

## DECLARATION OF CONSTITUTIONAL PRINCIPLES

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# Declaration of Constitutional Principles

*Whereas, during the course of history usurpers have attempted to misconstrue certain principles of constitutional republican government for their own ends, and that the original language of the Constitution for the United States did not anticipate all the ways it might be misinterpreted, we hereby set forth some of those principles with greater clarity, using more modern language:*

## General Principles:

- The individual component of the polity is the *person*, which is defined as any being consisting of or having the essential cognitive attributes of a member of the species *homo sapiens*, including both the capacity to compete with others for the means to exercise the *natural rights* of life, liberty, and the pursuit of happiness, and the capacity to regulate its competitive actions to avoid depriving others of those rights and to sacrifice itself for the greater good of the polity as a whole or for their common posterity.
- The *polity*, or *society*, is created by the *social contract*, in which persons agree to join together for mutual benefit and defense, and to regulate their behavior to avoid forms of competition which are destructive of social coherence and effectiveness, such as violence, deception, or collusion, or to infringe on the rights of others.
- Acceptance of the terms of the social contract is effected through, and based upon, a restricted form of the social contract called the *filial contract*, between parents and their children, in which the parents agree to be good parents and the children agree to be good children and to grow into good adults and members of society. As persons grow, they extend the social contract to others they encounter.
- The social contract is *transitive*, so that it extends to and includes not only those with whom one is in direct contact, but all those with whom those one is in direct contact with are bound to by the social contract as well, and therefore by recursion to all those persons who are members of the society, even if one has never met them.
- A *state* is a society in exclusive possession of a territory. It is not the government. A state may or may not have a government, although larger ones almost always do.

- A *citizen* is a person who has the civil right to remain within the territory of a state and to return to it if he leaves it, the right to delegate powers to agents who comprise any government of that state, and the duty to defend that state.
- A *government* consists of those persons to whom certain powers held by the citizens in common are delegated, to act as agents for those citizens, exercising only such powers as are delegated to them, and according to their instructions. That delegation and those instructions constitute an extension of the basic social contract called the *constitution*, which may be written or unwritten.
- A *delegation* of powers is not a transfer or assignment, and may be reclaimed at any time that the citizens, in their judgement, find that their agents are not acting in accordance with their wishes.
- The *authority* of an agent or official exists only for as long and to the extent that he exercises his legitimate powers properly, and he automatically ceases to be an agent or official if he exceeds his authority.
- A state is a *democracy* if all persons born to its territory or citizens are citizens, with the full rights and duties thereof, subject to the disabilities of minority, and the agents who are the government are agents of all of them in common through some form of voting in which all of those not minors are qualified to participate.
- A democracy is a *republic* if the legislative functions of government, other than the ratification of constitutional amendments, is exercised exclusively through representatives elected by its citizens rather than directly.
- A republic is *constitutional* if power to amend the constitution is not delegated to elected legislators of the highest legislative body to adopt like ordinary legislation, but requires either a supermajority of citizens, or majorities of citizens or their representatives elected to lower-level political units in a supermajority of such political units, to ratify it; and if no such amendment infringes on either the natural rights of persons or the civil right of persons to be equally represented in at least one branch of the highest legislative body, or to have members of government act as other than the agents of the people, exercising only limited and specific delegated powers, and to be fully accountable to them equally.
- A republic or other democracy is *nonconstitutional* if any legislative act supersedes any conflicting act that precedes it, including any act or unwritten principle which may be called a "constitution".
- A state is an *autocracy* if those exercising the powers of government are a minority of the persons living in the state and are agents only of themselves, and therefore the only true citizens of that state, the remainder being only subjects or slaves. An autocracy is not a legitimate form of government.
- A state is an *oligarchy* if political power is concentrated in a minority ruling class, based on wealth, birth, connections, or other form of power other than constitutional delegation, and in which the agents of government are accountable to the members of the ruling class, to varying degrees, rather than equally to all the persons living in the state. An oligarchy is not a legitimate form of government.
- The natural rights of persons are *inalienable*, preceding the social contract and the constitution, and persons may not be deprived of them even with their consent,

- since they do not have the power to surrender those rights, and therefore do not have the power to delegate the deprivation of those rights to others.
- Persons do, however, have the power, and can delegate the power, to *disable*, or partially restrict, the exercise of those rights by some individual persons when their exercise would conflict with the exercise of the rights of other persons, to strike a balance among the exercise of their rights by all persons.
  - *Due process* is the totality of those rules and procedures under which a dispute at law may be resolved justly, intended to allow all parties to the dispute a fair opportunity to argue their positions on their merits.
  - Due process in both criminal and civil cases includes the following rights of the parties:
    1. To have process only upon legal persons able to defend themselves, either natural persons or corporate persons that are represented by a natural person as agent, and who are present, competent, and duly notified, except, in cases of disappearance or abandonment, after public notice and a reasonable period of time.
    2. Not to be ordered to give testimony or produce evidence beyond what is necessary to the proper conduct of the process.
  - Due process in criminal cases includes the following rights of the accused:
    1. Not to be charged for a major crime but by indictment by a Grand Jury, except while serving in the military, or while serving in the Militia during time of war or public danger.
    2. Not to be charged more than once for the same offense.
    3. Not to be compelled to testify against oneself.
    4. Not to have excessive bail required.
    5. To be tried by an impartial jury from the state and district in which the events took place.
    6. To have a jury of at least six for a misdemeanor, and at least twelve for a felony.
    7. To a speedy trial.
    8. To a public trial.
    9. To have the assistance of an attorney of one's choice.
    10. To be informed of the nature and cause of the accusation.
    11. To be confronted with the witnesses against one.
    12. To have compulsory process for obtaining favorable witnesses.
    13. To have each charge proved beyond a reasonable doubt.
    14. To have a verdict by a unanimous vote of the jury, which shall not be held to account for its verdict.
    15. To have the jury decide on both the facts of the case and the constitutionality, jurisdiction, and applicability of the law.
    16. Upon conviction, to have each disablement separately and explicitly proven as justified and necessary based on the facts and verdict.
    17. To have a sentence which explicitly states all disablements, and is final in that once rendered no further disablements may be imposed for the same offense.
  - Due process in civil cases includes the following rights of the parties:

1. To trial by an impartial jury from the state and district in which the events took place where the issue in question is either a natural right or property worth more than \$20.
  2. To have compulsory process for obtaining favorable witnesses.
- Disablement of all rights other than the rights of majority may only be done by due process for individuals, not by legislation.
  - The only rights which may be disabled by default or by statute for an entire class of persons are the rights of majority, and those *disabilities of minority*, except for the right to vote, may be removed earlier than the default age of majority, or extended beyond the default age of majority, by petition to a court of competent jurisdiction. All other rights must be disabled individually, by due process of law, and then only to the extent that is determined to be necessary to avoid infringing on the rights of others.
  - Only individual persons or corporate "persons" which are composed of individual persons may be the subject of legal process. Inanimate objects and living objects not capable of conducting their own defense in a court of law may not be parties to an action at law.
  - Upon establishment of the social contract, the natural right of what in the state of nature would be *self defense* is transformed into the *duty to defend the state and the constitution*, including oneself as a member of the state.
  - *Defense* of the state and the constitution includes defense against threats of all kinds, including invasion or attack, insurrection, criminal acts, natural or manmade disasters, or public ignorance or apathy.
  - The *duty* to defend the state and the constitution entails the *right* to acquire the means and the skills to exercise that duty, including the skills of the soldier, the policeman, and the fire and rescue worker, to be organized to act alone or in concert with others to exercise those skills to meet any threat that may arise, and the *power* to exercise those skills and use those means, alone or in concert with others, with or without official direction or participation.
  - In a republic, all citizens are soldiers, policemen, and fire and rescue workers, with the default rank of *private*. Delegation of official powers to agents of government is the conferring of higher *rank* to those persons, and persons of lesser rank are subject to the lawful orders of persons of higher rank when persons of higher rank are present and exercising their authority legally and effectively. If not, their rank ceases and highest rank devolves on the person present who most effectively represents that authority, whatever his previous status. A citizen with the default rank of private also outranks any person who is acting in violation of law, for the rank of lawbreakers is lower than that of private, whatever their previous status.
  - A citizen not only has the duty to *obey* the law, but to help *enforce* it, within his ability, and to do what he can to *prepare* himself and others to do so.
  - In a constitutional republic, the constitution is the *supreme law*, superior to all other public acts, whether by officials or private citizens. Any statute, regulation, executive order, or court ruling which is *inconsistent* with that supreme law and *not derived* from it is *unconstitutional* and *null and void from inception*.

- There are several ways in which statutes or other official acts may be unconstitutional:
  1. It may be contrary to a right guaranteed under the Constitution.
  2. It may not be based on one of the powers delegated to the government under the Constitution.
  3. It may violate the provisions for the structures and procedures of government, such as the delegation of legislative or judicial powers to an executive agency in violation of the separation of powers principle of the Constitution.
  4. It may neglect to perform some duty imposed under the Constitution.
  5. It may involve the operation of government outside its constitutional jurisdiction.
  6. It may not be applied in the way it was intended by those who wrote and adopted the original act.
  7. It may be vague or incomprehensible to the people who must obey or enforce it.
  8. It may have been intended to be applied selectively, or have come to be applied selectively, in violation of the equal protection provision of the Constitution that all laws must be applied uniformly.
  9. Proper notice of the law or act may not have been given in a way that would allow people subject to it to become aware of it.
  10. The aggregate of laws or regulations may become so burdensome that it becomes unreasonable for everyone subject to it to be sufficiently familiar with it to comply with all of it.
  11. It may have never been properly adopted, or due process may not have been practiced.
  12. Information needed to make a proper determination may have been withheld or distorted in a way that is intended to mislead or which has that effect through negligence.
- An unconstitutional statute is not a law, no matter how vigorously it may be enforced. Enforcement does not make what is enforced the law. What is enforced is a *regime*. In a constitutional republic, the law and the regime should coincide. If they do not, the regime is not law but *anti-law*.
- Whenever any person is confronted with a situation in which two or more official acts are in conflict, he has the duty to know which is the superior one, and to obey or help enforce the superior one, which, if one of them is the constitution, means to obey or help enforce the constitution. This duty *cannot be delegated* to another person: not to a superior, a court, or a legal advisor. It is not a defense that one was ignorant of the law or just doing one's job or following orders. This is sometimes called the *Principle of Nuremberg*.
- The judgement of the consistency of an official act with the constitution is called *constitutional review*. When this duty is performed by a judge, it is called *judicial review*. It is not a power of government but the exercise of a duty of citizenship.
- Each level and jurisdiction of government has been delegated the power to punish as *crimes the deprivation* of constitutional and civil rights of persons by agents of government, and some governments the power to punish deprivation of rights by

individuals not agents of government. Statutes to implement those powers have been enacted in almost every jurisdiction, and they cover almost every such deprivation.

- Any act performed by an agent of government which is unconstitutional is *illegal*, and while performing that act the person ceases to be an agent of government or to have any official status, regardless of what trappings of office or color of law he may project. It is also almost certainly a deprivation of the civil rights of someone, and therefore also a *violation* of one or more of the constitutional criminal laws against doing so.
- Any citizen who becomes aware of an illegal or unconstitutional act of an apparent official, which is a criminal deprivation of rights, has the duty to *disobey* that act, to *report* it as a crime, and to *arrest* the offender and *deliver* him to a court of competent jurisdiction for *prosecution*.
- A *militiaman* is any citizen or would-be citizen in his or her capacity as a defender of the state and the constitution. A *militia* is one or more persons acting in concert in that capacity. The *general militia* is the totality of all such persons, which, because even simple obedience to law is a defense of the state and the constitution at a low level, comprises all law-abiding citizens and would-be citizens. The *obligatory militia* is the subset of the general militia who may be required to keep and bear arms and to respond to militia call-ups. The *voluntary militia* are those not in the obligatory militia who voluntarily respond to a militia call-up. The *ready militia* is comprised of the obligatory militia together with the voluntary militia. A *select militia* is a subset of the general militia which is not representative of the population as a whole, and which may therefore be used to achieve the unconstitutional purposes of some faction. National and state "guards" and law enforcement agencies are select militias.
- Whenever a citizen or other person becomes aware of a threat to the state and the constitution, he or she has the duty to issue a *call-up* to the militia, even if he or she is the only person present, and all persons who receive that call-up have a duty to respond and act as a militia to meet the threat. In the context of the social contract, an act of "self defense" is more properly described as a call-up of the militia, consisting of oneself, to defend the state and the constitution, also represented by oneself.
- No level or branch of government has the power to tax or regulate any instrument suitable for militia duty, including any firearm or ammunition therefor, except to maintain quality and reliability for their intended functions, or to disable the right of any person to keep and bear such instruments, or to assemble and train as independent militias, except by due process of law upon petition to a court of competent jurisdiction, in which each side shall have the right to argue its case and present its evidence, and the burden of proof shall be on the petitioner seeking the disablement.
- There are no "implied contracts" involving government as a party. A constitution is the entire agreement among the citizens, and no benefit received by any person from government legally obligates that person to make any payment therefor, except through constitutional taxes and fees, nor is any person legally obligated to account for any such benefits, or to be subject to penalties for perjury or fraud for

- misstating such benefits. Conversely, neither is government legally obligated to provide some minimal level, quality, or distribution of benefits to persons, other than according to constitutional laws.
- No level or branch of government has the power to impose criminal penalties, such as deprivation of life or liberty, for violations of civil laws. Only deprivations of property or privileges may be imposed for violations of civil laws. Persons may not be imprisoned for failure to pay a fine unless the offense is criminal and a criminal penalty is authorized for that offense.
  - No judge may imprison a person for contempt of court unless the constitution delegates the power to do so and a criminal statute authorizes it.
  - The jurisdiction of a criminal offense is determined by the location of the offender's head when the offense was committed, not by the location of the effects of the crime. The crime is the mental act, not the outcome.
  - No treaty or compact may contain effective provisions which would require agents of government to exercise powers not delegated to them under the constitution of their jurisdiction. As agents of the people, they may not make powers they do not have elements of any treaty or compact, and no such treaty or compact may confer on them any new powers within the territory of their jurisdiction.
  - Statutes passed with the intent that they not be enforced uniformly, but at the discretion of law enforcement agents, are unconstitutional. They violate the Constitutional requirement for equal protection of the laws, and constitute an unconstitutional delegation of legislative authority to executive officials.
  - The appropriate exercise of the powers delegated in the Constitution is not discretionary, but represent positive duties, and the failure to exercise such powers appropriately constitute violations of the Constitution. Among these duties is the duty to keep the Militia sufficiently organized and trained so that it might always prevail over any standing military or select militia.

## **Principles Specific to the Constitution for the United States:**

- The term "commerce" as used in **Art. I, Sect. 8**, consists only of *exchanges of goods and services for a valuable consideration*. "... among the states" is a restriction to those exchanges that begin in one state and end in another. It does not include everything that has ever been a part of such an exchange, or that might be a part of such an exchange in the future, or which is a part of an aggregate of such exchanges some of which may begin in one state and end in another, or which "affect" such exchanges.
- The power to "regulate" commerce includes the powers to license those enterprises which engage in such exchanges, and to prescribe the form, size, quality, measure, labeling, scheduling, transport, and routing of goods and services, but not prohibition of the content or terms of such exchanges. It includes the power to impose civil penalties for violation of such regulations, such as fines

or loss of licenses, but not criminal penalties, such as the deprivation of life or liberty.

- The power to impose an excise tax may not be used for any purpose then to raise revenue. It is not the power to prohibit an item by imposing a confiscatory tax on it, or by refusing to accept payment of a tax on it and then declaring the item itself illegal because the tax has not been paid. For this reason, the National Firearms Act of 1937 is unconstitutional.
- The power to impose a tax is not the power to impose criminal penalties for the failure to pay the tax, or to make the item on which a tax has not been paid illegal. Property belonging to the delinquent may be seized and sold at public auction to raise the money to pay the tax, and the reasonable costs of seizure and sale, but all items not thus sold, and all surplus proceeds of the sale, must be delivered promptly to the taxpayer.
- Congress does not have the power to delegate its legislative powers to elements of other branches, nor do agencies of the executive branch have the power to adopt "regulations" or "executive orders" that deviate from constitutional legislation adopted by Congress and signed by the President in any way whatsoever. Any such "regulations" or "executive orders" must be adopted as ordinary legislation before they can become effective. The only exceptions are restrictions on legislation to that part of it which is constitutional, and executive orders that implement legislation for specific cases.
- Of the approximately 3000 federal criminal statutes, all but a few are unconstitutional if applied to offenses committed on state territory or to federal territory not ceded by a state legislature to the exclusive jurisdiction of the U.S. government.
- The "blanket" cessions of any property acquired by the federal government, on the books in some states during the 1840-1940 time frame, were unconstitutional, in that they exceeded the authority of the state legislatures by attempting to delegate their legislative powers. No such cession is legal, and jurisdiction for those parcels remains with the states.
- It is unconstitutional for a state agency to delegate to a federal agency the power to make a determination that will affect the way a state law will be applied. This includes letting the IRS determine the tax status of a corporate entity, or letting a federal agency determine the legality of an element of commerce under state law. All such determinations must be made by agents of the state government, accountable to the people of that state through their elected state officials.
- It is not a reversible error to fail to inform a jury that they have the right and duty to judge the law as well as the facts in a case in which the government is a party, provided that they can be presumed to already know that and that the parties in the case have an opportunity to remind them of that fact. However, since juries can no longer be presumed to know that, it is a reversible error under the prevailing circumstances if the judge fails to so inform them, and to instruct them on all the ways in which a statute or official act involved in the case might be unconstitutional and a deprivation of the rights of the private parties. It is also a reversible error if the judge interferes in any way with the parties so informing the jury, directly or through their attorneys.



- The natural and civil rights identified in the first eight amendments to the Constitution apply to all levels and branches of government, and, indeed, to all governments of persons everywhere, in all nations and times. They do not establish such rights, which precede the Constitution, but only recognize them. They are not just restrictions on the Congress of the United States, but on all governments everywhere.
- While emergencies may make it impossible to strictly comply with some provisions of the Constitution for a short period of time, neither Congress nor the President has the power to suspend the Constitution or any provision of it indefinitely. The economic crisis which prevailed during the 1933 time frame was not an emergency requiring a departure from any provision of the Constitution.
- Secret budgets and spending authorizations are a violation of the Constitutional requirement for a public accounting of all funds. There is no provision for a "national security" requirement which would permit this. Such secret expenditures are only a secret from the people, not from any credible foreign enemy.
- There is no provision for the operation of "administrative" or "municipal" courts which deny the defendant the right to a jury trial where amounts of more than twenty dollars are involved, and all such courts are unconstitutional.
- An amendment to the Constitution may only be considered ratified if every state counted as ratifying it approves the same language, including spelling, capitalization, and punctuation.
- It is not a violation of the Constitution to issue credit instruments whose value, measured in unit weights of gold or silver, is determined by the marketplace, or to allow such credit instruments to be used for the payment of obligations, as a matter of convenience and security, at their current market value. However, it is a violation of the Constitution to express legal monetary obligations in units other than weights of gold or silver. If the "dollar" is no longer to be a fixed weight of gold or silver, then legal obligations must be expressed in units that are, such as grains, grams, or ounces.
- The power delegated exclusively to the U.S. Congress to declare war is not the exclusive power to authorize the President to send troops into a war situation. A declaration of war is necessary to relieve soldiers and the President of liability for what would otherwise be criminal acts of violence in the jurisdiction in which they operate, provided that they otherwise conduct themselves according to law and international treaties.
- The U.S. Congress has no power to withhold funds from states or other legislative jurisdictions as a way of coercing them into adopting legislation. Such coercion is a violation of the requirement for equal protection of the laws.
- Broad delegations of powers, such as those in the constitutions of some states, or in Art. I, Sect. 8, of the Constitution concerning territories ceded to exclusive U.S. jurisdiction by state legislatures, are inconsistent with a republican form of government, under which all delegations must be specific, and such state constitutions are in violation of the guarantee in the U.S. Constitution of a "republican form of government". This particularly applies to those which delegate "general police powers". The only "police powers" which may properly be referred to as "general" are the powers all citizens have to enforce the laws.

The term is not properly used to include general powers to punish anything that some official decides is an offense.