest by a peace officer who is known or reasonably appears to be a peace officer, whether the arrest is lawful or unlawful.

**162.115:** In any prosecution for perjury or false swearing, falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

**162.245 Refusing to assist a peace officer.** (1) A person commits the offense of refusing to assist a peace officer if upon command by a person known by the person to be a peace officer the person unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime. (2) Refusing to assist a peace officer is a violation.

**162.315 Resisting arrest.** (1) A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer in making an arrest. (2) "Resists," as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer. The behavior does not have to result in actual physical injury to the arresting officer. Passive resistance does not constitute behavior intended to prevent being taken into custody. (3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided the peace officer was acting under color of official authority. (4) Resisting arrest is a Class A misdemeanor.

**ORS 203.035: Power of County Governing Body ... over Matters of County Concern.** (1) ... , the governing body or the electors of a county may by ordinance exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state, as fully as if each particular power comprised in that general authority were specifically listed in ORS ... . (2) The power granted by this section is in addition to other grants of power to counties, shall not be construed to limit or qualify any such grant and shall be liberally construed, to the end that counties have all powers over matters of county concern that it is possible for them to have under the Constitutions and laws of the United States and of this state. . . ."

**206.050 Commanding assistance in process serving.** (1) When an officer finds, or has reason to apprehend, that resistance will be made to the execution or service of any process, order or paper delivered to the officer for execution or service, and authorized by law, the officer may command as many adult inhabitants of the county of the officer as the officer may think proper and necessary to assist the officer in overcoming the resistance, and if necessary, in seizing, arresting and confining the resisters and their aiders and abettors, to be punished according to law.