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IN THE MARYLAND COURT OF SPECIAL APPEALS

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TRACY A. FAIR and MARY C. MILTENBERGER, on behalf of themselves.
Plaintiffs-Appellants,

v.

ROBERT WALKER, Chairman of The Maryland State Board of Elections, et al.
Defendants-Appellees,

=====

APPELLANTS MOTION OF REQUEST FOR JUDICIAL NOTICE

On Appeal from the Maryland Circuit Court for Carroll County
The Honorable Judge Thomas F. Stansfield - Case No. 06-C-12-060692

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Appellants on behalf of themselves

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Appellees/Defendants:

Robert L. Walker, Chairman of the Maryland State Board of Elections;

Linda H. Lamone, State Administrator;

Jared DeMarinis, Director of the Candidacy and Campaign Finance Division;

Maryland State Board of Elections

151 West Street, Suite 200, Annapolis, MD 21401

John P. McDonough, Maryland Secretary of State,

Office of the Secretary of State

16 Francis Street, Annapolis, MD 21401

Barack Hussein Obama

1600 Pennsylvania Ave. NW, Washington, DC 20500

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Case No. 06-C-12-060692

APPELLANTS MOTION OF REQUEST FOR JUDICIAL NOTICE PURSUANT TO MRE
5-201

Appellants Tracy Fair and Mary Miltenberger hereby request that the Court take judicial notice of the following material facts. This request is made pursuant to Maryland Rule 5-201(b)(2)(c)(f).

This evidence is not in the administrative record, because it was accumulated after the action triggering this lawsuit. The evidence is nonetheless relevant to appellants legal points relating to remand. *See, e.g., Esch v. Yeutter*, 876 F.2d 976, 991 (D.C.Cir.1989) (noting permissibility of extra-record material when considering relief).

For the foregoing reasons, Appellants respectfully request that the Court take judicial notice of the following facts and case law.

BASIS FOR REQUESTING JUDICIAL NOTICE

Courts may take judicial notice of documents outside of the complaint that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(d); *Wietschner v.*

Monterey Pasta Co., 294 F. Supp. 2d 1117, 1109 (N.D. Cal. 2003). Courts can take judicial notice of such matters when considering a motion to dismiss. *Wietschner*, 294 F. Supp. 2d at 1109; *MGIC Indem. Corp. v. Weisman*, 803 F. 2d 500, 504 (9th Cir. 1986). Courts may take judicial notice of proceedings in other courts. *U.S. ex rel Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (citing *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169 (10th Cir. 1979)) (“[W]e ‘may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.’”).

Listed below are cases files of other federal and state courts. The contents of these filings are public records that are “not subject to reasonable dispute [and] capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2).

Case law requesting Judicial Notice

Facts requesting Judicial Notice

1. **Maxims of Law from Bouvier's 1856 Law Dictionary**

<http://www.lawfulpath.com/ref/bouvier/maxims.shtml>

Cum legitimae nuptiae factae sunt, patrem liberi sequuntur. Children born under a legitimate marriage follow the condition of the father;

2. Partus sequitur ventrem. The offspring follow the condition of the mother. This is the law in the case of slaves and animals; 1 Bouv. Inst. n. 167, 502; but with regard to freemen, children follow the condition of the father.

3. Congressional Globe, 1833-1873 : Index to 28th Congress, 2nd Session
INDEX TO THE APPENDIX.

Allegiance, natural. (See Webster. See **Vattel**.)

Respectfully submitted this 7th day of May, 2014.

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[http://www.docstoc.com/docs/27015676/Judicial-Notice USE](http://www.docstoc.com/docs/27015676/Judicial-Notice%20USE)

<http://www.docstoc.com/docs/30471382/Judicial-Notice---DOC>

<http://www.docstoc.com/docs/76489471/Motion-Judicial-Notice>

<http://www.docstoc.com/docs/78831283/Notice-of-Taking-Judicial-Notice>

A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875

[Journal of the Senate of the United States of America](#), Volume 2 Page 44

Vattel's Laws of Nations to be purchased for the use of the Senate Add pic

http://memory.loc.gov/cgi-bin/ampage?collId=llej&fileName=001/llej001.db&recNum=377&itemLink=D?hlaw:2:/temp/~ammem_wAIX::%230010379&linkText=1 CONG GL VATTELL

children of foreign parents & canal zone

http://books.google.com/books?id=smhZAAAAYAAJ&pg=PA67&lpg=PA67&dq=%22native+residents+of+canal+zone%22+1992+statutes&source=bl&ots=INsB0tAl3R&sig=n1tc4jcfB1Uh8AHn9PvJUhR5_cM&hl=en&sa=X&ei=UkVdUYSkLePE4AOK8IDYDQ&ved=0CEUQ6AEwAg#v=onepage&q=%22native%20residents%20of%20canal%20zone%22%201992%20statutes&f=false

defacto citizens

https://www.google.com/#hl=en&gs_rn=8&gs_ri=psy-ab&tok=r60Uqm7KxN3xddYhsmwfbg&ds=bo&pq=de%20facto%20citizens&cp=24&gs_id=12h&xhr=t&q=de+facto+citizens+vattel&es_nrs=true&pf=p&safe=active&tbm=bks&sclient=psy-ab&oq=de+facto+citizens+vattel&gs_l=&pbx=1&bav=on.2,or.r_cp.r_qf.&bvm=bv.44770516,d.dmg&fp=27e6cd26ea010dcd&biw=853&bih=413

"children follow the condition of the father" supreme court

<http://books.google.com/books?id=nM4qAAAAYAAJ&pg=PA26&dq=%22children+follow+the+condition+of+the+father%22+supreme+court&hl=en&sa=X&ei=2RhduATHLImt0AHy5oGwCQ&ved=0CDEQ6AEwAA#v=onepage&q=%22children%20follow%20the%20condition%20of%20the%20father%22%20supreme%20court&f=false>

http://webcache.googleusercontent.com/search?q=cache:nl1JPth_snYJ:https://law.resource.org/pub/us/case/reporter/F.Cas/0020.f.cas/0020.f.cas.0582.pdf+&cd=1&hl=en&ct=clnk&gl=us&lr=lang_en|lang_de|lang_ru|lang_es

a connection between a freeman and a slave, upon the principle handed down from the Roman civil law, that the owner of a female animal is entitled to all her brood, according to the maxim partus sequitur ventrem. But by the common law this rule is reversed with regard to the off spring of free persons. Their offspring follows the condition of the father, and the rule partus sequitur patrem prevails in determining their status. 1 Bouv. Inst., 198, § 502; 31 Barb. 486; 2 Bouv. Law Diet. 147; Shanks v. Dupont, 3 Pet. [28 U. S.] 242. This is the universal maxim of the common law with regard to. freemen—as old as th

David Ramsay, a member of the Continental Congress who served as Chairman in Hancock's absence, was the American Revolution's first major historian. In 1789 he wrote, "[*A Dissertation on the Manners of Acquiring the Character and Privileges of a Citizen*](#)", where he explains:

The United States are a new nation, or political society, formed at first by the declaration of independence, out of those British Subjects in America, who were thrown out of royal protection by act of parliament, passed in December, 1775. A citizen of the United States, means a member of this new nation. The principle of government being radically changed by revolution, the political character of the people also changed from subjects to citizens.

The difference is immense. Subject is derived from the latin words, sub and jacio, and means one who is under the power of another; but a citizen is an unit of a mass of free people, who collectively, possesses sovereignty. Subjects look up to a master, but citizens are so far equal, that none have hereditary rights superior to others. Each citizen of a free state contains, within himself, by nature and the constitution, as much of the common sovereignty as another. In the eye of reason and philosophy, the political condition of citizens is more exalted than that of noblemen. Dukes and earls are the creatures of kings, and may be made by them at pleasure: but citizens possess in their own right original sovereignty To cement the people of America more firmly together, oaths of fidelity to the states wererespectively administered soon after the declaration of independence, to all above a certain age. By these oaths, a compact was established between the state and the individuals; and those whotook them acquired or confirmed their citizenship by their own personal act. By swearing to do the duty of citizens, they, by law, acquired a right to the privileges and protection of citizens. Those who refused, were ordered to depart, as being persons unfriendly to the revolution.

None can claim citizenship as a birth-right, but such as have been born since the declaration of independence, for this obvious reason: no man can be born a citizen of a state or government, which did not exist at the time of his birth. **Citizenship is the inheritance of the children of those who have taken a part in the late revolution: but this is confined exclusively to the children of those who were themselves citizens.** Those who died before the revolution, could leave no political character to their children, but that of subjects, which they themselves possessed. If they had lived, no one could be certain whether they would have adhered to the king or to congress. **Their children, therefore, may claim by inheritance the rights of British subjects, but not of American citizens.**

"The citizenship of no man could be previous to the declaration of independence, and, as a natural right, belongs to none but those who have been born of citizens since the 4th of July, 1776."

Documentary History of the First Federal Congress of the United States of America, March 4, 1789-March 3, 1791

Though the states have not existed as states for fourteen years; yet, their geographical boundaries, or limits, have existed from the first settlement of America. But to proceed with inferences. **From the premises already established, it may be farther inferred, that citizenship, by inheritance, belongs to none but the**

children of those Americans, who, having survived the declaration of independence, acquired that adventitious character in their own right, and transmitted it to their offspring. The children of those who died before the revolution, who are now citizens, must have acquired that privilege in their own right, and by their own personal act; that is, by joining their country at or since the revolution.

Delegates to Congress . Letters of delegates to Congress, 1774-1789, Volume 8, September 19 1777-January 31 1778

<http://etext.virginia.edu/etcbin/toccer-new2?id=DelVol08.xml&images=images/modeng&data=/texts/english/modeng/parsed&tag=public&part=227&division=div1>

gerry to thomas wharton Novr 8. 1777 ALL LOOKING FOR VATTEL

http://securities.stanford.edu/1019/CLRN01/20040217_o05x_0304732.pdf

<http://definitions.uslegal.com/a/adjudicative-fact/>

Adjudicative facts are fact that is either legally operative or important as to be controlling on some question of law. Adjudicative facts re-create the course of events that led to the dispute and help in determining the proper outcome in the case. They differ from ordinary facts in that they are considered facts only if the court recognizes and accepts them. For example, a witness may testify that she saw the defendant's car parked at a specific place at a specific time. The court may reject her account and instead accept another witness's testimony that the defendant was driving that same car in another part of town at the same time. The second witness's account will therefore become part of the adjudicative facts of the case, and the first witness's recollection will be considered immaterial.

Adjudicative facts found by the court are final and will not be reviewed on appeal except in cases where it can be shown that the findings were made on insubstantial evidence or were clearly erroneous.

FOR THE RECORD: EXPLORING JUDICIAL NOTICE ON APPEAL

In [Murdy v Edgar](#):

"Courts may take *judicial notice* of matters which are commonly known or of facts

which, while not generally known, are readily verifiable from sources of indisputable accuracy."

Good Sources:

<http://amilimani.com/the-biggest-cover-up-in-american-history/#comment-29529>

The only way to determine who is a natural born citizen is to eliminate those who are not natural born citizens. A naturalized citizen is not a natural born citizen. A statutory citizen is defined in the INA by legislation written by Congress. Congress does not have the Constitutional authority to define a natural born citizen; therefore, a statutory citizen cannot be a natural born citizen.

<http://statecasefiles.justia.com/documents/maryland/court-of-special-appeals/938s99-0.pdf>

COURT OF SPECIAL APPEALS OF MARYLAND No. 938 Sept Term, 1999

LAWRENCE E. LERNER v. LERNER CORPORATION, et al.

Motion to Take Judicial Notice

Appellant filed in this Court a motion to take judicial notice, which we shall address prior to addressing the issues set forth above. First, appellant asks this Court to take judicial notice of (1) an order awarding supplemental judgment dated October 19, 1998, and (2) a notice of judgment, entered October 27, 1998, both by the Circuit Court for Montgomery County in Lerner, et al. v. Lerner Corporation, et al., No. 77954 Civil. The orders relate to proceedings on remand as the result of this Court's unreported opinion in Lerner v. Lerner Corporation, No. 1914, September Term 1994 (filed September 30, 1994). Appellant suggests that notice is required to provide this Court with a full chronology of the dispute among the parties. Second, appellant asks us to take judicial notice of Lerner Corporation's offer to sell stock dated May 18, 1998. This document was not admitted into evidence.

Maryland Rule 5-201 provides that a court may take judicial notice of adjudicative facts. The rule further provides that "[j]udicial notice may be taken at any stage of the proceedings." Md. Rule 5-201(f). As such, an appellate court may take judicial notice. See generally Joseph F. Murphy, Maryland Evidence Handbook § 1000, at 409 (3rd ed. 1999) ("an appellate court may take judicial notice of a fact not judicially noted by the trial judge"); 5 Lynn McLain, Maryland Evidence § 201.1 n.6, at 90 (1987 & Supp. 1995) (citing cases in which Maryland appellate courts have taken judicial notice).

This request is made pursuant to Rule 201 (a), (b)1, (b)2, (c)2 of the Federal Rules of

Evidence.

RULE 201. JUDICIAL NOTICE OF ADJUDICATIVE FACTS

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.

(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

and under 201 C **(2)** must take judicial notice if a party requests it and the court is supplied with the necessary information.

The doctrine of judicial notice substitutes for formal proof of a fact "when formal proof is clearly unnecessary to enhance the accuracy of the fact-finding process." *Smith v. Hearst Corp.*, 48 Md. App. 135, 136 (1981). A court may judicially note facts that readily can be determined by examination of a source whose accuracy cannot be reasonably questioned. Md. Rule 5-201(b). Included among the categories of things of which judicial notice may be taken are "facts relating to the records of the court." *Smith*, 48 Md. App. at 136 n. 1. In McCormick's treatise on evidence, it is said to be "settled, of course, that the courts, trial and appellate, take notice of their own respective records in the present litigation, both as to the matters occurring in the immediate trial, and in previous trials or hearings." McCormick on Evidence § 330, at 766 (2d ed. 1972), quoted with approval in *Irby v. State*, 66 Md. App. 580, 586 (1986), cert. denied, 308 Md. 270 (1987).

<http://www.scribd.com/doc/54392994/Birth-Certificate-Fraud>

Department of Health and Human Services Office of Inspector General

BIRTH CERTIFICATE FRAUD

OEI-07-99-00570

Finding: A certified copy of a birth certificate is proof only that a birth occurred and was recorded.

What this means is that all the other information contained in Obama's birth certificates has to be "Proven" the old fashion way, by the preponderance of the evidence. To date, Obama has not independently* proven anything contained in his two birth certificates other than the fact that he was born alive and the Hawaiian Health Department has the record of that birth. However the only person who has ever seen that birth certificate is now dead from questionable plane crash in Hawaii.

ex animo

*independent of Hawaiian Health Department records.

davidfarrar

Birth Certificates Alone do not Provide Conclusive or Reliable Proof of Identity

Many agencies and organizations request that individuals provide their birth certificates to receive a benefit or service, or to support the issuance of other documents often used for identity purposes (e.g., driver's license). However, agencies who rely on birth certificates as a means of establishing identity must understand the limitations of accepting a birth certificate as proof of age, citizenship, or identity.

<http://www.casebriefs.com/blog/law/evidence/outline-evidence-law/judicial-notice-outline-evidence-law/judicial-notice-of-facts/> Judicial Notice Of Facts GOOD INFO

<http://www.balch.com/files/Publication/e9084c64-1ac1-462d-9f62-0702f5f72b1d/Presentation/PublicationAttachment/76a3ee9c-9a0c-4a77-b954-13a18396acfb/Haden%20Judicial%20Notice%20of%20Materials%20on%20Appeal.pdf> A judicially noticeable adjudicative fact "must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned" Fed R. Evid. 201 (b).

"Legislative facts, on the other hand, are those which have relevance to legal reasoning and the law making process, whether in the formulation of a legal principle or ruling by a judge or court or in the enactment of a legislative body" Fed. R. Evid. 201(a), Adv. Comm. Notes.

Non-record material

[The elements of law : an introduction to the study of the constitutional and military law of the United States](#)

Judicial Notice. — There are certain facts of which all courts take what is called judicial notice; that is, accept them without proof, as they are alleged or referred to in pleading, or argument, during the progress of a trial.

This is done as to certain facts because the law requires it, and as to others because of their notoriety and general acceptance by the community at large. To the former class belong the laws which the court applies in the decision of the cases before it, including the Constitution, laws, and treaties of the United States, those of the State in which the court sits, the common law, the law of nations, the custom of merchants, and the admiralty or maritime law of the world. They also recognize the great seal of the United States, those of the several States, the seals of courts of record when attached to their records, orders, and decrees, together with the seals of notaries public and the great seals of foreign States. Under the latter head they will take judicial notice of the ordinary divisions of time, of calendar and lunar months, of weeks and days, and of the hours of the day; of astronomical and physical facts ; of the laws of nature, including their ordinary operations and consequences;

http://en.wikipedia.org/wiki/Judicial_notice

In the [United States](#), Article II of the [Federal Rules of Evidence](#) ("FRE") addresses judicial notice

in [federal courts](#), and this article is widely copied by [U.S. States](#). FRE 201(b)) permit judges to take judicial notice of two categories of facts:

1. Those that are "generally known within the territorial jurisdiction of the trial court" (e.g. locations of streets within the court's jurisdiction) or
2. Those that are "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned" (e.g. the day of the week on a certain date).^[1]

The FRE also notes that judicial notice may be *permissive* or *mandatory*. If it is permissive, then the court may choose to take judicial notice of the fact proffered, or may reject the request and require the party to introduce evidence in support of the point. If it is mandatory, then the court must take judicial notice of the fact proffered. Although the FRE does not expand upon the kinds of facts that would fall into one category or another, courts have ruled that judicial notice must be taken of federal public laws and treaties, state public laws, and official regulations of both federal and local government agencies.

1802 Naturalization Act

SEC 4 And be it further enacted That the children of persons duly naturalized under any of the laws of the United States or who previous to the passing of any law

on that subject by the government of the United States may have become citizens of any one of the said states under the laws thereof being under the age of twenty one years at the time of their parents being so naturalized or admitted to the rights of citizenship shall if dwelling in the United States be considered as citizens of the United States and the children of persons who now are or have been citizens of the United States shall though born out of the limits and jurisdiction of the United States be considered as citizens of the United States provided That the right of citizenship shall not descend to persons whose fathers have never resided within the United States Provided also that no person heretofore proscribed by any state or who has been legally convicted of having joined the army of Great Britain during the late war shall be admitted a citizen as aforesaid without the consent of the legislature of the state in which such person was proscribed.

LEGAL PERSONALITY IN INTERNATIONAL LAW **ROLAND PORTMANN**

Roland Portmann is a Scientific Collaborator at the Swiss Ministry of Foreign Affairs, Directorate of International Law, Berne, and a Lecturer in Public International Law at the University of St. Gallen, Switzerland.

According to Vattel, a state was the result of a voluntary contractual agreement between a group of individuals.²⁵ The purpose of states was to promote the mutual welfare and security of their members. In order to achieve these goals, the state was empowered with sovereignty, meaning the public authority to govern. This authority could not be alienated; its exercise could only be delegated to a person (monarchy), a group of persons (aristocracy) or to the people itself (democracy), depending on the relevant constitutional provisions. Sovereignty itself rested in the state. Inalienable sovereignty was the prerequisite for the separate personality and will of the state: it was because of the voluntary subordination of all individuals under the authority of the state and the inalienability of this sovereignty that the latter was thought of as being a distinctive person with a separate will.²⁶ With this conception of a separate personality and will of the state, the state, as opposed to the person or group of persons being authorized by the constitution to exercise public power, was the entity that acted in international affairs. The international scene, according to Vattel, was thus characterized by the interaction of independent and equal states; international law, then, was the law between states.²⁷

25 See for this and the following *ibid.*, (Livre I, Chap. I) §§1–3 (pp. 17–18).

26 See Jouannet, Vattel, 321.

27 Vattel, *Le Droit des Gens*, Livre I, Introduction §11 (p. 21) and Livre II, Chap. XVIII 346

(p. 533). See also: Beaulac, *Making of International Law*, 148–9, and Jouannet, Vattel,

403-9.

<http://supreme.justia.com/cases/federal/us/231/9/case.html> *Luria v. United States* Citizenship is membership in a political society, and implies the reciprocal obligations as compensation for each other of a duty of allegiance on the part of the member and a duty of protection on the part of the society. Under the Constitution of the United States, a naturalized citizen stands on an equal footing with the native citizen in all respects save that of eligibility to the Presidency.

Citizenship is membership in a political society, and implies a duty of allegiance on the part of the member and a duty of protection on the part of the society. These are reciprocal obligations, one being a compensation for the other. Under our Constitution, a naturalized citizen stands on an equal footing with the native citizen in all respects save that of eligibility to the Presidency. *Minor v. Happersett*, 21 Wall. 162, 88 U. S. 165; *Elk v. Wilkins*, 112 U. S. 94, 112 U. S. 101; *Osborn v. Bank of United States*, 9 Wheat. 738, 22 U. S. 827. Turning to the naturalization laws preceding the Act of 1906, being those under which Luria obtained his certificate, we find that they required, first, that the alien, after coming to this country, should declare on oath, before a court or its clerk, that it was *bona fide* his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign sovereignty; second, that at least two years should elapse between the making of that declaration and his application for admission to citizenship; third, that as a condition to his admission, the court should be satisfied, through the testimony of citizens, that he had resided within the United States five years at least, and that, during that time he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and, fourth, that at the time of his admission, he should declare on oath that he would support the Constitution of the United States, and that he absolutely and entirely renounced and abjured all allegiance and fidelity to every foreign sovereignty.

<http://supreme.justia.com/cases/federal/us/279/644/case.html> *US v. Schwimmer* (syllabus)

5. That it is the duty of citizens by force of arms to defend our government against all enemies whenever necessity arises is a fundamental principle of the Constitution. P. [279 U. S. 650](#).

6. Whatever tends to lessen the willingness of citizens to discharge their duty to

bear arms in the country's defense detracts from the strength and safety of the government. And their opinions and beliefs, as well as their behavior indicating a disposition to hinder in the performance of that duty, are subjects of inquiry under the statutory provisions governing naturalization, and are of vital importance. P. [279 U. S. 650](#).

7. The influence of conscientious objectors against the use of military force in defense of the principles of our government is apt to be more detrimental than their mere refusal to bear arms. The fact that, by reason of sex, age, or other cause, they may be unfit to serve does not lessen their purpose or power to influence others. P. [279 U. S. 651](#).

8. The applicant was a woman 49 years of age, a linguist, lecturer, and writer, well educated and accustomed to discuss governments and civic affairs. She testified that she would not take up arms in defense of the country; that she was willing to be treated as the government dealt with conscientious objectors who refused to take up arms in the recent war, and that she was an uncompromising pacifist with no sense of nationalism, but only a "cosmic" sense of belonging to the human family. Taken as a whole, her testimony showed that her objection to military service rested upon reasons other than mere inability, because of her age and sex, personally to bear arms; it was vague and uncertain in its description of her attitude towards the principles of the Constitution, and failed to sustain the burden resting upon her to show what she meant, and that her pacifism and lack of nationalistic sense did not oppose the principle making it a duty of citizenship by force of arms, when necessary, to defend the country against its enemies, and that her opinions and beliefs would not impair the true faith and allegiance required by the Naturalization Act. *Held*, that the district court was bound by the law to deny her application. P. [279 U. S. 651](#). 27 F.2d 742 reversed; district court affirmed.

Certiorari, 278 U.S. 595, to review a decree of the circuit court of appeals which reversed a decree of the district court denying the present respondent's application for naturalization.

OPINION:

Respondent was born in Hungary in 1877, and is a citizen of the country. She came to the United States in August, 1921, to visit and lecture, has resided in Illinois since the latter part of that month, declared her intention to become a citizen the following November, and filed petition for naturalization in September, 1926. On a preliminary form, she stated that she understood the principles of and fully believed in our form of government, and that she had read, and in becoming a citizen was willing to take, the oath of allegiance. Question 22 was this: "If necessary, are you willing to take up arms in defense of this country?" She answered: "I would not take up arms personally."

She testified that she did not want to remain subject to Hungary, found the United States nearest her ideals of a democratic republic, and that she could wholeheartedly take the oath of allegiance. She said: "I cannot see that a woman's refusal to take up arms is a contradiction to the oath of allegiance."

"If . . . the United States can compel its women citizens to take up arms in the defense of the country -- something that no other civilized government has ever attempted -- I would not be able to comply with this requirement of American citizenship. In this case, I would recognize the right of the government to deal with me as it is dealing with its male citizens who, for conscientious reasons, refuse to take up arms."

And, at the hearing, she reiterated her ability and willingness to take the oath of allegiance without reservation, and added:

"I am willing to do everything that an American citizen has to do except fighting. If American women would be compelled to do that, I would not do that. I am an uncompromising pacifist. . . . I do not care how many other women fight, because I consider it a question of conscience. I am not willing to bear arms. In every other single way, I am ready to follow the law and do everything that the law compels American citizens to do.

Except for eligibility to the Presidency, naturalized citizens stand on the same footing as do native-born citizens. All alike owe allegiance to the government, and the government owes to them the duty of protection. These are reciprocal obligations, and each is a consideration for the other. *Luria v. United States*, 231 U. S. 9, 231 U. S. 22. But aliens can acquire such equality only by naturalization according to the uniform rules prescribed by the Congress. They have no natural right to become citizens, but only that which is by statute conferred upon them. Because of the great value of the privileges conferred by naturalization, the statutes prescribing qualifications and governing procedure for admission are to be construed with definite purpose to favor and support the government.

http://scholar.google.com/scholar_case?case=15428760256043512250&hl=en&as_sd t=2&as_vis=1&oi=scholarr OSBORN V. BANK OF UNITED STATES 1824

A naturalized citizen is indeed made a citizen under an act of Congress, but the act does not proceed to give, to regulate, or to prescribe his capacities. He becomes a member of the society, possessing all the rights of a native citizen, and standing, in the view of the constitution, on the footing of a native. The constitution does not authorize Congress to enlarge or abridge those rights.

IF NATURALIZED CITIZENS ARE EQUAL IN EVERY WAY TO NATIVE CITIZENS EXCEPT TO BE PRESIDENT, AND THEY MUST HAVE NO FOREIGN ALLEGIANCE, DOES THAT NOT MEAN THAT NATIVE CITIZENS MUST ALSO HAVE NO FOREIGN ALLEGIANCE, TO BE EQUAL TO NATURALIZED CITIZENS?

[A treatise on the law of citizenship in the United States](#) Guaranteed Proof

[International Law in the U.S. Supreme Court: Continuity and Change](#) Vattel

[Ginsburg transcript Feb 8th, 2013](#)

<http://news.aitkenlaw.com/articles/the-deposition-of-the-adverse-expert-witness/>

[Le droit des gens: ou Principes de la loi naturelle ...](#), Issue 4, Volume 3 All about Vattel

CASES TO GET FROM THE CC LAW LIBRARY:

Dulany v. Wells Court of Appeals of Maryland Oct 1790

The *law of nations* and public treaties, are the terms on which all states are to live with one another. Furg. Essays, 440, 441. When there is no treaty, the *law of nations*, as now established, must prevail between foreigners.
also page 42, 53, 55, 79 (law of nations)

Greenleaf v. Banks

Alfara v. Fross , 26 Cal.2d 358

Aliens are commonly understood as persons who owe allegiance to a foreign government." De Cano v. State, 110 P.2d 627, 631 and the 1943 Government Code §242 (from Political Code §57). "Alien" is commonly understood and has been judicially defined to be a person who owes allegiance to a foreign government. Ex parte Fung Sing, 6 F. (2d) 670.

My voice isn't being heard, if my vote is diluted by a vote for an ineligible candidate!

MD Boggs v. Boggs Law of Nature

virginia v. tennessee 148 u.s. 503

[The Internal Revenue Record and Customs Journal, Volume 30](#)

Civil Rights Act versus the 14th amendment

[Ruling case law: as developed and established by the decisions and annotations contained in Lawyers reports annotated, American decisions, etc](#)

All provisions of election laws are mandatory. The penal provisions of election laws are sometimes expressly made applicable to primary elections. However, irregularities which are not caused due to fraud and which do not interfere with a full and expression of the voter's choice should not effect a disenfranchisement of the voters.

Statutes render election officers criminally liable for violations or omissions of their duties under election laws. Election officers may be criminally liable for receiving votes of persons unqualified to vote, willfully rejecting qualified electors' votes, altering or stealing ballots or other necessary documents, stuffing the ballot box, falsifying the election returns, and committing fraud. A mere mistake without a willful neglect of the duty does not impose criminal liability on election officers.

2 USCS § 441h provides that no person who is a candidate for Federal office or an employee or agent of such a candidate shall fraudulently misrepresent him/herself or any committee or organization under his or her control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate this provision.

In any case of conspiracy as set forth above, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his or her person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

§ 12-204. Judgment.

(a) In general. — The court may provide a remedy as provided in subsection (b) or (c) of this section if the court determines that the alleged act or omission materially

affected the rights of interested parties or the purity of the elections process and:

(1) may have changed the outcome of an election already held; or

(2) may change the outcome of a pending election.

(b) Act or omission that changed election outcome. — If the court makes an affirmative determination that an act or omission was committed that changed the outcome of an election already held, the court shall:

(1) declare void the election for the office or question involved and order that the election be held again at a date set by the court; or

(2) order any other relief that will provide an adequate remedy.

(c) Act or omission that may change outcome of pending election. — If the court makes an affirmative determination that an act or omission has been committed that may change the outcome of a pending election, the court may:

(1) order any relief it considers appropriate under the circumstances; and

(2) if the court determines that it is the only relief that will provide a remedy, direct that the election for the office or question involved be postponed and rescheduled on a date set by the court.

(d) Clear and convincing evidence. — A determination of the court under subsection (a) of this section shall be based on clear and convincing evidence.

(An. Code 1957, art. 33, § 12-204; 2002, ch. 291, §§ 2, 4.)

Enforcement Act of 1870 Sec. 18. Re-enacted the Civil Rights Act

Sec. 18. And be it further enacted, That the act to protect all persons in the United States in their civil rights, and furnish the means of their vindication, passed April nine, eighteen hundred and sixty-six, is hereby re-enacted; and sections sixteen and seventeen hereof shall be enforced according to the provisions of said act.

http://www.federalistblog.us/2006/12/us_v_wong_kim_ark_can_never_be_considered/

The United States Attorney General in 1873 ruled the word “jurisdiction” under the Fourteenth Amendment to mean:

The word “jurisdiction” must be understood to mean absolute and complete jurisdiction, such as the United States had over its citizens before the adoption of this amendment... Aliens, among whom are persons born here and naturalized abroad, dwelling or being in this country, are subject to the jurisdiction of the United States only to a limited extent. Political and military rights and duties do not pertain to them. (14 Op. Atty-Gen. 300.)

Vattel 212 citizen “serious mistake to confound them:

<http://books.google.com/books?id=8hwDAAAAMAAJ&pg=PA695&lpg=PA695&dq=%22it+would+be+a+dangerous+mistake+to+confound+them%22+vattel&source=bl>

http://memory.loc.gov/cgi-bin/query/D?hlaw:1:/temp/~ammem_wGrH::&ots=xIfVIEHT46&sig=tVoY6EFnf1pUfHY5T-yi76wYpgc&hl=en&sa=X&ei=SnAoUfbfJPLx0wHgvoGgCA&ved=0CDMQ6AEwAA#v=onepage&q=%22it%20would%20be%20a%20dangerous%20mistake%20to%20confound%20them%22%20vattel&f=false

So I'm sure everyone knows of the letter from Ben Franklin to Charles Dumas, thanking him for Vattel's Law of Nations, which reads:

http://memory.loc.gov/cgi-bin/query/D?hlaw:1:/temp/~ammem_wGrH::

The Law of Nations is a Treatise, which was used as a contract for all of our Peace Treaties around the world, with other nations. If you look at the US Diplomatic Codes, you will see the contract "The Law of Nations" and it lists all the treaties signed between countries, adhering to the Law of Nations.

We know that it's Vattel's, Law of Nations that they are talking about, because we have recorded in the Congressional Records, how that treaty all came about and it was worked up by Franklin and Dumas (the one who printed and gave Franklin the book, with the personal preface and notes to help write the Constitution). Dumas even had constant contact with Congress, throughout the Revolution. When John Adams went to Holland as Ambassador, Dumas was his secretary and translator. It talks about John Adams going to Paris regarding peace (which you will see in the diplomatic code with Treaties, that the dates match up with the Treaty of Paris. Dumas even exchanged the Treaty (Law of Nations) with the Dutch for Adams. Now if Dumas is responsible for working up the Peace Treaty, with the Law of Nations as it's contract AND he just printed Copies of Vattel's Law of Nations...WHICH book on the Law of Nations, do you think he used? Anyone other than Vattel? NO

It's all explained right here:

Page 1:

http://memory.loc.gov/cgi-bin/ampage?collId=lldc&fileName=001/lldc001.db&recNum=634&itemLink=D?hlaw:19:/temp/~ammem_PVWk::%230010635&linkText=1

Page 2

http://memory.loc.gov/cgi-bin/ampage?collId=lldc&fileName=001/lldc001.db&recNum=635&itemLink=D?hlaw:19:/temp/~ammem_PVWk::%230010635&linkText=1

<http://books.google.com/books?id=fTEPAAAAYAAJ&printsec=frontcover&dq=peace+treaty+vattel+%22united+states%22&hl=en&sa=X&ei=j4YnUd7V04u40QHrhYgWcw&ved=0CDAQ6AEwAA#v=onepage&q=peace%20treaty%20vattel%20%22united%20states%22&f=false>

**Diplomatic code law of nations
treaties**

<http://books.google.com/books?id=fTEPAAAAAYAAJ&printsec=frontcover&dq=peace+treaty+vattel+%22united+states%22&hl=en&sa=X&ei=j4YnUd7V04u40QHrhYGwCw&ved=0CDAQ6AEwAA#v=onepage&q=franklin&f=false>

<https://docs.google.com/file/d/0B1LGLpWgqgYFUGE0UGt1WmJOYkk/edit>
COPY OVER hearing doc

[ethics nonfeasance GOOD STUFF](#)

Ballot Access and Voting Integrity Initiative

ELEMENTS OF NEGLIGENCE

A negligence cause of action has three elements: (1) a legal duty owed by one person to another, (2) a breach of that duty, and (3) damages proximately caused by the breach. *D. Houston, Inc. v. Love*, 92 S.W.3d 450, 454 (Tex. 2002). The threshold inquiry in a negligence case is duty. *Centeq Realty, Inc. v. Siegler*, 899 S.W.2d 195, 197 (Tex. 1995); *Mathis v. RKL Design/Build*, 189 S.W.3d 839, 844 (Tex. App.—Houston [1st Dist.] 2006, no pet.). The existence of duty is a question of law for the court to decide from the facts surrounding the occurrence at issue. *Van Horn v. Chambers*, 970 S.W.2d 542, 544 (Tex. 1998); *Siegler*, 899 S.W.2d at 197; *Greater Houston Transp. Co. v. Phillips*, 801 S.W.2d 523, 525 (Tex. 1990). “The nonexistence of a duty ends the inquiry into whether negligence liability may be imposed.” *Van Horn*, 970 S.W.2d at 544. Generally, no duty exists to take action to prevent harm to others absent certain special relationships or circumstances. *Torrington Co. v. Stutzman*, 46 S.W.3d 829, 837 (Tex. 2000).

The elements of a negligence claim are: (1) breach of (2) a legal duty owed to another, and (3) damages

Forgery & Fraud

Plaintiff loses a commercial law case, and sues his attorneys for legal malpractice. During discovery, while preparing responses to interrogatories, he discovers, and then sues over what he claims is a forged affidavit said to be prepared by the attorneys and unsuccessfully used in his case. Worse he says, the affidavit contained inaccurate information which was the cause of the loss, and hence a sort of double malpractice. Defendants say, its too late, and what kind of a cause of action is this, anyway?

In [Shelly v. Mintz Levin Cohn Ferris Glovsky & Popeo PC](#) we see Justice Emily Jane Goodman's answer to these two questions. Forgery is a civil cause of action,

akin to fraud, but without some of the more onerous elements. No "reliance" is necessary in a forgery case; it is "counterintuitive."

Forgery is "the fraudulent making of a writing to the prejudice of another's rights, or the making *malo animo* of any written instrument for the purpose of fraud and deceit...." It is subject to a 6 year from the making or two year from the reasonable discovery statute of limitations.

OFFICIAL MISCONDUCT

Cause of Action

The facts or circumstances that entitle a person to seek judicial relief may create more than one cause of action. For example, in the preceding example, the plaintiff might assert claims for assault, battery, intentional infliction of emotional distress, and violation of Civil Rights. She might also bring claims for negligent hiring (if the guard had a history of violent behavior which the store failed to discover) or negligent supervision. (When damages are caused by an employee it is common to sue both the employee and the employer.) All these causes of action arise from the same set of facts and circumstances but are supported by different rules of law and constitute separate claims for relief.

A cause of action can arise from an act, a failure to perform a legal obligation, a breach of duty, or a violation or invasion of a right. The importance of the act, failure, breach, or violation lies in its legal effect or characterization and in how the facts and circumstances, considered as a whole, relate to applicable law. A set of facts may have no legal effect in one situation, whereas the same or similar facts may have significant legal implications in another situation. For example, tackling a shoplifting suspect who is brandishing a gun is a legitimate action by a security guard and probably would not support a claim for relief if the suspect were injured in the fracas. On the other hand, tackling a shopper who merely acts in a suspicious manner while carrying a shopping bag is a questionable exercise of a guard's duty and may well give rise to Justiciable causes of action.

<http://www.the-legacy.info/Breach%20of%20Trust.html> breach of trust

COUNTS:

<http://www.eyeonannapolis.net/wp-content/uploads/2013/01/memorandum.pdf>

presumption

n. a rule of law which permits a court to assume a fact is true until such time as there is a preponderance (greater weight) of evidence which disproves or

outweighs (rebutts) the presumption. Each presumption is based upon a particular set of apparent facts paired with established laws, logic, reasoning or individual rights. A presumption is rebuttable in that it can be refuted by factual evidence. One can present facts to persuade the judge that the presumption is not true. Examples: a child born of a husband and wife living together is presumed to be the natural child of the husband unless there is conclusive proof it is not; a person who has disappeared and not been heard from for seven years is presumed to be dead, but the presumption could be rebutted if he/she is found alive; an accused person is presumed innocent until proven guilty. These are sometimes called rebuttable presumptions to distinguish them from absolute, conclusive or irrebuttable presumptions in which rules of law and logic dictate that there is no possible way the presumption can be disproved. However, if a fact is absolute it is not truly a presumption at all, but a certainty.

GOOD STUFF: hearing:

<https://docs.google.com/file/d/0B1LGLpWgqgYFUGE0UGt1WmJOYkk/edit>

Md. Rule 8-504 Contents of brief

1888 [Journal of Proceedings of the House of Delegates of Maryland Good rights cases here](#)

Elections laws of the state of Maryland

offenses page: [59](#) #83 #88 Chapter 2 #59 page 41 160K page 82

The use of the word ballot, however, has been determined not to direct one single method of voting, but to generally describe a system that is free from fraud, intimidation and duress, and to ensure "a degree of secrecy that would permit none but the voter to know how he [or she] voted. The Maryland State Constitution: A Reference Guide page 51

<http://books.google.com/books?id=MoTGJ8bk11wC&pg=PA51&dq=elections+fraud+maryland&hl=en&sa=X&ei=dO4iUc3YE4XQ0wGjjYHgDQ&ved=0CGUQ6AEwCQ#v=onepage&q=fraud&f=false>

Genuine issues of material fact exist. I have lost my my right to freedom of political expression, when my candidate is going up against an ineligible candidate!

Deprived of free expression of opinion

"Voice and Accountability" within a country, defined as "the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and free media" is one of the six dimensions of governance that the Worldwide Governance Indicators measure for more than 200 countries

Johnson vetoed the Civil Rights Act and claimed in his speech that it was unconstitutional. Congressmen argued the same, which led to the passage of the 14th amendment, to render the Civil Rights Act constitutional. That is why Jacob Howard states in the debates that the 14th amendment citizenship clause is declaratory of what is already the law. Members of Congress voted for the 14th amendment in order to eliminate doubts about the constitutionality of the Civil Rights Act, or to ensure that no subsequent Congress could later repeal or alter the main provisions of that Act. Thus, the Citizenship Clause in the 14th Amendment parallels citizenship language in the Civil Rights Act of 1866, and likewise the Equal Protection Clause parallels non discrimination language in the 1866 Act.

<http://memory.loc.gov/cgi-bin/ampage?collId=llhj&fileName=063/llhj063.db&recNum=1025&itemLink=?%230631026&linkText=1> To avoid repeal

Hurd v. Hodge, [334 U.S. 24](#), 333.

This is proven by the Revised Statutes of the United States, passed by Congress in 1873, which was 5 years after the 14th amendment, so if the 14th amendment was thought to have repealed the definition of citizen, the revised statutes is proof that it did no such thing!

(After WV law) Plaintiffs assert that the lower court's decision creates a serious conflict of law and is contrary to the Constitution and the Founders' intent, thereby causing ongoing harm to plaintiffs by infringing their right to elections free from fraud. Laws that are contrary to the Constitution are void. It was our 2nd President John Adams, who recorded in his diary, on Friday , where he stated "Of great use to judges!", the source he cites for this passage is Vattel.

Plaintiffs ask the court to take judicial notice of the following adjudicative facts, legislative facts and facts of law, to establish undisputable facts in the case, prior to the hearing. Plaintiffs assert a clear conflict of law, with the court's decision and when continuing harm exists, case must be heard. Harm continues as long as Plaintiffs are forced to live under a person, who is not eligible for the office, which presents a clear national security issue. This clearly eliminates plaintiff's right to a fair election, free from fraud. CITE CASES Allowing an ineligible candidate on the

ballot, dilutes my vote and disenfranchises me/ There are no equal rights, when half the citizens' candidate is running against someone who isn't even allowed on the ballot. Our Constitution has been overthrow and I can not think of a single harm that could be more important and needs addressing immediately, making this case ripe to set history straight according to our Founding Fathers.

The right to vote in a free and fair election is the most basic civil right, on which depend many of the other rights of the American people. Congress and the states can and should act to guarantee that every eligible individual is able to vote and that his vote is not stolen by fraud.

The prohibition contained in § 3060(d) is a neutral law of general application seeking to protect an individual's "right to cast a ballot in an election free from the taint of intimidation and fraud." Burson, 504 U.S. at 211.

The Equal Protection Clause of the Fourteenth Amendment prohibits a State from "deny[ing] to any person within its jurisdiction the equal protection of the laws." U.S. CONST., AMEND. XIV, § 1.

Judge talks about article 1 (first amendment) could work for ineligible candidate.

http://constitution.org/cmt/high_crimes.htm perjury

high crime A crime whose commission offends the public's morality.

infamous crime Under common law, any one of the crimes that were considered particularly dishonorable and the punishment for which included ineligibility to hold public office, to serve on a jury, or to testify at a civil or criminal trial. These crimes included treason, any felony, forgery, and perjury, among other offenses

<http://www.virginialawreview.org/content/pdfs/98/729.pdf> Historical understandings and judicial practice suggest that courts must apply traditional principles of the law of nations not only when the federal political branches or the states have adopted them, but also when Articles I and II require courts to do so. In such instances, the law of nations functions as constitutional law.

Historically, nations enjoyed certain "perfect" rights under the law of nations, and the violation of such rights gave the aggrieved nation just cause for war.¹³ Such rights included rights to enjoy territorial sovereignty, conduct diplomatic

relations, enjoy neutral commerce and use of the seas, and peaceably enjoy liberty.¹⁴

Indeed, the Court went out of its way to make clear that state and federal courts alike are bound to apply the traditional doctrine until the political branches act to change it. The reason, the Court explained, is that the doctrine has “‘constitutional’ underpinnings” that sound in general notions of separation of powers.²² We suggest that the persistent judicial application of this doctrine implements specific allocations of power in the U.S. Constitution that transcend the inter-national law origins of the doctrine.

II. CONSTITUTIONAL INCORPORATION OF THE LAW OF NATIONS

The U.S. constitutional tradition generally treats the bargained-for provisions adopted pursuant to the procedures set forth in Article VII as authoritative law.⁵⁰ Indeed, although some modern scholars question whether the text should be authoritative,⁵¹ almost all regard it as at least relevant to constitutional meaning. Broadly speaking, the original document created a federal system with two main features: federalism and separation of powers. The document is much more precise than this, however, and one must consult its specific provisions to understand the public meaning it originally conveyed. The meaning of these provisions is not always self-evident, especially when sought more than two centuries after their adoption. Legal texts are frequently written against the backdrop of well-developed, pre-existing bodies of law.⁵² On these occasions, the text functions as a kind of shorthand, and cannot be fully understood without resort to background assumptions and concepts. The Constitution is no exception. For example, the Constitution’s references to the right to trial by “Jury”⁵³ and the “Privilege of the Writ of Habeas Corpus”⁵⁴ can only be understood by reference to background principles of the common law from which these terms were drawn. Similarly, the Constitution employs various terms drawn from the law of nations, such as “War,”⁵⁵ “Letters of Marque and Reprisal,”⁵⁶ “Captures,”⁵⁷ “Treaties,”⁵⁸ “Ambassadors,”⁵⁹ and “admiralty.”⁶⁰ The Constitution does not define such terms because—at the time of their adoption—they all had well-known meanings derived from established bodies of law with which the Founders were familiar.

We start from the assumption that the Founders used terms drawn from the law of nations in their ordinary sense and drafted the Constitution, in part, to enable the United States to fulfill its obligations under the law of nations. In doing so, the Founders made important choices both about the division of foreign relations powers between the states and the federal government and about the allocation of such powers among the three branches of the federal government. Accurately decoding these choices requires interpreters to give careful consideration to

background principles of the law of nations and how they interact with the Constitution's allocation of powers.⁶¹

The law of nations established a well-known set of rights and obligations of free and independent states. Respect for these rights and obligations was integral to the conduct of foreign relations and crucial to whether a nation would be at peace or war. The Founders apparently saw no need to spell out all of these assumptions and implications in drafting the Constitution. Rather, they were content to draft the Constitution against the backdrop of well-established principles of the law of nations. A reasonable and skilled reader of the Constitution, familiar with the states' shared legal traditions, would have understood that the powers set forth in the document—to recognize foreign nations, declare war, grant letters of marque and reprisal, and authorize captures—necessarily interacted with the law of nations.⁶⁴ If the meaning of any of these provisions was ambiguous, however, the Founders presumably expected that their meaning would be settled over time.⁶⁵

"The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."

Clearly, separate reference to "citizens *of* each state," as opposed to "citizens *in* the several states," clarifies that citizenship was strictly state-specific and derived, and not union-related in any way whatsoever: in fact, the term "Citizen of the United States" was never known prior to the passage of the 14th amendment following the Civil War – being a pure post-Lincoln invention – , and would have no more meaning prior to that war, than "Citizen of the United Nations" in today's context to imply similar supremacy.

As such, it is clear that the Ninth Amendment implicitly reserved the right of every state, to the same sovereignty, freedom and independence which existed previously, i.e., no less than that of any other nation in the world.

Finally, even when admitting all of the above, anti-secessionists almost unanimously claim their proverbial "trump-card" in the Constitution's so-called "Supremacy clause" of U.S. Constitution Article VI, which states that:

"This Constitution... shall be the Supreme Law of the Land, and the judges in every state shall be bound thereby, anything in the laws or constitutions of any state notwithstanding."

The level of absurdity in declaring any sort of logical victory, based on such an obviously flawed argument is astounding; for here the explicit language regarding this "Supreme Law" clearly, specifically and unmistakably states – in plain English, no less – that this "law" is binding on "*the judges in every state* – " and *only* the judges.

In contrast, the remainder of the Article omits *all other officials* from any such bond, using very different language in describing its relation to them; to wit:

"The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

In the American system no government is sovereign, not the federal government and not the states. The peoples of the states are the sovereigns. It is they who apportion powers between themselves, their state governments, and the federal government. In doing so they are not impairing their sovereignty in any way. To the contrary, they are exercising it.

<http://www.law.cornell.edu/constitution/articlei>
<http://www.law.cornell.edu/constitution/articleii>

All Appellants are asking for is to preserve our right to fair elections

BRANDEIS NOTES JUDICIAL NOTICE

<http://www.balch.com/files/Publication/e9084c64-1ac1-462d-9f62-0702f5f72b1d/Presentation/PublicationAttachment/76a3ee9c-9a0c-4a77-b954-13a18396acfb/Haden%20Judicial%20Notice%20of%20Materials%20on%20Appeal.pdf>

Sample motion

<http://www.courts.ca.gov/documents/s183372-8-appellant-request-for-judicial-notice.pdf>

<http://www.courts.ca.gov/documents/5-appellants-request-for-judicial-notice.pdf>

<http://www.courts.ca.gov/documents/s168047-respondent-judnotice-brief.pdf>

https://www.eff.org/sites/default/files/filenode/att/ATT_requestforjudicialnotice.pdf

Request for Judicial Notice of Adjudicative Facts

Subdivisions (c) and (d). Under subdivision (c) the judge has a discretionary authority to take judicial notice, regardless of whether he is so requested by a party. The taking of judicial notice is mandatory, under subdivision (d), only when a party requests it and the necessary information is supplied. This scheme is believed to reflect existing practice. It is simple and workable. It avoids troublesome distinctions in the many situations in which the process of taking judicial notice is

not recognized as such.

<http://legal-dictionary.thefreedictionary.com/Judicial+Notice>

[Brandeis Brief](#)

Request for Motion in Limine

<http://www.cochranfirm.com/resources/Ask-our-Lawyers/motioninlimine.html>

Revised Rule 103. Rulings on Evidence

<http://www.wcl.american.edu/pub/journals/evidence/a1r103.html>

Revised Rule 201. Judicial Notice of Adjudicative Facts

<http://www.wcl.american.edu/pub/journals/evidence/a2r201.html>

Revised Rule 202. Judicial Notice of Legislative Facts

<http://www.wcl.american.edu/pub/journals/evidence/a2r202.html>

Revised Rule 203. Judicial Notice of Law

<http://www.wcl.american.edu/pub/journals/evidence/a2r203.html>

Revised Rule 204. Proving Law

<http://www.wcl.american.edu/pub/journals/evidence/a2r204.html>

Revised Rule 405. Other crimes, wrongs, or acts

<http://www.wcl.american.edu/pub/journals/evidence/a4r405.html>

Revised Rule 406. Habit; Routine Practice

<http://www.wcl.american.edu/pub/journals/evidence/a4r406.html>

http://www.law.cornell.edu/rules/fre/rule_201

JUDICIAL NOTICE: [FRE 201](#)

PART H: SUBSTITUTES FOR EVIDENCE

§ 44.01 Introduction [621]

Judicial notice is a short-cut. The party with the burden of proving an adjudicative fact typically must introduce evidence to establish that fact. If, however, a fact is indisputable, the court may, and in some instances must, accept the fact as established (judicially noticed) and thereby dispense with the requirement of evidentiary proof.

§ 44.02 Adjudicative & Legislative Facts [621-22]

[Rule 201](#) applies only to judicial notice of adjudicative facts. The term “adjudicative fact” is used in contradistinction to the term “legislative fact.” Adjudicative facts are what we normally think of when we talk about the “facts of a case.”

§ 44.03 Types of Facts Subject to Judicial Notice [623-28]

Two kinds of adjudicative facts are subject to judicial notice: (1) facts generally known within the territorial jurisdiction of the trial court; and (2) facts capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned. Facts that fit these two categories, however, are proper subjects for judicial notice *only* if they are “not subject to reasonable dispute.”

[A] Indisputability Requirement

By limiting judicial notice to indisputable facts, [Rule 201](#) adopts Professor Morgan’s view of judicial notice, which is based on the judicial function of resolving disputes. Two consequences follow from Morgan’s theory. First, once a fact is judicially noticed by the court, evidence tending to establish or rebut that fact is inadmissible. Second, in civil cases the jury must accept the judicially noticed fact and is so instructed. The rule deviates from the Morgan theory in one respect. Division (g) of the rule provides that in criminal cases the jury shall be instructed that it is not bound to accept a judicially noticed fact.

[B] “Generally Known Facts”

Facts in this category need only to be generally known within the “territorial jurisdiction” of the court. “Generally known facts,” for purposes of [Rule 201\(b\)](#), must be distinguished from facts that a judge personally knows; only the former are properly the subject of judicial notice.

[C] “Accurately & Readily Determinable” Facts

Historical, geographic, physical, political, statistical, and scientific facts have all been noticed as verifiably certain. In deciding whether a fact is capable of ready and accurate determination, a court may rely only upon sources “whose accuracy cannot reasonably be questioned.” The source itself need not be admissible in evidence.

§ 44.04 Procedural Issues [628-31]

[A] Discretionary & Mandatory Judicial Notice

[Rule 201](#)(c) permits a court to take judicial notice sua sponte. [Rule 201](#)(d) requires the court to take judicial notice if one of the parties so requests.

[B] Opportunity to be Heard

[Rule 201](#)(e) entitles a party, upon timely request, to an opportunity to be heard concerning both the propriety of taking judicial notice and the tenor of the matter to be noticed.

[C] Time of Taking Judicial Notice

Judicial notice may be taken at any time, including appeals.

[D] Jury Instructions

In civil cases, the court must instruct the jury “to accept as conclusive any fact judicially noticed.” In contrast, [Rule 201](#)(g) directs the court to instruct the jury in a criminal case that it “may, but is not required to, accept as conclusive any fact judicially noticed.”

§ 44.05 [Criminal Cases](#) [631-32]

Several special issues concerning judicial notice arise in criminal cases. As noted in the previous section, the jury instructions in criminal and civil cases are different. The rule, however, specifically resolves this issue. Two other issues are not explicitly addressed: (1) whether a trial court may take judicial notice of an ultimate fact or element of a crime, and (2) whether a defendant in a criminal prosecution may introduce evidence to rebut a judicially noticed fact.

§ 44.06 Judicial Notice of Law [632-33]

There is no provision in the Rules of Evidence that governs judicial notice of law. Judicial notice of law is covered in the rules of procedure. See [Fed. R. Civ. P. 44.1](#)(a); [Fed. R. Crim. P. 27](#).

[Revised Rule 203. Judicial Notice of Law](#)
U.S. Constitution - Article 4 Section 4

The United States shall guarantee to every State in this Union a [Republican](#) Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

By a republic, Madison meant a system in which representatives are chosen by the citizens to exercise the powers of government. In Number 39 of *The Federalist Papers*, he returned to this theme, saying that a republic "is a government which derives all its powers directly or indirectly from the great body of the people; and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior." Generally, such leaders as Madison and [John Adams](#) believed that republicanism rests on the [foundation](#) of a balanced constitution, involving a [Separation of Powers](#) and checks and balances. The republican form of government has remained a constant in U.S. politics. State constitutions follow the federal constitution in dividing powers among the legislative, executive, and judicial branches. Likewise, states have adopted the various checks and balances that exist between the three branches, including the executive [Veto](#) power and [Judicial Review](#).

The judiciary must also be independent, according to Hamilton, so that it may fulfill its main purpose in a constitutional government: the protection of the "particular rights or privileges" of the people as set forth by the Constitution. Here, Hamilton made his second major point. To protect those rights, he proclaimed, the judiciary must be given the power of [Judicial Review](#) to declare as null and void laws that it deems unconstitutional.

Critics of the Constitution claimed that judicial review gave the judiciary power superior to that of the legislative branch. Hamilton responded to them in *Federalist*, no. 78, by arguing that both branches are inferior to the power of the people and that the judiciary's role is to ensure that the legislature remains a "servant" of the Constitution and the people who created it, not a "master":

There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves.

MD Constitution Declaration of Rights Art. 2.

The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound

thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.

MD Constitution Declaration of Rights Art. 4.

That the People of this State have the sole and exclusive right of regulating the internal government and police thereof, as a free, sovereign and independent State.

MD Constitution Declaration of Rights Art. 6.

That all persons invested with the Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

MD Constitution Declaration of Rights Art. 7.

That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage (*amended by Chapter 357, Acts of 1971, ratified Nov. 7, 1972*).

MD Constitution Declaration of Rights Art. 8.

That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other.

MD Constitution Declaration of Rights Art. 9.

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

MD Constitution Declaration of Rights Art. 12.

That for redress of grievances, and for amending, strengthening and preserving the Laws, the Legislature ought to be frequently convened.

MD Constitution Declaration of Rights Art. 19.

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

to the Law of the Land.

MD Constitution Declaration of Rights Art. 20.

That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the People.

MD Constitution Declaration of Rights Art. 34.

That a long continuance in the Executive Departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom (*amended by Ch 681, Acts of 1977, ratified Nov. 7, 1978*)

*In Maryland, independent agencies are part of the executive branch of government. They are those offices, commissions, boards, departments, and other agencies of State government established by statute as independent units of government.

MD Constitution Art. 1 section 7

The General Assembly shall pass Laws necessary for the preservation of the purity of Elections.

Civil Rights Act of 1866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States....."

1873 Revised Statutes of the United States

BOE Duties Laws

(Election Law Article Laws that were omitted)

EL 2-102 (a) In general.

— *The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process.*

EL 5-201

An individual may become a candidate for a public or party office only if the individual satisfies the qualifications for that office established by law and, in the case of a party office, by party constitution or bylaws. An. Code 1957, art. 33, § 5-201;

EL 9-210(e)(2)(e) Names of candidates.

(2) *Each candidate shall be listed on the ballot in the contest for which the candidate*

has qualified.

EL 8-502(c)(2)

Democratic Party By-Laws

Fraudulent concealment of cause of action

Under contract law, a plaintiff can recover from a defendant on the grounds of fraudulent concealment where the defendant (1) concealed or suppressed a material fact; (2) had knowledge of this material fact; (3) that this material fact was not within reasonably diligent attention, observation, and judgment of the plaintiff; (4) that the defendant suppressed or concealed this fact with the intention that the plaintiff be misled as to the true condition of the property; (5) that the plaintiff was reasonably so misled; and (6) that the plaintiff suffered damage as a result.

THE CONSTITUTION OF ELECTORAL SPEECH LAW: THE SUPREME COURT AND THE FREEDOM OF EXPRESSION IN CAMPAIGNS AND ELECTIONS, by Brian K

LOTS OF CITED CASES GET THEM

THE LAW OF NATIONS OR PRINCIPLES OF THE LAW OF NATURE APPLIED TO THE CONDUCT AND AFFAIRS OF NATIONS AND SOVEREIGNS

Revised Rule 202. Judicial Notice of Legislative Facts

1862 Bingham quote on NBC

Civil Rights Act of 1866 debates

Bingham's response to Trumbull's CRA citizenship clause amendment

14th amendment debates

Natural Born Citizen in the Constitutional drafts

Revised Rule 201. Judicial Notice of Adjudicative Facts

Declaration of Independence (Laws of Nature)

UNCATEGORIZED

U.S. Supreme Court

BLYEW v. U S, 80 U.S. 581 (1871)

80 U.S. 581 (Wall.)

BLYEW ET AL.

v.

UNITED STATES.

December Term, 1871

By the Revised Statutes of Kentucky, published A.D. 1860,¹ it is enacted: Under the act of 9th April, 1866 (14 Stat. at Large, 27), sometimes called 'The Civil Rights Bill,' which gives jurisdiction to the Circuit Court of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts of the State or locality where they may be, any of the rights given by the act (among which is the right to give evidence, and to have full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens), a criminal prosecution is not to be considered as 'affecting' mere witnesses in the case, nor any person not in existence. *United States v. Ortega* (6 Wheaton, 467), affirmed. 'That a slave, negro, or Indian, shall be a competent witness in the case of the commonwealth for or against a slave, negro, or Indian, or in a civil case to which only negroes or Indians are parties, but in no other case.' This enactment being in force in Kentucky, the thirteenth amendment to the Constitution was proclaimed as having been duly ratified, and a part of it, December 18th, 1865,² is in these words:

'SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

'SECTION 2. Congress shall have power to enforce this article by appropriate legislation.'

In this state of things, Congress on the 9th April, 1866, passed an act entitled 'An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication.' ³ The first section of that act declared all [80 U.S. 581, 582] persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, to be citizens of the United States, and it enacted that:

'Such citizens, of every race and color, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, [pains](#), and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.'

The indictment contained three counts, all of them charging the murder in the usual form of indictments for that offence, and with sufficient certainty. But, in order to show jurisdiction in the Circuit Court of the United States, an averment was made in the first count that the said Lucy Armstrong was a citizen of the United States, having been born therein, and not subject to any foreign power; that she was

of the African race, and was above the age of seventy-five years; that Blyew and Kennard (the persons indicted) were white persons, each of them at the time of the alleged killing and murder above the age of eighteen years; that the said killing and murder, done and committed, as averred, were seen and witnessed by one Richard Foster, and one Laura Foster, citizens of the United States, having been born therein and not subject to any foreign power, both of the African race; and that the said Lucy Armstrong, Richard Foster, and Laura Foster were then and there denied the right to testify against the said Blyew and Kennard, or either of them, concerning the said killing and murder, in the courts and judicial tribunals of the State of Kentucky, solely on account of their race and color. The second and third counts contained substantially the same averments.

[NJ Supreme Court: BENNY v.O'BRIEN:](#)

Allan Benny, whose parents were domiciled here at the time of his birth, is subject to the jurisdiction of the United States, and is not subject to any foreign power. The right of our government to his allegiance, on the one hand, and its duty to protect him, on the other hand, cannot be denied if, in any case, birth here is to be of controlling force under the aforesaid act and amendment, for, in the absence of their provisions, children born here of parents who are citizens are themselves citizens in virtue of their birth.

Persons intended to be excepted are only those born in this country of foreign parents who are temporarily traveling here, and children born of persons resident here in the diplomatic service of foreign governments. Such children are, in theory, born within the allegiance of the sovereign power to which they belong or which their parents represent.

The object of the fourteenth amendment, as is well known, was to confer upon the colored race the right of citizenship. It, however, gave to the colored people no right superior to that granted to the white race. The ancestors of all the colored people then in the United State were of foreign birth, and could not have been naturalized or in any way have become entitled to the right of citizenship.

The colored people were no more subject to the jurisdiction of the United States by reason of their birth here than were the white children born in this country of parents who were not citizens.

People v. Washington, 36 Cal. 658 (1869)

[Page 659 Opinion of the Court "not subject to any foreign power"](#)

Dred Scot v.

**Attorney General, ex rel. Conely, v. Common Council of the City of Detroit
(1889), 78 Mich. 545**

The Court, in declaring the law unconstitutional, said (p 559):

"The object of a registry law, or of any law to preserve the purity of the ballot-box, and to guard against abuses of the elective franchise, is not to prevent any qualified elector from voting, or unnecessarily to hinder or impair his privilege. It is for the purpose of preventing fraudulent voting."

Sherman v. United States - 155 U.S. 673 (1895)

The object of the statutes concerning the elective franchise, now embodied in Title XXVI of the Revised Statutes, was, as declared in the title to the Act of May 31, 1870, c. 114, 16 Stat. 140, "to enforce the rights of citizens of the United States to vote in the several states of this Union, and for other purposes," among which was undoubtedly the preservation of the purity of elections, and the obtaining of an honest expression of opinion from each individual voter.

Johnson v. Grand Forks County, 16 N. D. 363, 125 Am. St. Rep. 662, 113 N. W. 1071. When the Constitution of a state has prescribed qualifications for voters and defined the qualifications of an officer it is not competent for the legislature to add to or in any way alter such qualifications, unless the power to do so is conferred by the Constitution itself.

Higgins v. Steele, 4 Dak. 72, 23 N. W. 91.

While it is not essential to the validity of an election that every rule and detail prescribed by the election laws shall have been complied with, so long as it appears that an opportunity for a free and fair exercise of the elective franchise has been offered, yet when the failure to comply with such requirements tends to mislead and obstruct a full and fair exercise of such franchise, such disregard of requirements cannot be passed by with impunity. Territory ex re).

Naturalization Oath of Allegiance

Library Ledger with GW taking out Vattel and KEEPING

Congressional records, ordering Vattel's book

Franklin's letter validating Vattel being used to raise a state

WV Supreme Court case that says look to Vattel on Citizenship

Can it be doubted that congress can, by law, protect the act of voting, the place where it is done, and the man who votes from personal violence or intimidation, and the election itself from corruption or fraud? [110 U.S. 651, 662] If this be so, and it is not doubted, are such powers annulled because an election for state

officers is held at the same time and place? Is it any less important that the election of members of congress should be the free choice of all the electors, because state officers are to be elected at the same time? Ex parte Siebold, [100 U.S. 371](#). These questions answer themselves; and it is only because the congress of the United States, through long habit and long years of forbearance, has, in deference and respect to the states, refrained from the exercise of these powers that they are now doubted. But when, in the pursuance of a new demand for action, that body, as it did in the cases just enumerated, finds it necessary to make additional laws for the free, the pure, and the safe exercise of this right of voting, they stand upon the same ground, and are to be upheld for the same reasons.

It is said that the parties assaulted in these cases are not officers of the United States, and their protection in exercising the right to vote by congress does not stand on the same ground. But the distinction is not well taken. The power in either case arises out of the circumstance that the function in which the party is engaged or the right which he is about to exercise is dependent on the laws of the United States. In both cases it is the duty of that government to see that he may exercise this right freely, and to protect him from violence while so doing, or on account of so doing. This duty does not arise solely from the interest of the party concerned, but from the necessity of the government itself that its service shall be free from the adverse influence of force and fraud practiced on its agents, and that the votes by which its members of congress and its president are elected shall be the free votes of the electors, and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice.

Ward v. Flood, 48 Cal. 36.

[Digest of the reports of the Supreme Court of California: Volumes one to one hundred inclusive. 1895](#)

No. 140 September Term, 2003

[MICHAEL B. SUESSMANN et al. v. LINDA H. LAMONE et al.](#)

Even though we find that appellants have standing, it remains to be determined whether they have satisfied the elements of the cause of action laid out in § 12-202. Section 12-202(a) provides as follows:

“(a) In general. — If no other timely and adequate remedy is provided by this article, a registered voter may seek judicial relief from any act or omission relating to an election, whether or not the election has been held, on the grounds that the act or mission:

- (1) is inconsistent with this article or other law applicable to the elections process; and
- (2) may change or has changed the outcome of the election .”

Section 12-202(a) sets forth four elements to a judicial challenge to an election outcome. The first element is the absence of any other “timely and adequate remedy . . . provided by [the Election Law] article.” Id. The second element is an “act or omission relating to an election.” Id. The third element requires a showing that the act or omission be unlawful according to “law applicable to the elections process.” § 12-202(a)(1). And finally, the fourth element requires a showing that the act or omission “may change or has changed the outcome” of the election being challenged. § 12-202(a)(2). If appellants did not plead or cannot prove any of these elements, their complaint cannot be granted relief under § 12-202. I HAVE ALL 4 ELEMENTS

Assuming arguendo that appellants can satisfy elements one, two and three, they fail on element four. Appellants cannot show that there is a substantial probability that the outcome of the election would have been changed.

To sustain a judicial challenge pursuant to § 12-202, the litigant must prove, by clear and convincing evidence, a substantial probability that the outcome would have been different but for the illegality. This is the level of probability anticipated by § 12-202(a)(2)’s requirement that the judicial challenge be based on grounds that an illegal action “may change or has changed the outcome of the election.” A substantial probability, while less than a hundred percent, is significantly more than “more likely than not” and must be proven by clear and convincing evidence. See § 12-204(d) (stating that the standard of proof is clear and convincing evidence).

Appellants have not met this burden. Even were we to assume that all of appellants’ allegations are true, that “only a relatively small turnout [of unaffiliated voters would be necessary] to alter the outcome of the [March 2 judicial primary] election,” appellants have not alleged a single fact that would point to how those unaffiliated voters would have voted or even that they would have voted for a different candidate other than the winner.

A complaint that falls under § 12-202, thereby entitling the party to a three-judge panel of circuit court judges, must allege more than the act or omission could have changed the outcome of the election. A party must, instead, allege that there exists a substantial probability that the outcome of the election would have been changed. IF THE INELIGIBLE CANDIDATE WASN’T ON THE BALLOT, THEY COULDN’T HAVE VOTED FOR HIM, THEREBY CHANGING THE OUTCOME OF THE ELECTION!

Chancellor Kent, in the opening words of that part of his Commentaries which treats of the government and constitutional jurisprudence of the United States, says:

"The government of the United States was created by the free voice and joint will of the people of America for their common defense and general welfare. Its powers apply to those great interests which relate to this country in its national capacity, and which depend for their protection on the consolidation of the Union. It is clothed with the principal attributes of political sovereignty, and it is justly deemed the guardian of our best rights, the source of our highest civil and political duties, and the sure means of national greatness."

1 Kent's Comm. 201.

It is as essential to the successful working of this government that the great organisms of its executive and legislative branches should be the free choice of the people as that the original form of it should be so. In absolute governments, where the monarch is the source of all power, it is still held to be important that the exercise of that power shall be free from the influence of extraneous violence and internal corruption.

In a republican government like ours, where political power is reposed in representatives of the entire body of the people, chosen at short intervals by popular elections, the temptations to control these elections by violence and by corruption is a constant source of danger. Such has been the history of all republics, and, though ours has been comparatively free from both these evils in the past, no lover of his country can shut his eyes to the fear of future danger from both sources.

If the recurrence of such acts as these prisoners stand convicted of are too common in one quarter of the country, and give omen of danger from lawless violence, the free use of money in elections, arising from the vast growth of recent wealth in other quarters, presents equal cause for anxiety.

If the government of the United States has within its constitutional domain no authority to provide against these evils -- if the very sources of power may be poisoned by corruption or controlled by violence and outrage, without legal restraint -- then indeed is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it are at the mercy of the combinations of those who respect no right but brute force on the one hand, and unprincipled corruptionists on the other.

UNITED STATES v. SAYLOR, 322 U.S. 385 (1944)

The conclusion was that 19 protected personal rights of a citizen including the right to cast his ballot, and held that to refuse to count and return the vote as cast was as much an infringement of that personal right as to exclude the voter from the polling place. The case affirms that the elector's right intended to be protected is not only that to cast his ballot but that to have it honestly counted.

**UNITED STATES v. TOM MOSLEY and Dan Hogan.
No. 180. Submitted October 17, 1913**

"We regard it as equally unquestionable that the right to have one's vote counted is as open to protection by Congress as the right to put a ballot in a box."

Burson v. Freeman <http://www.law.cornell.edu/supct/html/90-1056.Z0.html>

"No right is more precious in a free country than that of having a choice in the election of those who make the laws under which, as good citizens, they must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).

Accordingly, this Court has concluded that a State has a compelling interest in protecting voters from confusion and undue influence. See *Eu*, 489 U.S., at 228-229.

The Court also has recognized that a State "indisputably has a compelling interest in preserving the integrity of its election process." *Id.*, at 231. The Court thus has "upheld generally applicable and evenhanded restrictions that protect the integrity and reliability of the electoral process itself." *Anderson v. Celebrezze*, 460 U.S. 780, 788, n. 9 (1983) (collecting cases). In other words, it has recognized that a State has a compelling interest in ensuring that an individual's right to vote is not undermined by fraud in the election process.

In conclusion, we reaffirm that it is the rare case in which we have held that a law survives strict scrutiny. This, however, is such a rare case. Here, the State, as recognized administrator of elections, has asserted that the exercise of free speech rights conflicts with another fundamental right, the right to cast a ballot in an election free from the taint of intimidation and fraud. A long history, a substantial consensus, and simple common sense show that some restricted zone around polling places is necessary to protect that fundamental right. Given the conflict between these two rights, we hold that requiring solicitors to stand 100 feet from the entrances to polling places does not constitute an unconstitutional compromise. The judgment of the Tennessee Supreme Court is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

Kelley v. Boettcher???

Prevost v. Gratz, 6 Wheat. 481

'It is certainly true that length of time is no bar to a trust clearly established; and, in a case where fraud is imputed and proved, length of time ought not, upon principles of eternal justice, to be admitted to repel relief. On the contrary, it would seem that the length of time during which the fraud has been successfully concealed and practiced is rather an aggravation of the offense, and calls more loudly upon a court of equity to grant ample and decisive relief.'

Lynch v. Clarke

()

Minor v. Happersett

Elk v. Wilkins (same justice, who knew what NBC was)

Perkins v. Elg ???

The Venus

The British doctrine on this subject is well known. ' Once a British subject, always a British subject,' is an established rule in the English law. Great Britain respects the naturalization laws of the United States only for commercial purposes. If one of her subjects be naturalized in this country, and afterwards return to a British territory, she considers him as still, to all intents and purposes, a British subject. She does not even require him to abjure his adopted allegiance.

1. The writers upon the law of nations distinguish between a temporary residence in a foreign country for a special purpose and a residence accompanied with an intention to make it a permanent place of abode. The latter is styled by Vattel "domicile," which he defines to be, "a habitation fixed in any place, with an intention of always staying there." Such a person, says this author, becomes a member of the new society, at least as a permanent inhabitant, and is a kind of citizen of an inferior order from the native citizens, but is nevertheless united and subject to the society without participating in all its advantages. This right of domicile, he continues, is not established unless the person makes sufficiently known his intention of fixing there, either tacitly or by an express declaration. Vattel. 92-93.

DISSENTING OPINION, although he agreed with the definition of domicile:

The whole system of decisions applicable to this subject rests on the law of nations as its base. It is therefore of some importance to inquire how far the writers on that law consider the subjects of one power residing within the territory of another, as retaining their original character or partaking of the character of the nation in which they reside.

Vattel, who, though not very full to this point, is more explicit and more satisfactory on it than any other whose work has fallen into my hands, says "The citizens are the

members of the civil society; bound to this society by certain duties, and subject to its authority, they equally participate in its advantages. The natives or indigenes are those born in the country of parents who are citizens. Society not being able to subsist and to perpetuate itself but by the children of the citizens, those children naturally follow the condition of their fathers, and succeed to all their rights."

"The inhabitants, as distinguished from citizens, are strangers who are permitted to settle and stay in the country. Bound by their residence to the society, they are subject to the laws of the state while they reside there, and they are obliged to defend it because it grants them protection, though they do not participate in all the rights of citizens. They enjoy only the advantages which the laws or custom gives them. The perpetual inhabitants are those who have received the right of perpetual residence. These are a kind of citizens of an inferior order, and are united and subject to the society, without participating in all its advantages."

"The domicile is the habitation fixed in any place with an intention of always staying there. A man does not, then, establish his domicile in any place unless he makes sufficiently known his intention of fixing there, either tacitly or by an express declaration. However, this declaration is no reason why, if he afterwards changes his mind, he may not remove his domicile elsewhere. In this sense, he who stops, even for a long time, in a place for the management of his affairs has only a simple habitation there, but has no domicile."

A domicile, then, in the sense in which this term is used by Vattel, requires not only actual residence in a foreign country, but "an intention of always staying there."

Actual residence without this intention amounts to no more than "simple habitation."

Inglis v. Trustees of Snug Harbor

If he was born after the 15th of September 1776, and his parents did not elect to become members of the state of New York, but adhered to their native allegiance at the time of his birth, then he was born a British subject. If he was in either way born a British subject, then he is to be deemed an alien and incapable to take the land in controversy by descent; unless he had become at the time of the descent cast an American citizen, by some act sufficient in point of law to work such a change of allegiance.

What then is the operation of the treaty of 1783? It is clear to my mind, that the father of the demandant must be considered as a party to that treaty on the British side. I say this upon the presumption, which is not denied, that he was then adhering to the British crown; and that he was there recognized and protected as a subject owing allegiance to the British crown. In this state of things the treaty must, upon the grounds which I have already stated, be deemed to operate as an admission that he was in future to owe no allegiance to the state of New York, but he

was to be deemed a British subject.

The question then arises as to what was the operation of the treaty upon his son, the demandant, who was then an infant of tender years, and incapable of any election on his own part. It appears to me, that upon principles of public law as well as of the common law, he must if born a British subject, be deemed to adhere to, and retain the national allegiance of his parents, at the time of the treaty. Vattel considers the general doctrine to be, that children generally acquire the national character of their parents (Vattel, B. 1, ch. 19. sec. 212, 219); and it is certain, both by the common law and the statute law of England, that the demandant would be deemed a British subject. The argument itself assumes that the demandant now acts officially in that character, and that ever since his arrival of age he has adhered to his British allegiance.

4. If the grand assise shall find, that Charles Inglis the father, and John Inglis the demandant, did, in point of fact, elect to become and continue British subjects, and not American citizens, the demandant is an alien, and disabled from taking real estate by inheritance.

Free government is a republican form of government in which the powers are divided between departments, preferably, legislative, executive, and judicial. The following is an example of a case law referring to free government: Free government consists of three departments, each with distinct and independent powers, designed to operate as a check upon those of the other two co-ordinate branches. The legislative department makes the laws, while the executive executes and the judiciary construes and applies them. Each department is confined to its own functions and can neither encroach upon nor be made subordinate to those of another without violating the fundamental principle of a republican form of government. [In re Davies, 168 N.Y. 89, 101-102 (N.Y. 1901)].

Smith v. Higinbotham, 187 Md. 115, 48 A.2d 754 (1946).

It is a fundamental doctrine that all reasonable regulations which the General Assembly deems important to guard against corruption and to preserve the purity of elections are not only within the constitutional power of the General Assembly but commendable if not absolutely essential.

PLANTERS BANK V. ST. JOHN.

Bryant v. Ela ???

Bronson v. Woolsey???

Mr. Justice Wayne, in delivering the opinion of the court, says:

'In a case of actual fraud, courts of equity give relief after a long lapse of time,—much longer than has passed since the executors, in this instance, purchased their testator's estate. In general, length of time is no bar to a trust clearly established to have once existed; and, where fraud is imputed and proved, length of time ought not to exclude relief. * * * There is no rule in equity which excludes the consideration of circumstances, and, in a case of actual fraud, we believe no case can be found in the books in which a court of equity has refused to give relief within the lifetime of either of the parties upon whom the fraud is proved, or within thirty years after it has been discovered or becomes known to the party whose rights are affected by it.' *McIntire v. Pryor* 173 U.S. 38 (1899)

I am of opinion that no state can make the subject of a foreign prince a citizen of the state in any other mode than that provided by the naturalization laws of congress; that when the constitution (article 1, § 8) says that congress shall have power “to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States,” it designed these rules, when established, to be the only rules by which a citizen or subject of a foreign government could become a citizen or subject of one of the states of this Union, and thereby owe allegiance to such state, and to the United States, and cease to owe it to his former government. *Lanz v. Randall*, 4 Dill. 425 (1876)

City of Minneapolis v. Reum, 1893, 56 Fed., 576

A foreign subject who is qualified to become a citizen of the United States, under section 2167 of the Revised Statutes, does not become such by filing his declaration of intention so to do. 'That section requires that he shall renounce allegiance to the sovereignty of which he is a subject, take the oath of allegiance to the United States, and comply with the other conditions prescribed in the second and third paragraphs of section 216'5 of the Revised Statutes, in order to become naturalized; and until he does so he remains a foreign subject.

Slaughterhouse Cases - 83 U.S. 36 (1872)

The first observation we have to make on this clause is that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the *Dred Scott* decision by making all persons born within the United States and subject to its jurisdiction citizens of

the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase, "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign States born within the United States.

Wong Kim Ark
WKA LIE

In *Smith v. Alabama*, Mr. Justice Matthews, delivering the judgment of the court, said:

There is no common law of the United States, in the sense of a national customary law, distinct from the common law of England as adopted by the several States each for itself, applied as its local law, and subject to such alteration as may be provided by its own statutes. . . . There is, however, one clear exception to the statement that there is no national common law. The interpretation of the Constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history.

Smith ACTUALLY SAYS:

The question presented by the record is whether a child born in the United States, of parents of Chinese descent, who, at the time of his birth, are subjects of the Emperor of China, but have a permanent domicil and residence in the United States, and are there carrying on business, and are not employed in any diplomatic or official capacity under the Emperor of China, becomes at the time of his birth a citizen of the United States by virtue of the first clause of the Fourteenth Amendment of the Constitution.

...

The Civil Rights Act, passed at the first session of the Thirty-ninth Congress, began by enacting that all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States, and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains and penalties, and to none other, any law, statute, ordinance, regulation or custom to the contrary notwithstanding.

Act of April 9, 1866, c. 31, § 1; 14 Stat. 27.

The same Congress, shortly afterwards, evidently thinking it unwise, and perhaps unsafe, to leave so important a declaration of rights to depend upon an ordinary act of legislation, which might be repealed by any subsequent Congress, framed the Fourteenth Amendment of the Constitution, and, on June 16, 1866, by joint resolution, proposed it to the legislatures of the several States, and on July 28, 1868, the Secretary of State issued a proclamation showing it to have been ratified by the legislatures of the requisite number of States. 14 Stat. 358; 1 Stat. 708.

---The real question is which court (Elk or Ark) was the question of “subject to the jurisdiction” part of the court’s holding? The answer is, Elk. In Wong Kim Ark the definition of “subject to the jurisdiction” was not part of the holding, but only passing dicta.

WKA dissent: The most significant truth to come out of the entire Wong Kim Ark ruling comes from Chief Justice Fuller himself when he said, “the words ‘subject to the jurisdiction thereof,’ in the amendment, were used as synonymous with the words ‘and not subject to any foreign power.’” He was absolutely correct.

It is worth mentioning that it was the U.S. government who argued Wong Kim Ark was not born subject to the jurisdiction of the United States and it was also the government that appealed to the Supreme Court. Obviously, the Federal Government had no difficulty in understanding the words of its own revised statutes or constitutional amendment.

Benny v. O’Brien

k. Pennsylvania

i. In re Estate of Aiello, 993 A.2d 283, 287-88 (Pa. 2010). “[L]aches is an equitable doctrine which bars relief when the complaining party is guilty of want of due diligence in failing to promptly institute the action to the prejudice of another.” Because the executor engaged in continuous breaches of his fiduciary duty, however, the court refused to apply laches, indicating that “[a] party seeking equitable relief must come before the court with clean hands.”

1350 British laws til now

<http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2068&context=mlr>

Test of citizenship case

(The facts disclosed in this case, then, lead irresistibly to the conclusion that it was the fixed determination of Charles Inglis the father, at the declaration of independence, to adhere to his native allegiance. And John Inglis the son must be deemed to have followed the condition of his father, and the character of a British subject attached to and fastened on him also, which he has never attempted to throw off by any act disaffirming the choice made for him by his father.)

The Nereide - 13 U.S. 388 (1815)

Banco Nacional de Cuba v. Sabbatino 376 U.S. 398 (1964)

Vattel's 212 meaning

LAWS ABOUT NO COMMON LAW HERE

British Nationality Act of 1948

Kenyan Hansard

Articles of Kenyan Born Obama

All links are here to congressional records

<https://docs.google.com/document/d/1zPRYmTSeOpSvXr0rXVun-WIw1OtWxYY9dOstdQmMIqo/edit>

Papers Relating to the Foreign Relations of the United States (naturalization cases)

http://books.google.com/books?id=GWNIAAAAYAAJ&pg=PA814&lpg=PA814&dq=%22richard+greisser%22+germany+ohio+1867&source=bl&ots=ZlmsA_mowG&sig=JsoyMb002Uro5ISBTQbG8j7gTVA&hl=en&sa=X&ei=6K8oUZCiKqy10QHCnoGYDQ&ved=0CE8Q6AEwBA#v=onepage&q=%22richard%20greisser%22%20germany%20ohio%201867&f=false

Bryant i'. Ela. Vattel

http://www.archive.org/stream/decisionsofsuper00newh/decisionsofsuper00newh_djvu.txt

Many on the left try to say that the Founders did not follow Vattel and that the definition did not come from his writings. However we have proven that Vattel was held to the highest authority, by many of the Founders and [cited over 91 times from 1789 to 1845, more than any other authority!](#) Including: [Cases citing Vattel](#)

Also, remember hearing the story about George Washington and the overdue library book that he failed to return, which racked up \$300,000 in fines? Wanna try

and guess the name of the book? VATTEL'S "LAW OF NATIONS!", COINCIDENCE?
[CLICK HERE FOR THE STORY](#) [Click here for Direct Proof from the Library](#)

Then In 1775, you have letters from Benjamin Franklin himself, thanking Charles Dumas for the 3 copies of Vattel that he sent and the letter states:

"I am much obliged by the kind present you have made us of your edition of Vattel. It came to us in good season, when the circumstances of a rising state make it necessary frequently to consult the Law of Nations." [Click here for Actual Letter](#)

This letter PROVES beyond reasonable doubt that the Founders consulted Vattel's Law of Nations, while writing the Declaration of Independence and the Constitution (a rising state)!

From the 1912 *Library of American Law and Practice: Patent Law. International Law. Conflict of Laws.*

Other writers enlarged and revised the system Grotius had founded; notably Puffendorf, Bynkershook, Wolffe, and others, culminating for the eighteenth century in Vattel's work on the "Law of Nations" published in French in 1758. He was a diplomatist, and simplified and applied practically the general rules of the science of international law to the whole range of intercourse between nations and their subjects. The American statesmen of the revolutionary era were conversant with Vattel's work, and the spirit of his teachings breathes in the opening of our Declaration of Independence :

"When in the course of human events it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume, among the powers of the earth, the separate and equal station, to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes which impel them to the separation."

As well as Samuel Adams from "Law, the State, and the International Community" [1939]

"There has always been some slight difference of opinion as to the rights and duties of the colonists in their relation to the sovereign. But after the Seven Years' War these differences were greatly magnified when legislation affecting the colonies became the order of the day in England, on the theory that the British

Parliament could legislate as freely for the colonies as it did for the United Kingdom. The colonies did not accept that view, having developed, as we have seen, a different conception, according to which they claimed that, while they owed allegiance to the Crown, they had the right to legislate for themselves; and so firmly did they cling to these views that eventually, rather than relinquish them, they declared their independence to the mother country.

So much for the general issue. But upon what specific ground did the colonists differ from the mother country? On the ground that the attempt of the Parliament to interfere with the rights of the colonists was a violation of what James Otis, in his famous speech at Boston in 1764 on writs of assistance, considered the law of nature. His language (and some subsequent passages material to the controversy) are quoted from Professor Ernest Barker's Introduction to his translation of Otto Gierke's *Natural Law and the Theory of Society --1500 to 1800* "should an act of Parliament be against and of His"--meaning God's--"natural laws...the declaration would be contrary to eternal truth, equity and justice, and consequently void."

Professor Barker prefaces his quotation from the speech of the fiery New England lawyer with a reference to the dictum of a distinguished English judge in 1614 on "the immutable laws of nature" and calls attention to the fact that Otis employed the very expression used by the learned judge, which "becomes a battle-cry; it is often used by the great Boston agitator Samuel Adams; and perhaps at his instigation it is inserted in the Declaration of the first Continental Congress, in 1774, when the deputies declare that the colonies, by the immutable laws of nature, have certain rights, and that certain Acts of Parliament are violations and infringements of these rights". Here it may be remarked that the resistance of the colonies was based both upon violations of natural law and upon the fact that in the colonial conception the British Parliament was devoid of jurisdiction over the colonies. But it was the law of nature which provided the most effective ammunition for colonial arguments. To continue the quotation from Professor Barker:

In the Puritan atmosphere of North America the secular Law of Nature recovers its theological basis: Samuel Adams claims for his countrymen the indefeasible rights with which "God and Nature have invested" them; and the Declaration of Independence claims for the people of America the station to which they are entitled by "the Laws of Nature and of Nature's God." It was the Law of Nature which, more than any other force, exploded the authority of the British Parliament and the British connection; and it is curious to reflect that Vattel's work on the principles of Natural Law was currently used in the *sodalitas* of the Boston

Lawyers (a sort of political science club) during the crucial years of the Revolution.

It is perhaps no so curious as Professor Barker suggests that Vattel's work should have been quoted. In the first place, the treatise was the contribution of a distinguished Swiss--and the people of the Western World have always cherished an admiration for Switzerland. In addition, it was then a very recent work, the first edition having been published in 1758. And as it was early translated into English, it is not improbable that copies of the English version were at the disposal of certain American men of affairs, to be read without the need of a French dictionary at their elbows. And finally, Vattel's work was looked upon throughout the world as a standard treatise on international law."

Proof of Vattel in Congress (letters) records ordering the book, GW ledger

Then you have Congressional records proving that they again, in 1794 ordered more copies of Vattel's Law of Nations as shown here: ["Ordered, That the Secretary purchase Blackstone's Commentaries, and Vattel's Law of Nature and Nations, for the use of the Senate."](#)

Plus, in 1772, the rector of William & Mary College asked Thomas Jefferson to add an addition, which was halted by the Revolutionary War. Later, as the Governor of Virginia and a member of the William & Mary Board of Visitors, Jefferson drafted reforms of the curriculum and governance of the College and chairs of Medicine, Law and Modern Languages were introduced. The law book that was used for the law course was Vattel's Law of Nations. [SOURCE FROM WILLIAM & MARY](#)

Vattel Schools

<http://books.google.com/books?id=XQgrjw9qiqcC&pg=PA554&dq=constitution+vattel&hl=en&sa=X&ei=eOI8UYXlCemP0QHjxYCQAw&ved=0CEIQ6AEwAw#v=onepage&q=vattel&f=false>

Vattel at Yale in 1777 by President Stiles (the literary diary of Ezra Stiles)

Page 317

<http://books.google.com/books?id=XQgrjw9qiqcC&pg=PA554&dq=constitution+vattel&hl=en&sa=X&ei=eOI8UYXlCemP0QHjxYCQAw&ved=0CEIQ6AEwAw#v=onepage&q=vattel&f=false> University of VA Law School 1851. School divided into 3 courses.

Junior (essential classes) Vattel's Law of Nations

Foundations of American Constitutionalism By David A. J. Richards Professor of Law
New York University School of Law (search for Vattel)

http://books.google.com/books?id=B7y_IR_WahwC&pg=PA70&dq=constitution+vattel&hl=en&sa=X&ei=H-08UbCbG4bZ0wHkqoDABw&ved=0CDAQ6AEwADgK#v=onepage&q=vattel&f=false

<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=231&invol=9#22>

The case of *LURIA v. U S*, 231 U.S. 9 (1913) 231 U.S. 9 states:

Citizenship is membership in a political society, and implies a duty of allegiance on the part of the member and a duty of protection on the part of the society. These are reciprocal obligations, one being a compensation for the other. Under our Constitution, a naturalized citizen stands on an equal footing with the native citizen in all respects, save that of eligibility to the Presidency. *Minor v. Happersett*, 21 Wall. 162, 165, 22 L. ed. 627; *Elk v. Wilkins*, [112 U.S. 94, 101](#), 28 S. L. ed. 643, 645, 5 Sup. Ct. Rep. 41; *Osborn v. Bank of United States*, 9 Wheat. 738, 827, 6 L. ed. 204, 225.

Motion for Reconsideration

¶32 As a final matter, the Westburgs contend that the circuit court erred in denying their motion for reconsideration. We review a circuit court's decision on a motion for reconsideration for an erroneous exercise of discretion. *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶6, 275 Wis. 2d 397, 685 N.W.2d 853. To prevail on a motion for reconsideration, the movant must present either newly discovered evidence or establish a manifest error of law or fact. *Id.*, ¶44.

<http://www.justice.gov/opa/pr/2012/October/12-opa-1245.html> Voter Fraud Call
FBI **Criminal Division and the Department's 94 U.S. Attorneys' Offices:**

The Department's Criminal Division oversees the enforcement of federal laws that criminalize certain election fraud and vindicate the integrity of the federal election process.

The Criminal Division's Public Integrity Section and the Department's 94 U.S. Attorneys' Offices are responsible for enforcing the federal criminal laws that prohibit various forms of election fraud, such as vote buying, multiple voting,

submission of fraudulent ballots or registrations, destruction of ballots or registrations, alteration of votes and malfeasance by election officials .

Preface to the 1999 Digital Edition of The Law of Nations

This digital edition is taken from the 1883 printing of the 1852 edition of Joseph Chitty, which contained numerous typographical and spelling errors which have been silently corrected. We have followed Chitty's convention of surrounding his endnotes in parentheses, and indicating which endnotes are his and which are from previous editions, but we have converted Vattel's footnotes into numbered chapter endnotes. We have also silently substituted chapter and section references for page references wherever these can be ascertained, and made a few other minor changes and additions, indicated by enclosure in square brackets. Greek characters have been converted into Latin characters pending support for the Greek character set in these digital formats.

This 1758 work by Swiss legal philosopher Emmerich de Vattel is of special importance to scholars of constitutional history and law, for it was read by many of the Founders of the United States of America, and informed their understanding of the principles of law which became established in the Constitution of 1787. Chitty's notes and the appended commentaries by Edward D. Ingraham, used in lectures at William and Mary College, provide a valuable perspective on Vattel's exposition from the viewpoint of American jurists who had adapted those principles to the American legal experience.

Endnotes added to this digital edition are separately numbered, with the numbers surrounded by double square brackets [[]].

All errors are the responsibility of the digital editor and anyone finding an error is urged to submit the correction. Particular attention should be paid to the Latin and Greek endnotes, which may contain errors taken from the printed editions.

Jon Roland, April 26, 1999

PREFACE TO THE [1797] EDITION.

THE merits and increasing utility of this admirable work have not, as yet, been sufficiently known, or justly appreciated. It has been generally supposed that it is only adapted for the study of sovereigns and statesmen, and in that view certainly the author's excellent Preface points out its pre-eminent importance. But it is *of infinitely more extended* utility. It contains a practical collection of ethics, principles, and rules of conduct to be observed and pursued, as well by private *individuals* as by states, and these of the utmost practical importance to the well-being, happiness, and ultimate and permanent advantage and benefit of all

mankind; and, therefore, ought to be studied by every *gentleman of liberal education*, and by youth, in whom the best moral principles should be inculcated. The work should be familiar in the *Universities*, and in every class above the inferior ranks of society. And, as regards *lawyers*, it contains the clearest rules of construing private *contracts*, and respecting the Admiralty and Insurance Law. The positions of the author, moreover, have been so sensibly and clearly supported and explained, and so happily illustrated by historical and other interesting examples, that the perusal cannot fail to entertain as well as instruct. The present Editor, therefore, affirms, without the hazard of contradiction, that every one who has attentively read this work, will admit that he has acquired a knowledge of superior sentiments and more important information than he ever derived from any other work.

PREFACE [Vattel 1758]

The law of nations is the law of sovereigns. It is principally for them, and for their ministers, that it ought to be written. All mankind are indeed interested in it; and, in a free country, the study of its maxims is a proper employment for every citizen; but it would be of little consequence to impart the knowledge of it only to private individuals, who are not called to the councils of nations, and who have no influence in directing the public measures. If the conductors of states, if all those who are employed in public affairs, condescended to apply seriously to the study of a science which ought to be their law, and, as it were, the compass by which to steer their course, what happy effects might we not expect from a good treatise on the law of nations! We every day feel the advantages of a good body of laws in civil society: — the law of nations is, in point of importance, as much superior to the civil law, as the proceedings of nations and sovereigns are more momentous in their consequences than those of private persons.

"Nations," **13** says he, "do not, in their mutual relations to each other, acknowledge any other law than that which Nature herself has established. Perhaps, therefore, it may appear superfluous to give a treatise on the law of nations, as distinct from the law of nature. But those who entertain this idea have not sufficiently studied the subject. Nations, it is true, can only be considered as so many individual persons living together in the state of nature; and, for that reason, we must apply to them all the duties and rights which nature prescribes and attributes to men in general, as being naturally born free, and bound to each other by no ties but those of nature alone. The law which arises from this application, and the obligations resulting from it, proceed from that immutable law founded on the nature of man; and thus the law of nations certainly belongs to the law of nature: it is, therefore, on account of its origin, called the *natural*, and, by reason of its obligatory force, the *necessary* law of nations. That law is common to all nations; and if any one of them

does not respect it in her actions, she violates the common rights of all the others.
13. A nation here means a sovereign state, an independent political society.

THE LAW OF NATIONS

PRELIMINARIES.

IDEA AND GENERAL PRINCIPLES OF THE LAW OF NATIONS.

§ 1. What is meant by a nation or state.

NATIONS or states are bodies politic, societies of men united together for the purpose of promoting their mutual safety and advantage by the joint efforts of their combined strength.

§ 3. Definition of the law of nations.

The Law of Nations is the science which teaches the rights subsisting between nations or states, and the obligations correspondent to those rights. (1)

§ 8. It is immutable

Since therefore the necessary law of nations consists in the application of the law of nature to states, — which law is immutable, as being founded on the nature of things, and particularly on the nature of man, — it follows that the *Necessary* law of nations is *immutable*.

INFRINGING UPON MY NATURAL RIGHTS

<http://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=3506&context=wlulr>

On June 12, 1776, the Virginia Convention adopted the Declaration of Rights, which was to become one of the most influential documents in American history. It solemnly asserted "that all men...have certain inherent natural rights." This was the first deliberate adoption of the natural rights philosophy as the basis for political organization anywhere in the world. Throughout the period immediately preceding and overlapping the Revolution the dissentient religious bodies were vigorously claiming their natural right to be free from the established church.

Although the doctrine of natural rights played a most important role in severing our ties with England, the philosophy was clearly much more than a handy weapon of utility and opportunism. After the Revolution had been won, the people and such leaders as Thomas Jefferson continued to assert its primary role in defining man's relation to his temporal government. When the Statute for Religious Freedom was adopted in 1785, it recognized that man "has a natural right" to religious freedom. It concluded with the statement "that the rights hereby asserted are of the natural rights of mankind and that if any act shall be hereafter passed to repeal the present or to narrow its operations, such act will be an infringement of natural right."

Three years later there was much opposition in the Convention of June, 1788, called at Richmond to deliberate ratification of the United States Constitution, because it contained inadequate provision for the natural rights dear to Virginians." That October the Assembly adopted a resolution, the work of Patrick Henry, requesting Congress to call a national convention at once to put into the Constitution a bill of rights "to secure to ourselves and our latest posterity the great and inalienable rights of mankind."¹ Just prior to the ending of the memorable century, in 1798, there was again much stress placed upon our natural rights in the Virginia Assembly by Messrs. Daniel, Mercer, Nicholas, and Taylor who argued, for the majority, that the federal alien and sedition laws were utterly invalid as violative of our natural rights of freedom and expression.'

BASES OF THE NATURAL RIGHTS

The Virginia Founding Fathers were in substantial agreement that the ultimate source of our natural rights was our Creator. Men "are endowed by their Creator" with inherent and inalienable rights, said Thomas Jefferson in the memorable language of the Declaration of Independence.¹⁴ Earlier Jefferson had written in his Summary View that "the God who gave us life gave us liberty at the same time."⁵ We have natural rights of the intellect, he indicated, "because Almighty God hath created the mind free . . ."¹⁶ Speaking of the natural right of expatriation, Jefferson said in the Summary View: "The evidence of this natural right, like that of our right to life, liberty, the use of our faculties, the pursuit of happiness, is not left to the feeble and sophistical investigations of reason, but is impressed on the sense of every man. We do not claim these under the charters of kings or legislators, but under the King of kings."⁷ In his Notes on Virginia, Jefferson wrote: "And can the liberties of a nation be thought secure when we have removed their only firm basis, a

conviction in the minds of the people that these liberties are the gift of God?"¹⁸ Speaking there of our natural rights, he concluded: "We are answerable for them to our God."¹⁹ It was in the Summary View in which Jefferson asserted that Parliament had no power to encroach "upon those rights which God and the laws have given equally and independently to all."²⁰ Later in life Jefferson wrote that we must follow "those moral rules which the Author of our being has implanted in man as the law of his nature to govern him in his associated, as well as individual character."²¹ That the natural rights of man came from God, in Jefferson's belief, was beyond doubt.

Another leading Virginian, George Mason, was equally clear in asserting that the obligation of man to his Maker was the source of natural rights. In 1772 he wrote:

"Now all acts of legislature apparently contrary to natural right and justice, are, in our laws, and must be in the nature of things, considered as void. The laws of nature are the laws of God: A legislature must not obstruct our obedience to him from whose punishments they cannot protect us. All human constitutions which contradict His laws, we are in conscience bound to disobey. Such have been the adjudications of our courts of justice."

The Fathers rather frequently indicated that our rights were founded on the law of nature. Richard Henry Lee rather typically spoke of "our just and legal possession of property and freedom, founded in the law of nature."³⁷ Richard Bland often recurred to "the Law of Nature, and those Rights of Mankind which flow from it". In his Summary View in 1774 Thomas Jefferson said that the colonists were "claiming their rights derived from the laws of nature."³⁹ Similarly, in the Declaration of Independence he stated that our rights were derived "from the laws of nature and of nature's God."⁴⁰ The Virginians were obviously not alone in sensing a relationship between natural rights and the law of nature.

There are, indeed, statements by Jefferson which, taken alone, might indicate that he accepted no legislative diminution of our natural rights. He once wrote: "The true office is to declare and enforce only our natural rights and duties, and to take none of them from us....,"⁵² On another occasion he stated rather broadly that "our liberty depends on the freedom of the press, and that cannot be limited without being lost."

Not only could freedom of religion be limited according to the Fathers, but so too could freedom of expression and other natural rights when they broke out into acts injurious to others. "The legitimate powers of government," wrote

Jefferson, "extend to such acts only as are not injurious to others." 0' 0 when the equal rights of others were being violated by activity, natural rights could be restrained, at least by the democratically elected representatives of the people whose natural rights were being limited. Jefferson said: "This, like all other natural rights, may be abridged or modified in its exercise by their own consent, or by the law of those who depute them, if they meet in the right of others."

It is of the utmost importance to perceive that the Founding Fathers, in consenting to limitations upon the natural rights, taught us that these rights could not be restrained by the state nor denied unless it was imperatively necessary to safeguard the common good against immediate danger. In stating that the evidence of natural law and natural rights can be seen by the mind and heart of every rational man, Jefferson observed: "It is there nature has written her moral laws, and where every man may read them for himself. He will never read there the permission to annul his obligations for a time, or forever, whenever they become dangerous, useless or disagreeable.... And though he may, under certain degrees of danger, yet the danger must be imminent, and the degree great." This insistence that natural rights prevailed unless there was a clear and present danger to a vital interest of society was made by others.

<http://www.lincoln.edu/criminaljustice/hr/Civilandpolitical.htm>

POLITICAL RIGHTS

These rights guarantee the positive liberty to contribute to the process of governing the affairs of society in which one lives. Political rights presume that the government processes should be structured so as to provide opportunities for political participation of all eligible citizens. According to the modern concept of political rights, every citizen should have the right and opportunity, without unreasonable restrictions, to take part in the conduct of public affairs, directly or through chosen representatives.

While political rights are very much emphasized in the US, the percentage of Americans who choose to actively participate political process is one of the lowest among industrialized nations. This fact alone speaks volumes about the political environment in which American citizens are expected to exercise their political freedoms. For example, in the 2000 presidential campaign, for example, less than 50 percent of the eligible voters cast their ballots. ♦ Scholars differ on why this decline in voting has occurred from the high point of the late 19th century, when voting rates regularly ran at 85 percent or better of qualified voters. Some historians attribute the decline to the corresponding decline in the importance of political parties in the daily

lives of the people. Others think that the growth of well-moneyed interest groups has led people to lose interest in elections fought primarily through television and newspaper advertisements. When non-voters are queried as to why they did not vote the answers range widely. There are those who did not think that their single vote would make a difference, and those who did not believe that the issues affected them, as well as those who just did not care ♦ a sad commentary in light of the long historical movement toward universal suffrage in the United States.

But many people were reminded by the closeness of the 2000 presidential election that the individual's vote does count. A shift of fractions of a percentage point in half-a-dozen states could easily have swung the election the other way. Perhaps as a result, Americans in the future will not take this important right, a right that lies at the very heart of the notion of "consent of the governed," quite as much for granted.

It is proper to offer proof of *fraud* and intimidation to the end that it may be determined whether there has been a *free* and fair *election*, to decide if voters have been deprived of a *free* expression of opinion.

FREE GOVERNMENT: In particular, free government is designed to guard against the most insidious danger of government by the people-the tyranny of the majority over minorities.

The Declaration and Resolves of the First Continental Congress

That the inhabitants of the English colonies in North-America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following RIGHTS:

Resolved, N.C.D. 4. That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council:

A state of unrestrained political corruption is known as a [kleptocracy](#), literally meaning "rule by thieves".

Corruption poses a serious development challenge. In the political realm, it

undermines democracy and [good governance](#) by flouting or even subverting formal processes. Corruption in elections and in legislative bodies reduces accountability and distorts representation in policymaking; corruption in the judiciary compromises the [rule of law](#); More generally, corruption erodes the institutional capacity of government as procedures are disregarded, resources are siphoned off, and public offices are bought and sold. At the same time, corruption undermines the legitimacy of government and such democratic values as trust and tolerance.

Main article: [Electoral fraud](#)

Electoral fraud is illegal interference with the process of an [election](#). Acts of [fraud](#) affect vote counts to bring about an election result, whether by increasing the vote share of the favored candidate, depressing the vote share of the rival candidates, or both. Also called voter fraud, the mechanisms involved include illegal voter registration, intimidation at polls, and improper vote counting.

In a [narrow election](#) a small amount of fraud may be enough to change the result. Even if the outcome is not affected, fraud can still have a damaging effect if not punished, as it can reduce voters' confidence in [democracy](#). Even the perception of fraud can be damaging as it makes people less inclined to accept election results. This can lead to the breakdown of democracy and the establishment of a [dictatorship](#).

negligence

malfeasance

infringement of rights (1st, 14th)

In violation of laws by omitting duties

Definition of *LIBERTY*

1

: the quality or state of being free:

a : the power to do as one pleases

b : freedom from physical restraint

c : freedom from arbitrary or despotic control

d : the positive enjoyment of various social, political, or economic rights and privileges

e : the power of choice

2

a : a right or immunity enjoyed by prescription or by grant : privilege

b : permission especially to go freely within specified limits

3

: an action going beyond normal limits: as

a : a breach of etiquette or propriety : familiarity

b : risk, chance <took foolish *liberties* with his health>

c : a violation of rules or a deviation from standard practice

d : a distortion of fact

Definition of *SOVEREIGNTY*

1

obsolete : supreme excellence or an example of it

2

a : supreme power especially over a body politic

b : freedom from external control : autonomy

c : controlling influence

<http://books.google.com/books?id=A2YyAQAAMAAJ&pg=PA755&dq=free+fai+r+elections+fraUD+COURT&hl=en&sa=X&ei=YoljUcDm08yN0QHar4HYBg&ved=0CGMQ6AEwCQ#v=onepage&q=scholl&f=false> page 751 4. 5. 6. 7. 8. 25. 28.

Shall judge the eligibility, judge set aside page 754 1. 1b. 1c. 2b. 4a. 4b. page 757 2. page 777 Fraud

<http://opinionator.blogs.nytimes.com/2011/06/20/is-voting-speech/>

The Nevada Supreme Court agreed and held the relevant statute unconstitutional because voting contains “a communicative element” and “serves an important role in political speech.” The respondent’s brief in the U.S. Supreme Court case cites to Miller v. Town of Hull (1st Circuit, 1989): “There can be no more definitive expression of opinion than by voting on a controversial public issue.” Justice Samuel Alito, in a concurring opinion that is really a dissent, echoes the sentiment: “Voting has an expressive component in and of itself.”

The question is what exactly does a vote express? Carrigan’s side argues (and Alito agrees) that a vote expresses pretty much everything a voter thinks about an issue and every risk he takes by declaring himself: “Our history is rich with tales of legislators using their votes to express deeply held and

highly unpopular views, often at great personal or political peril."

<http://lewrockwell.com/orig11/tyner9.1.1.html> In short, the states are sovereign nations, and according to their constitutions, the people are their sovereign rulers. I've pointed to a number of old documents confirming this, but here is something more recent. The Department of State [lists](#) (see [page 289](#)) the Treaty of Paris' Article 1 (the article mentioned above) as still being in force as of January 1, 2010. Even the federal government, however obscurely, still recognizes that the states are sovereign. It is up to the people to (re)assert this sovereignty.

Madison and Jefferson said it best: because if the states are *not* sovereign nations, then they are subordinate to the federal government-- and thus the federal government *becomes the supreme judge of its own powers*. FROM....
BELOW

<http://yourstateissovereign.blogspot.com/>

1. YOUR STATE IS A SOVEREIGN NATION-- "AMERICA" IS NOT!

Since 1776 onward, the states mutually recognized each other as sovereign nations-- and no state ever expressly changed that, either voluntarily or otherwise. "America--" also known as "the United States of America--" is telling, since it is not even a name; on the contrary, the phrase "United States" it is simply a *descriptive* phrase, while "America" simply refers to its *location*; these were simply used by the sovereign states in order to reference them in their various different associations.

Under the Declaration of Independence, each state is expressly stated and described as a sovereign nation; this is likewise expressly retained in the articles of Confederation, and finally recognized by foreign nations in 1783. *At no time* did the states *ever* join together to form a single sovereign nation-- *ever!*

WHAT IS "SOVEREIGNTY?"

Sovereignty means an independent nation, like England or France-- i.e. it is not subordinate to any *other* nation. In the American states, this means that each state is *popularly* sovereign-- i.e. each state is ruled by the will of its *popular majority* as the highest authority on earth.

Don't believe it? VERIFY-- CHECK IT OUT FOR YOURSELF: *ask* your congressman, newspaper-editor, judge, law-professor, college, or anyone who you would consider an "authority" or "expert," exactly

what law gives the federal government *national* authority over any state.

Ask them to show you the *exact* line in the Constitution, Declaration of Independence, or anything else, which shows that the states intended to give the federal government supreme national authority over your state: either they won't be able to, or they'll be clearly evading the truth-- often giving a different answer, with each source you ask.

However one thing is certain: if your government can't *prove* the legal *basis* for its authority over you... then it doesn't have any-- *except in a dictatorship*.

WHAT ABOUT THE "SUPREMACY CLAUSE?"

So a state's People, can exercise their sovereign national authority to overrule the federal government, in any way they wish-- just like any sovereign nation can vote to overrule a foreign government.

Again, sovereignty does not pertain to a *law*-- it pertains to the person (or persons) who are the nation's *supreme ruler*, which can choose *apply* the law any way it sees fit: its rule is *final*.

And in each of the American states, these rulers were the state's *people*-- i.e. its voting citizens.

DOESN'T THE CONSTITUTION *SURRENDER* EACH STATE'S SOVEREIGNTY, AND FORM THEM INTO A SINGLE NATION?

NO! This is the biggest lie *ever told* in America-- other than perhaps the claim that the states formed a single nation in 1776, since this was the basis for claiming that the federal government claiming that it could *kill* anyone who *attempts* to rule their state as a sovereign nation; and accordingly, it murdered 1/4 million state-citizens to bear out this claim... and killed 3/4 million others in the process. Since then, people blindly accepted the federal account of things.

And aturally, the government has stuck to this story ever since, since its power *depends* on it; but this doesn't make it so under the law.

Some federal yes-men have *attempted* to claim that the Constitution surrenders each state's sovereignty; but none have succeeded; otherwise they would have no reason to hide it.

WHY HASN'T ANYONE BROUGHT THIS UP BEFORE?

They *have*-- just never more than *once*.

During the federal invasion of seceding states in 1861-1865, it was *illegal* to claim that states were sovereign nations, and would result in imprisonment -- or even *torture*-- without trial. And after the *surrender* by the invaded states, it was considered "settled," and such talk was considered "treasonous" and illegal.

Since this time, simply *questioning* the federal government's sovereignty over the states will lead to permanent blacklisting of law-professors, journalists, and most academicians.

WHAT CAN WE DO NOW?

Your state is *still* a sovereign nation, by law; and so *you* are its sovereign ruler, along with the popular majority of your fellow state-citizens. That means you can vote to overrule your state and federal government, in *any* way you choose.

WON'T THIS LEAD TO MOB-RULE? THAT'S WHAT THE GOVERNMENT SAYS!

And Bernie Madoff said that you'd lose your money if you invested it yourself.

A direct-democracy would result, ONLY if the majority of people expressly *voted* for it. However the people of each state clearly never did this; rather, they always elected a *republican* form of government for every state, in order to *avoid* abuse by a popular majority; but again, they did *not* surrender their sovereign power to *overrule* their government-- in order to avoid it becoming a dictatorship.

DOES THIS MEAN WE'RE IN A DICTATORSHIP NOW?

Yes.

But *only* as long as the majority of the people in every state *believes* these lies, that the federal government holds national authority over the People of *any* state.

Otherwise, if the people of *any* state challenges this false federal claim, then they can re-claim their sovereignty *at will*.

WILL THIS REQUIRE A WAR AGAINST THE FEDERAL GOVERNMENT?

NO. Since each state is already sovereign *by law*, this requires only that the people of the a state *prove* it before the world.

After that, the federal government will no longer have any *basis* of authority to overrule your states's popular majority-- any more than it can overrule the sovereign rule of England, France or any *other* sovereign nation.

DIDN'T THE SUPREME COURT ALREADY RULE THAT THE FEDERAL GOVERNMENT IS SUPREME OVER THE STATES?

Whether it did or not, is *irrelevant*; for courts have no *authority* to determine whether nations are sovereign or not. Can the Supreme Court simply rule that *every nation on Earth* belongs to the United States, and thus cause that claim to be valid law for those nations? Of course not!

So it's *equally* absurd to claim this for the American states; since they are *equally* sovereign nations.

WHY IS IT *NECESSARY* FOR US TO RECLAIM OUR STATES AS INDIVIDUALLY SOVEREIGN NATIONS?

Madison and Jefferson said it best: because if the states are *not* sovereign nations, then they are subordinate to the federal government-- and thus the federal government *becomes the supreme judge of its own powers*.

History proves that this has turned the American federal republic into an imperial dictatorship; ever since the federal government seized supreme power over the People of each state in 1861-1865-- by *slaughtering* anyone and everyone who resisted its *claim* to such-- we have seen the federal government do as it pelased, as far as the voters would allow (i.e. thus creating the "mob-rule" of which it hyopcritically accuses the *People* of each state, as well as the dictatorship of government having the final word on any law).

Likewise, it's difficult to realize the severity of a dictatorship's abuses, while *living* in it; as stated in the Declaration, people are known to suffer great abuses, if they believe that their government is obeying the law... and in fact, this is exactly why the federal government *lies* about the law!

However in light of the fact that each state is a sovereign nation *by law*-- rather than "rebels destroying the Union," as we have been falsely told by ruthless tyrants-- , it's easy to see that the federal government has indeed become an imperial dictatorship.

This *begins* with the mass-murder of 1/4 million sovereign state-citizens, simply for *defending* their nations' sovereignty-- along with the wholesale slaughter of the troops sent to do so. And afterward, the situation only became worse, moving into global domination and chaos, along with the standoff against the threat of untold nuclear mass-destruction-- following the murder of 150 million people worldwide during the 20th Century *because* of it.

The list never ends, once the fact of federal dictatorship is exposed; once this lie is unraveled, the rest is history-- only this time it's *accurate*.

AREN'T WE FREE TO LEAVE?

NO. Not according to federal law, anyway; while the federal government may choose to *allow* you to travel elsewhere to other countries, it has otherwise ruled that every U.S. citizen must first fulfill whatever 'civic duty' that federal law dictates (including military conscription)-- *for as long as you live*; again, a dictatorship is the judge of its own authority. In short, the federal government *owns* you, for all practical intents and purposes.

But more importantly: there is *no* excuse for a tyrannical dictator to conquer a sovereign nation-- simply because its people are theoretically able to *leave*! Did we accept that argument for Kuwait, under the invasion Hussein? Poland under Hitler? China under Japan? Of course not-- so how can we accept that same argument *for our own sovereign nations*? Apparently, it's because there's some illusion that "we did it to ourselves--" but of course that's a simply another pacifying *lie*-- which also makes absolutely no difference. A sovereign nation, is a sovereign nation.

Finally: until the states reclaim their sovereignty, they will *continue* to suffer under dictatorship, for the simple reason that they that they are sovereign nations occupied occupied by a government that *suppresses this basic truth*; auch a government can never be reformed, and will always be corrupt; and likewise, all other "reform"-movements are likewise doomed to fail for this same reason.

In short, the Constitution was not designed to protect against a national republic of subordinate states-- only a federal republic of *sovereign* states. Again, Madison and Jefferson were clear, that states would have *no rights* against federal abuses, if they were subordinate rather than sovereign; and so it has come to pass.

DON'T THE STATES HAVE *SOME* SOVEREIGNTY, UNDER THE CONSTITUTION?

This claim attempts to confuse the meaning of "sovereignty," by pertaining to a state's government rather than its people. Yes, state *governments*-- like the federal governments-- is *delegated* with some authority by the state's People. However governments are simply *hired help*, while the People of a state are the *owners* of the state in the national sense; and their rule is *supreme and absolute*, if they vote to overrule *any* government or other power.

WHAT DOES "DELEGATE" MEAN?

Giving your hired employee the authority to carry out your orders; obviously, you're still the boss. In this sense, the People of each state simply authorized government to act on their behalf; they didn't *give* them the state, in *any* sense.

However if the government is the last word on any law-- and people can only *vote* for different government officials-- then this isn't delegation, but permanent *surrender*.

CAN'T THE AMERICAN PEOPLE VOTE FOR A NEW FORM OF GOVERNMENT?

No. Only the 3/4 majority of state governments can.

And this further *proves* that each state is a sovereign nation, not a single nation of subordinate states; if the United States was owned by its people, then the people could technically *vote* to overrule the federal government. But the Constitution makes *no* such provision-- for the simple reason that the United States it *isn't* a single nation-- on the contrary, each *state* is a sovereign nation.

ISN'T THIS THE SAME THING?

No, because delegates are not legally bound to obey their constituents *in any*

way-- other than simply to leave office if voted out. While this gives the majority of states and people some power, it also gives them the power to do wrong to the minority of states or people-- while the federal government likewise can abuse its power without check, other than by voting out the offending officials... by which time it's often too late, the damage has been done.

DOESN'T THE CONSTITUTION LIMIT THE FEDERAL GOVERNMENT?

Absolutely not-- because again, if the states are not sovereign, then the federal government becomes the final word on the meaning of the Constitution.

As stated above, Madison and Jefferson noted that this obviously makes the federal government into the final judge of its own powers-- i.e. it will usurp whatever power it can get away with.

BUT AGAIN, I HEARD SOMEONE SAY THAT THIS PREVENTS "MOB RULE."

This is the standard argument for "benevolent dictatorship-- which blindly presumes that dictators won't abuse their authority. Fortunately, the Founders knew better, and so held that that governments should only exist by consent of the governed -- not subservience.

Simply put, the federal government is playing a "shell game" with regard to who has the power; this is to fool the people of all states into believing that the power lies with them collectively-- just like they revise history in order to claim that this is legally valid.

However the reality remains, is that each state is a sovereign nation-- and has always been a sovereign nation.

This clearly does not claim to bind any state's people, who are the state's sovereign rulers-- only its government officials, who are not.

If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify.

Alexander Hamilton, Federalist No. 33, January 3, 1788

The State governments possess inherent advantages, which will ever give

them an influence and ascendancy over the National Government, and will for ever preclude the possibility of federal encroachments. That their liberties, indeed, can be subverted by the federal head, is repugnant to every rule of political calculation.

Alexander Hamilton, speech to the New York Ratifying Convention, June 17, 1788

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

The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow from that pure, original fountain of all legitimate authority.

Alexander Hamilton, Federalist No. 22, December 14, 1787

But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, EXCLUSIVELY delegated to the United States.

Alexander Hamilton, Federalist No. 32, January 3, 1788

Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a FEDERAL, and not a NATIONAL constitution.

James Madison, Federalist No. 39, January 1788

The two enemies of the people are criminals and government, so let us tie the second down with the chains of the Constitution so the second will not become the legalized version of the first. Thomas Jefferson

Children should be educated and instructed in the principles of freedom.

John Adams, Defense of the Constitutions, 1787

"I think we have more machinery of government than is necessary, too many parasites living on the labor of the industrious." --Thomas Jefferson

Society in every state is a blessing, but government, even in its best state, is

**but a necessary evil; in its worst state an intolerable one.
Thomas Paine, Common Sense, 1776**

"If Congress can employ money indefinitely to the general welfare, and are the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may appoint teachers in every State, county and parish and pay them out of their public treasury; they may take into their own hands the education of children, establishing in like manner schools throughout the Union; they may assume the provision of the poor; they may undertake the regulation of all roads other than post-roads; in short, every thing, from the highest object of state legislation down to the most minute object of police, would be thrown under the power of Congress. ... Were the power of Congress to be established in the latitude contended for, it would subvert the very foundations, and transmute the very nature of the limited Government established by the people of America." --James Madison

The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security.

James Madison, Federalist No. 45, January 26, 1788

The house of representatives...can make no law which will not have its full operation on themselves and their friends, as well as the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interest, and sympathy of sentiments, of which few governments have furnished examples; but without which every government degenerates into tyranny.

James Madison, Federalist No. 57, February 19, 1788

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.

James Madison, Federalist No. 45, January 26, 1788

In addition to distributing power among the three branches of the federal government, the Constitution also distributes it among the states and the people. The Tenth Amendment specifically reserves all "powers not delegated to the United States" to the "States respectively, or to the people." Within each state there are many other governmental units. Each local government,

from the smallest village to the largest city, has its necessary powers. There are taxing bodies, such as school districts, that have the authority they need in order to operate.

If it's not the states' job and it's not listed in the Art 1 Sec 8 powers, then it's left up to the people!

All bills of \$ must originate in the house (look up) Did the bill go back to the house for a vote after it was wiped out and made over in the Senate? Bill didn't go back, because the Senate said it wasn't a tax, however the SCOTUS ruled that it was a tax.

In matters of legislation, all bills and joint resolutions must be passed in identical form by both houses and signed by the president. The exception is an amendment to the Constitution, which is not signed by him. Should the president veto a bill, it may be enacted over his veto by a two-thirds vote of both houses. Failure to repass in either house kills it. If a bill is not signed or returned by the president, it becomes law after ten working days. If the president does not return a bill and Congress has adjourned in the meantime, however, the bill does not become law. This procedure is called a pocket veto

The president is charged with enforcing all federal laws and with supervising all federal administrative agencies. In practice these powers are delegated to subordinates. The president's principal helpers include the White House staff, specialized agencies of the Executive Office, and the heads of executive departments and their agencies and bureaus. Except for the White House staff, the individuals in charge of agencies and departments are appointed by the president, subject to approval by the Senate. The president nominates all officials, administrative or judicial, who are not civil-service employees.

The Court has two types of jurisdiction--original and appellate. Original jurisdiction refers to cases tried directly before it without involving the lower courts. The Constitution gives the Court original jurisdiction in controversies between states, between a state and the federal government, between a state and citizens of another state, and in cases affecting ambassadors, other public ministers, and consuls. The Court also hears the rare cases of admiralty and maritime jurisdiction. Sessions of the Court begin on the first Monday in October and end in June or July.

A. Rights of Recognized Sovereigns Under the Law of Nations

To understand the law of nations background against which the Constitution was adopted, one must begin with the writings of the eighteenth-century Swiss philosopher, Emmerich de Vattel. Vattel's treatise, *The Law of Nations*, was the most well-known work on the law of nations in England and America at the time of the Founding.⁶⁶ In this treatise, Vattel described the established rights of recognized sovereign nations under the law of nations. A "sovereign state," Vattel explained, is any "nation that governs itself . . . without any dependence on a foreign power."⁶⁷ Such sovereign nations "are naturally equal, and receive from nature the same obligations and rights [as those of any other state]."⁶⁸ Thus, he explained, "[e]very nation, every sovereign and independent state, deserves consideration and respect, because it makes an immediate figure in the grand society of the human-race."⁶⁹

All recognized sovereign nations enjoyed several especially important perfect rights under the law of nations—rights so foundational that nations were justified in enforcing them by resort to war. One such right was "the right of embassy."⁷⁰

----- footnotes

66 See David Gray Adler, *The President's Recognition Power*, in *The Constitution and the Conduct of American Foreign Policy* 133, 137 (David Gray Adler & Larry N. George eds., 1996) ("During the Founding period and well beyond, Vattel was, in the United States, the unsurpassed publicist on international law."); Bellia & Clark, *Federal Common Law*, *supra* note 4, at 15–16; Douglas J. Sylvester, *International Law as Sword or Shield? Early American Foreign Policy and the Law of Nations*, 32 N.Y.U. J. Int'l L. & Pol. 1, 67 (1999) (explaining that in American judicial decisions, "in all, in the 1780s and 1790s, there were nine citations to Pufendorf, sixteen to Grotius, twenty-five to Bynkershoek, and a staggering ninety-two to Vattel").

B. Independence and the Rights of Recognized Nations

Beginning with the Declaration of Independence, the United States sought recognition as a sovereign nation entitled to all rights accompanying that status under the law of nations. Following independence, members of the Founding generation grew increasingly concerned with state violations of other nations' rights in the years leading up to the Federal Convention. The

Founders drafted the Constitution with appreciation for the importance of securing international recognition of the United States and of respecting other nations' sovereign rights. Accordingly, the meaning of many constitutional powers—and the significance of their assignment to the political branches—cannot be fully appreciated without reference to background principles of the law of nations.

A “perfect right” under the law of nations, Vattel explained, “is that to which is joined the right of constraining those who refuse to fulfil the obligation resulting from it; and the imperfect right is that unaccompanied by this right of constraint.”⁸⁸ Therefore, when one sovereign failed to obtain satisfaction for the violation of its perfect rights from another, the nation had just cause for waging war to compel the corresponding duty.⁸⁹ The concept of perfect rights was well recognized in England and had deep roots in writings on the law of nations by not only Vattel, but also such well-known writers as Pufendorf and Burlamaqui.⁹⁰ The idea appeared in judicial opinions and in public discourse about the relations of England with other nations.⁹¹ As the next Section explains, the Founders were familiar with perfect rights under the law of nations and the serious consequences of failing to respect them.

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1. The Declaration of Independence and Recognition

The Declaration of Independence provides important insight into the weight that the Founders placed on both the law of nations and recognition of the United States by foreign nations. The Declaration not only declared the colonies' independence from Great Britain, but also implicitly sought recognition from the other nations of the world in order to secure important rights under the law of nations.⁹² After reciting “a history of repeated injuries and usurpations”⁹³ by King George III against the colonies, the

Declaration asserted:

That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.⁹⁴

2. State Offenses Against the Law of Nations

The Founders also appreciated that violation of a recognized nation's sovereign rights could give the offended nation just cause for war under the law of nations. While the United States was seeking recognition from other nations in the 1780s, American states were notoriously violating other nations' rights secured by the law of nations.¹¹⁶ During the Articles of Confederation period, certain states failed to comply with the 1783 Treaty of Paris with Great Britain¹¹⁷ by impeding British creditors from recovering debts.¹¹⁸ States violated the law of nations by failing to punish or otherwise redress acts of violence committed by their citizens against British subjects.¹¹⁹ They interfered with the rights of ambassadors and mishandled cases involving other nations' free and neutral use of the high seas. The Continental Congress tried but was unable to stem the tide of law of nations violations by the states.¹²⁰

Members of the Founding generation were well aware that such violations of other nations' sovereign rights undermined the United States' efforts to achieve greater recognition and risked triggering war against the United States. In April 1787, James Madison warned in his influential pamphlet, *Vices of the Political System of the United States*, that such violations posed grave dangers to the peace and security of the United States:

From the number of Legislatures, the sphere of life from which most of their members are taken, and the circumstances under which their legislative business is carried on, irregularities of this kind must frequently happen. Accordingly not a year has passed without instances of them in some one or other of the States. The Treaty of peace—the treaty with France—the treaty with Holland have each been violated. . . . The causes of these irregularities must necessarily produce frequent violations of the law of nations in other respects.

As yet foreign powers have not been rigorous in animadverting on us. This moderation however cannot be mistaken for a permanent partiality to our faults, or a permanent security agst. those disputes with other nations, which being among the great-est of public calamities, it ought to be least in the

power of any part of the Community to bring on the whole.¹²¹

When Edmund Randolph opened the Federal Convention of 1787, one of the first defects he identified with the Confederation was its inability to prevent or redress “acts against a foreign power contrary to the laws of nations.”¹²² He concluded that the Confederation “therefore [could not] prevent a war.”¹²³ A top priority of the Convention, then, was to devise a constitution that would enable the United States to meet its obligations under the law of nations and to prevent unintended wars.¹²⁴

C. Constitutional Incorporation of the Law of Nations

The inability of the Confederation Congress to ensure that the United States met its obligations under the law of nations continued to be a matter of public interest and alarm while the Constitution was being drafted. This political background provides context for understanding the text of Articles I and II.

A primary goal of the Federal Convention was to adopt provisions that would empower the United States to maintain peace by meeting its obligations under the law of nations and, conversely, to give federal officials exclusive power to decide when to engage in hostilities with other nations. The Founders pursued those goals through express provisions; they explicitly assigned to the federal political branches various foreign relations powers whose meaning could only be ascertained by reference to the law of nations.¹²⁸ In particular, they gave the political branches exclusive power to recognize foreign nations, signifying respect for their accompanying rights under the law of nations, and to decide when to make war, issue reprisals, and authorize captures against them. The full significance of these powers could only be understood by reference to certain background principles of the law of nations. In context, the Constitution’s allocation of these powers to the political branches served to constrain courts and states from violating other nations’ rights unless and until the political branches exercised their power to abrogate them. In other words, the new Constitution responded to state (including judicial) practices under the Articles of Confederation by specifically assigning foreign relations and war powers to the political branches and thereby denying states and courts the authority to negate or usurp those powers by violating the sovereign rights of foreign nations.

As Professor John Manning has explained, “when an enacted text establishes a new power and specifies a detailed procedure for carrying that power into effect, interpreters should read the resultant specification as exclusive.”¹²⁹ This interpretive convention “has deep roots in our constitutional

tradition.”¹³⁰ Read in context, Articles I and II vested the federal political branches with exclusive authority to recognize foreign sovereigns, make war and peace, authorize captures, and issue letters of marque and reprisal against foreign nations. All of these powers, moreover, carried connotations under the law of nations.

First, the Constitution vested the federal political branches with the exclusive means of recognizing foreign sovereigns.¹³¹ At the time of the Founding, pre-existing European nations were presumed to be entitled to recognition as a matter of course. As the Founders understood from their own experience with independence, however, nations had to make political judgments about whether to recognize new or emerging nations and governments. The Constitution vested exclusive authority in the federal political branches over the means of recognition, including the powers to make treaties and to send and receive ambassadors. Recognition signified that one nation would respect the rights of another as a free and independent state under the law of nations. At the time, any violation by an American state or court of the perfect rights that traditionally accompanied recognition would contradict the political branches’ decision to recognize the nation in question and usurp their exclusive power to determine on behalf of the United States whether, when, and how to abrogate those rights.

Second, the Constitution gave the federal political branches exclusive authority to make war, issue reprisals, and authorize captures.¹³² These exclusive powers to commence, conduct, escalate, and avoid hostilities with other nations reinforced the conclusion that the Constitution’s allocation of power required states and courts to respect the perfect rights of recognized nations and to refrain from retaliating against foreign nations or their subjects without authorization from the political branches.

Perhaps for this reason, the Supreme Court again took the added precaution of requiring the political branches to express any contrary instructions clearly. Congress had arguably conferred jurisdiction over libel suits like this one by vesting the district courts with general admiralty jurisdiction. The Court, however, construed the Judiciary Act narrowly not to confer jurisdiction over warships. According to the Court, “until [the sovereign] power be exerted in a manner not to be misunderstood, the sovereign cannot be considered as having imparted to the ordinary tribunals a jurisdiction, which it would be a breach of faith to exercise.”²⁸⁶

The act of state doctrine, as described in this passage, has deep roots in the

traditional rights of nations to territorial sovereignty. As Vattel explained, “[o]f all the rights that can belong to a nation, sovereignty is, doubtless, the most precious, and that which others ought the most scrupulously to respect, if they would not do it an injury.”³²⁴ Accordingly, no “foreign power [may] take cognizance of the administration of this sovereign, to set himself up for a judge of his conduct, and to oblige him to alter it.”³²⁵

The Underhill Court’s formulation of the act of state doctrine upheld not only territorial sovereignty under the law of nations, but also the Constitution’s allocation of recognition and war powers to the political branches by requiring courts to respect the territorial sovereignty of recognized foreign states. The Court began with the traditional principle of the law of nations that “[e]very sovereign State is bound to respect the independence of every other sovereign State.”³²⁶ United States courts apply international law as part of our own in appropriate circumstances.”³⁸¹ Although the Court did not define “appropriate circumstances,” it cited *Ware v. Hylton*,³⁸² *The Nereide*,³⁸³ and *The Paquete Habana*³⁸⁴ for this proposition. In *The Nereide* and *The Paquete Habana*, as we explained, the Court applied the law of nations to uphold the political branches’ exclusive powers to retaliate and make war against other nations.³⁸⁵ In *Hylton*, the Court applied the Paris Peace Treaty of 1783 as federal law.³⁸⁶

At the time of the Founding, the law of nations was understood to be binding in courts only if domestic law incorporated it.⁴⁶⁷ It does not follow from this proposition, as revisionists have claimed, that federal courts may apply the law of nations only if the political branches of the federal government or the states adopt it. Rather, the Constitution is a fundamental source of domestic law in the United States, and therefore U.S. courts not only may, but must, apply principles of the law of nations when the Constitution requires them to do so. As discussed, the Supreme Court has indicated on several occasions that the Constitution’s allocation of foreign relations powers to the political branches requires courts and states to apply certain traditional principles of the law of nations in order to avoid usurping these powers. Historically, political branch recognition of a foreign state or government was reasonably understood to signify that the United States would respect a set of traditional rights under the law of nations binding on courts and states alike. Likewise, the political branches’ exclusive powers to make and engage in war, issue reprisals, and make rules governing captures were reasonably understood to require courts and states to respect traditional principles of the law of nations in order to avoid usurping such powers. Under these circumstances, the principle that the law of nations is binding only if domestic law

incorporates it does not refute, but actually affirms, that courts and states must apply traditional principles of the law of nations when necessary to uphold the Constitution's allocation of powers.

<http://www.petition2congress.com/2757/declare-individual-sovereignty/>

OFFENSES CLAUSE

**Montgomery County Retired judges:
RETIRED JUDGES**

**Bethlehem Merawi, Administrative Aide/Receptionist
Room 321, ext. 9029**

Judge	Floor	Room No.	Extension
Beard, DeLawrence	3rd	321	9033
Craven, Thomas L.	3rd	321	9113
Donohue, Warren D.	3rd	321	9390
Harrington, Ann S.	3rd	321	9389
McAuliffe, John F.	3rd	321	9105
McGuckian, Paul A.	3rd	321	9114
McHugh, Dennis M.	3rd	321	9028
Pincus, Michael S.	3rd	321	9143
Raker, Irma	3rd	321	9330
Rowan, III, William J.	3rd	321	9027
Ryan, James L.	3rd	321	9031
Sonner, Andrew L.	3rd	321	9142
Sundt, Ann N.	3rd	321	9039
Thompson, Durke G.	3rd	321	9112

Weinstein, Paul H.	3rd	321	9116
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Retired COSA judges

<http://msa.maryland.gov/msa/mdmanual/30sp/former/html/former.html>

CHARLES E. MOYLAN, JR., *Judge, Court of Special Appeals*, At Large, July 1, 1970 to December 14, 2000. Retired December 14, 2000.

<http://msa.maryland.gov/msa/mdmanual/30sp/former/html/msa11677.html>

DALE R. CATHELL, *Judge, Court of Appeals*, 1st Appellate Judicial Circuit (Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico & Worcester counties), January 20, 1998 to July 30, 2007. Retired July 30, 2007. Chair, Commission on Racial and Ethnic Fairness in the Judicial Process, 2002-04.

<http://msa.maryland.gov/msa/mdmanual/29ap/former/html/msa11678.html>

[Adkins, Sally D.](#), 1st Appellate Judicial Circuit

[Barbera, Mary Ellen](#), At Large

[Bell, Robert M.](#), 6th Appellate Judicial Circuit

[Cathell, Dale R.](#), 1st Appellate Judicial Circuit

[Davis, Arrie W.](#), 6th Appellate Judicial Circuit

[Eyler, James R.](#), 2nd Appellate Judicial Circuit

[Fischer, Robert F.](#), At Large

[Greene, Clayton, Jr.](#), 5th Appellate Judicial Circuit

[Harrell, Glenn T., Jr.](#), At Large

[Hollander, Ellen L.](#), At Large

[Kenney, James A. III](#), At Large

[Moylan, Charles E., Jr.](#), At Large

[Murphy, Joseph F., Jr.](#), At Large

[Salmon, James P.](#), 4th Appellate Judicial Circuit

[Sharer, J. Frederick](#), 3rd Appellate Judicial Circuit

[Sonner, Andrew L.](#), 7th Appellate Judicial Circuit

[Thieme, Raymond G., Jr.](#), 5th Appellate Judicial Circuit

[Wenner, William W.](#), 3rd Appellate Judicial Circuit

[Wilner, Alan M.](#), At Large

Retired COA Judges

<http://msa.maryland.gov/msa/mdmanual/29ap/former/html/former.html>

[Cathell, Dale R.](#), 1st Appellate Judicial Circuit

[Chasanow, Howard S.](#), 4th Appellate Judicial Circuit

[Eldridge, John C.](#), 5th Appellate Judicial Circuit

[Karwacki, Robert L.](#), 1st Appellate Judicial Circuit
[Murphy, Joseph F., Jr.](#), 2nd Appellate Judicial Circuit
[Murphy, Robert C.](#), 2nd Appellate Judicial Circuit
[Raker, Irma S.](#), 7th Appellate Judicial Circuit
[Rodowsky, Lawrence F.](#), 3rd Appellate Judicial Circuit
[Wilner, Alan M.](#), 2nd Appellate Judicial Circuit

MD LON cases:

<http://books.google.com/books?id=IV0aAAAAAYAAJ&pg=PA27&dq=maryland+%22law+of+nations%22&hl=en&sa=X&ei= MAtUfXHHIvv0QGf9ICAAw&ved=0CDoQ6AEwAQ#v=onepage&q=vattel&f=false>

<http://books.google.com/books?id=sNdPqLCcDP0C&pg=PA26&dq=%22and+not+subject+to+any+foreign+power%22+%22supreme+court%22&hl=en&sa=X&ei=ybMvUZH5K8Wx0QGnmYH4Ag&ved=0CDMQ6AEwAA#v=onepage&q=%22and%20not%20subject%20to%20any%20foreign%20power%22%20%22supreme%20court%22&f=false>

[Obama taught Constitutional Law III](#)

Le droit des gens "Emer de Vattel, Charles Ghequiere Fenwick, Carnegie Institution of Washington"
Page 23 tyrant

Congressional globe

http://memory.loc.gov/cgi-bin/query/D?hlaw:32:/temp/~ammem_71oB::

Resolved, That Congress will retaliate for cruelties and violations of the **laws** of **nations** committed in these **States** against the subjects of his most Christian majesty, in like manner and measure as if committed against citizens of the said **States**, and that the protection of Congress shall be on all occasions equally extended to both.

http://memory.loc.gov/cgi-bin/query/D?hlaw:35:/temp/~ammem_71oB::

A due observance of the **law** of **nations** is undoubtedly necessary; but whether it will be proper to entrust Congress with the power of enacting **laws** for punishing the infractions of it is a matter of doubt; nor do I see how it could be done without entrenching too much on the sovereignty of the several individual **states**. Before this is moved I would wish to see a **law** drawn up by Congress and sent to the several **states** for their adoption, providing for the expeditious, exemplary and adequate punishment of all violators of the **law** of **Nations**. This would give dignity & respect to the **states** as well as to the Union. The end would be answered and the

sovereignty of each **state** preserved.

http://memory.loc.gov/cgi-bin/query/D?hlaw:7:/temp/~ammem_1224::

Page 603 | [Page image](#)

C. W. F. Dumas' diplomatic services. § 185. Charles William Frederick Dumas, numerous letters from whom will be found in the following pages, was a native of Switzerland, but he passed a large portion of his life in Holland, chiefly employed as a man of letters. He was a person of deep learning, versed in the ancient classics, and skilled in several modern languages, a warm friend of liberty, and an early defender of the American cause. About the year 1770, or a little later, he published an edition of **Vattel**, with a long preface and notes, which were marked with his liberal sentiments.

When Dr. Franklin was in Holland, on his way to France, a short time before his return to his own country, at the beginning of the Revolution, he became acquainted with M. Dumas. Having thus witnessed his ability, his love of freedom, and his zeal in favor of America, he considered him a suitable person to act as agent in promoting our affairs abroad. Towards the close of the year 1775, when the committee of secret correspondence was formed, of which Dr. Franklin was chairman, it was resolved to employ M. Dumas for executing the purposes of the committee in Holland. A letter of general instructions was accordingly written to him by Dr. Franklin in the name of the committee, and from that time M. Dumas commenced a correspondence with Congress, which continued without interruption during the Revolution, and occasionally to a much later period. He acted at first as a secret agent, and after John Adams went to Holland as minister plenipotentiary from the United States M. Dumas performed the office of secretary and translator to the minister. On the departure of Mr. Adams for Paris, to engage in the negotiations for peace, M. Dumas remained in the character of chargé d'affaires from the United States. In this capacity he exchanged with the Dutch Government the ratification of the treaty which had been previously negotiated by Mr. Adams.

It will be seen by M. Dumas' correspondence that his services were unremitting, assiduous, and important, and performed with a singular devotedness to the interests of the United States, and with a warm and undeviating attachment to the rights and liberties for which they were contending. Congress seems not to have well understood the extent or merits of his labors. He was obliged often to complain of the meager compensation he received, and of the extreme difficulty with which he and his small family contrived to subsist on it. Both Mr. Adams and Dr. Franklin recommended him to Congress as worthy of better returns, but with little effect. This indifference to his worth and his services while living renders it the more just that his memory should be honored with the respect and gratitude of posterity. M. Dumas was still living in 1794, when Mr. John Quincy Adams went to Holland as

minister from this country, but he died soon afterwards at an advanced age.*
[Note *: * 5 Sparks' Dip. Rev. Corr., 185.]

Of Dumas Parton thus writes:

"During one of his visits to Holland he (Franklin) had become acquainted with Professor Charles W. F. Dumas, a native of Switzerland, who had long resided at The Hague, and much frequented the circle of diplomatists who dawdled away existence at that sedate capital. Mr. Dumas, who had made international law his specialty, recalled himself very acceptably to Dr. Franklin in the autumn of 1775, by sending him copies of **Vattel**, edited and annotated by himself; a most timely gift, which was pounced upon by studious members of Congress, groping their way without the light of precedents. To him Dr. Franklin addressed the first letter authorized by the committee of secret correspondence."*

[Note *: * 2 Parton's Franklin, 111.]

Dumas, as has been seen, was charged by Arthur Lee with corruption,[†] and by both Arthur and William Lee his services were constantly undervalued. On the other hand, Franklin had entire confidence in Dumas, as is exhibited in the voluminous correspondence on the following pages.[‡] By Jefferson, who, as minister to France after the peace, had full opportunity of becoming acquainted with Dumas' services, those services are spoken of in high terms, and his loyalty as well as his intelligence uniformly commended.[§]

[Note †: † Supra, § 147.]

[Note ‡: ‡ See index, titles Dumas, Franklin; and 8 Sparks' Franklin, 448, 452, 498.]

[Note §: § 1 Jefferson's Writings (by Washington) 568; 2 id., 287, 366; 3 id., 331.]

John Adams, during his residence at The Hague, placed his house under the care of Dumas and his family, and many years afterwards Adams in a letter to Mercy Warren (July 30, 1807), in reply to a statement of Mrs. Warren that "he took lodgings at Amsterdam for several months at the house of Mr. Dumas, a man of some mercantile interest, considerable commercial knowledge, not acquainted with manners or letters, but much attached to the Americans from the general predilection of Dutchmen in favor of republicanism," thus writes:

"Mr. Dumas never lived in Amsterdam. Mr. Dumas never was a merchant. Mr. Dumas never had any mercantile interest. If Mr. Dumas had any commercial knowledge, it was merely theoretical and such as every man of reading and reflection and knowledge of the world possesses. Mr. Dumas was a man of the world, and well acquainted with manners. Mr. Dumas was so much a man of letters, that he was one of the most accomplished classical scholars that I have been acquainted with, and had taken as general a survey of ancient and modern science as most of the professors of the universities of Europe or America. He was indeed much attached

to the Americans, but from better motives and more knowledge than 'the general predilection of Dutchmen in favor of republicanism.' Such was Mr. Dumas. He always lived at The Hague, at least from my first knowledge of him till his death at upwards of four score. He had been in England before our Revolution and Dr. Franklin had been in Holland, in both of which countries Dr. Franklin and Mr. Dumas had become acquainted and attached in friendship to each other. * * * Mr. Dumas corresponded also with Congress, and he was allowed three hundred pounds sterling a year for his services."

<http://www.falseallegations.com/equitable-bill-of-discovery.htm>

<http://www.courts.state.md.us/opinions/cosa/1995/1784s94.pdf>

http://scholar.google.com/scholar_case?case=17485095411337455454&hl=en&as_sdt=2&as_vis=1&oi=scholar

http://books.google.com/books?id=aTJU_RNxJ1IC&pg=PA35&dq=%22law+of+nations%22+%22textbook%22+vattel&hl=en&sa=X&ei=jX44UeXtNoPJ0wGbuoDoCQ&ved=0CD4Q6AEwAQ#v=onepage&q=vattel&f=false

http://archive.org/stream/atreatiseonlawc00websgoog/atreatiseonlawc00websgoog_djvu.txt

<http://supreme.justia.com/cases/federal/us/28/242/case.html> shanks v. dupont

<http://books.google.com/books?id=DOs9AAAAIAAJ&printsec=frontcover&dq=A+treatise+on+the+law+of+citizenship+in+the+United+States&hl=en&sa=X&ei=GzQ1UYDELGL0QHdu4D4Bw&ved=0CDMQ6AEwAA#v=onepage&q&f=false>

<http://www.constitution.org/rc/rat va 11.txt>

In the course of the debates in Congress on this subject, which were warm and animated, it was urged that Congress, by the law of nations, had no right, even with the consent of nine states, to dismember the empire, or relinquish any part of the territory, appertaining to the aggregate society, to any foreign power. Territorial dismemberment, or the relinquishment of any other privilege, is the highest act of a sovereign power. The right of territory has ever been considered as most sacred, and ought to be guarded in the most particular and cautious manner.

<http://www.constitution.org/rc/rat va 15.txt>

This paper will be called the law of nations in America; it will be the Great Charter of America; it will be paramount to everything. After having once consented to it, we cannot recede from it. Such is my repugnance to the alienation of a right which I esteem so important to the happiness of my country, that I would object to this Constitution if it contained no other defect.

<http://www.constitution.org/rc/rat va 16.txt>

The fact which he has adduced from the English history respecting the Russian ambassador, does not apply to this part of the Constitution. The arrest of that ambassador was an offence against the law of nations. There was no tribunal to punish it before. An act was therefore made to prevent such offences for the future; appointing a court to try offenders against it, and pointing out their punishment. That act acknowledges the arrest to have been a violation of the law of nations, and that it was a defect in their laws that no remedy had been provided against such violations before.

<http://www.constitution.org/rc/rat va 18.txt>

There is to be one Supreme Court -- for chancery, admiralty, common pleas, and exchequer, (which great eases are left in England to four great courts,) to which are added criminal jurisdiction, and all cases depending on the law of nations -- a most extensive jurisdiction.

[BIOGRAPHY Law of Nations](#)

UNITED STATES v. SCHWIMMER, 279 U.S. 644 (1929) no arms no citizen

MARYLAND RULES TITLE 2. CIVIL PROCEDURE -- CIRCUIT COURT CHAPTER 500. TRIAL Md. Rule 2-514 (2013)

Rule 2-514. When court may require production of evidence

When it appears to the court at a hearing or trial that the attendance or testimony of any person or the production of any document or tangible thing not produced by any party is necessary for the purpose of justice, the court (a) may order any party to produce the document or tangible thing for inspection by the court or jury, or (b) may issue a subpoena for the production of the person, document, or tangible thing; and in either event the court may continue the hearing or trial to allow compliance with the order or subpoena, upon such conditions as to time,

notice, cost, and security as the court deems proper.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 100. GENERAL PROVISIONS
Md. Rule 5-102 (2013)

Rule 5-102. Purpose and construction

The rules in this Title shall be construed to secure fairness in administration, eliminate unjustifiable expense and delay, and promote the growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 100. GENERAL PROVISIONS
Md. Rule 5-103 (2013)

Rule 5-103. Rulings on evidence

(a) Effect of erroneous ruling. Error may not be predicated upon a ruling that admits or excludes evidence unless the party is prejudiced by the ruling, and

(1) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was requested by the court or required by rule; or

(2) Offer of proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer on the record or was apparent from the context within which the evidence was offered. The court may direct the making of an offer in question and answer form.

Committee note. -- This Rule is not intended to preclude the making of objections or offers of proof by a motion in limine. See *Prout v. State*, 311 Md. 348 (1988), for special circumstances when an offer of proof is not required after the court has made a pretrial ruling excluding evidence. This Rule is also not intended to change the existing standard for harmless error in a criminal case. See *Dorsey v. State*, 276 Md. 638 (1976).

(b) Explanation of ruling. The court may add to the ruling any statement that shows the character of the evidence, the form in which it was offered, and the objection

made.

(c) Hearing of jury. Proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to a jury by any means, such as making statements or offers of proof or asking questions within the hearing of the jury.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 100. GENERAL PROVISIONS
Md. Rule 5-104 (2013)

Rule 5-104. Preliminary questions

(a) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of section (b). In making its determination, the court may, in the interest of justice, decline to require strict application of the rules of evidence, except those relating to privilege and competency of witnesses.

Committee note. -- See *United States v. Zolin*, 491 U.S. 554 (1989) and *Zaal v. State*, 326 Md. 54 (1992), noting the ability of a court, upon a proper foundation, to inspect privileged material in camera.

(b) Relevance conditioned on fact. When the relevance of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding by the trier of fact that the condition has been fulfilled.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 100. GENERAL PROVISIONS
Md. Rule 5-105 (2013)

Rule 5-105. Limited admissibility

When evidence is admitted that is admissible as to one party or for one purpose but not admissible as to another party or for another purpose, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

MARYLAND RULES

TITLE 5. EVIDENCE
CHAPTER 200. JUDICIAL NOTICE
Md. Rule 5-201 (2013)

Rule 5-201. Judicial notice of adjudicative facts

(a) Scope of Rule. This Rule governs only judicial notice of adjudicative facts. Sections (d), (e), and (g) of this Rule do not apply in the Court of Special Appeals or the Court of Appeals.

(b) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary. A court may take judicial notice, whether requested or not.

(f) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 300. PRESUMPTIONS IN CIVIL ACTIONS
Md. Rule 5-301 (2013)

Rule 5-301. Presumptions in civil actions

(a) Effect. Unless otherwise provided by statute or by these rules, in all civil actions a presumption imposes on the party against whom it is directed the burden of producing evidence to rebut the presumption. If that party introduces evidence tending to disprove the presumed fact, the presumption will retain the effect of creating a question to be decided by the trier of fact unless the court concludes that such evidence is legally insufficient or is so conclusive that it rebuts the presumption as a matter of law.

(b) Inconsistent presumptions. If two presumptions arise which conflict with each other, the court shall apply the one that is founded upon weightier considerations of policy and logic. If the underlying considerations are of equal weight, the presumptions shall be disregarded.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 400. RELEVANCY AND ITS LIMITS
Md. Rule 5-402 (2013)

Rule 5-402. Relevant evidence generally admissible; irrelevant evidence inadmissible

Except as otherwise provided by constitutions, statutes, or these rules, or by decisional law not inconsistent with these rules, all relevant evidence is admissible. Evidence that is not relevant is not admissible.

MARYLAND RULES
TITLE 5. EVIDENCE
CHAPTER 700. OPINIONS AND EXPERT TESTIMONY
Md. Rule 5-702 (2013)

Rule 5-702. Testimony by experts

Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education, (2) the appropriateness of the expert testimony on the particular subject, and (3) whether a sufficient factual basis exists to support the expert testimony.

MARYLAND RULES
TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL APPEALS
CHAPTER 400. PRELIMINARY PROCEDURES
Md. Rule 8-425 (2013)

Rule 8-425. Injunction pending appeal

(a) Generally. During the pendency of an appeal, the Court of Special Appeals or the Court of Appeals may issue (1) an order staying, suspending, modifying, or restoring an order entered by the lower court or (2) an injunction, even if injunctive relief was sought and denied in the lower court.

(b) Motion in circuit court. Unless it is not practicable to do so, a party shall file a motion in the circuit court requesting relief pursuant to Rule 2-632 before requesting relief from the appellate court under this Rule.

(c) Motion in appellate court. If a motion under Rule 2-632 is not practicable or such a motion was denied by the circuit court or not ruled upon within a reasonable time, the party may file a motion under this Rule in the Court of Special Appeals, or in the Court of Appeals when it has assumed jurisdiction. The motion shall include the reason why it is impracticable to seek the relief in the circuit court or, if a motion seeking the relief was considered by the circuit court, any reason given by that court for denying or not affording the relief.

(d) Affidavit. A motion or a response filed in the appellate court that is based on facts not contained in the papers or record on file in that Court shall be supported by affidavit or accompanied by the papers or the part of the record on which it is based.

(e) Decision -- Court of Special Appeals. A motion filed in the Court of Special Appeals ordinarily will be decided by a panel of that Court. In exceptional cases, when that is impracticable because of time constraints, the Chief Judge, or in the absence of the Chief Judge, any other judge of that Court may rule on the motion. The decision of an individual judge shall be reviewed promptly by a panel of the Court of Special Appeals. An order of the Court of Special Appeals granting or denying the motion or the failure of that Court to rule on the motion within a reasonable time may be reviewed by the Court of Appeals on petition of a party.

(f) Decision -- Court of Appeals. A motion filed in the Court of Appeals pursuant to section (c) of this Rule and a petition for review filed pursuant to section (e) of this Rule ordinarily will be decided by the entire Court. In exceptional cases, when that is impracticable because of time constraints, the Chief Judge, or in the absence of the Chief Judge, any other judge of that Court may rule on the motion or petition. The decision of an individual judge shall be reviewed promptly by the Court.

(g) Factors relevant to granting of injunctive relief. In determining whether injunctive relief should be granted under this Rule, the Court shall consider the same factors that are relevant to the granting of injunctive relief by a circuit court. The Court may condition the granting of relief upon such terms as to bond or other security as it considers proper.

MARYLAND RULES
TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL
APPEALS
CHAPTER 400. PRELIMINARY PROCEDURES
Md. Rule 8-431 (2013)

Rule 8-431. Motions

(a) Generally. An application to the Court for an order shall be by motion. The motion shall state briefly and clearly the facts upon which it is based, and if other parties to the appeal have agreed not to oppose the motion, it shall so state. The motion shall be accompanied by a proposed order.

(b) Response. Except as provided in Rule 8-605 (a), any party may file a response to

the motion. Unless a different time is fixed by order of the Court, the response shall be filed within five days after service of the motion.

(c) Affidavit. A motion or a response to a motion that is based on facts not contained in the record or papers on file in the proceeding shall be supported by affidavit and accompanied by any papers on which it is based.

(d) Statement of grounds and authorities. A motion and any response shall state with particularity the grounds and the authorities in support of each ground.

(e) Filing; copies. The original of a motion and any response shall be filed with the Clerk. It shall be accompanied by (1) seven copies when filed in the Court of Appeals and (2) four copies when filed in the Court of Special Appeals, except as otherwise provided in these rules.

(f) Emergency order. In an emergency, the Court may rule on a party's motion before expiration of the time for a response. The party requesting emergency relief shall file the certification required by Rule 1-351.

(g) Hearing. Except as otherwise provided in these rules, a motion may be acted on without a hearing or may be set for hearing at the time and place and on the notice the Court prescribes.

MARYLAND RULES

TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL APPEALS

CHAPTER 500. RECORD EXTRACT, BRIEFS, AND ARGUMENT Md. Rule 8-501 (2013)

Rule 8-501. Record extract

(4) If the appellant determines that a part of the record designated by the appellee is not material to the questions presented, the appellant may demand from appellee advance payment of the estimated cost of reproducing that part. Unless the appellee pays for or secures that cost within five days after receiving the appellant's demand, the appellant may omit that part from the record extract but shall state in the record extract the reason for the omission.

MARYLAND RULES

TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL APPEALS

CHAPTER 500. RECORD EXTRACT, BRIEFS, AND ARGUMENT

Md. Rule 8-502 (2013)

Rule 8-502. Filing of briefs

(8) Court of special appeals review of discharge for unconstitutionality of law. No briefs need be filed in a review by the Court of Special Appeals under Code, Courts Article, § 3-706.

(b) Extension of time. The time for filing a brief may be extended by (1) stipulation of counsel filed with the clerk so long as the appellant's brief and the appellee's brief are filed at least 30 days, and any reply brief is filed at least ten days, before the scheduled argument, or (2) order of the appellate court entered on its own initiative or on motion filed pursuant to Rule 1-204.

MARYLAND RULES

TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL APPEALS

CHAPTER 500. RECORD EXTRACT, BRIEFS, AND ARGUMENT

Md. Rule 8-522 (2013)

Rule 8-522. Oral argument

(a) Time limit. Except with permission of the Court, oral argument is limited to 30 minutes for each side. The Court of Special Appeals may prescribe a shorter period when it grants a request for oral argument pursuant to Rule 8-523 (b) (2), or upon the direction of the Chief Judge, when necessary to enable the Court to dispose of the cases scheduled for oral argument. A party who believes that additional time is necessary for the adequate presentation of oral argument, may request, by letter addressed to the Court, the addition time deemed necessary. The request shall be made no later than ten days after the filing of the appellee's brief.

(b) Rebuttal. The appellant may reserve a portion of the time allowed for rebuttal, but in opening argument shall present the case fairly and completely and shall not reserve points of substance for presentation during rebuttal.

(c) Number of counsel. Except with permission of the Court, not more than two attorneys may argue for a side. In granting a request for oral argument pursuant to Rule 8-523 (b) (2), the Court of Special Appeals may direct that only one attorney may argue for a side. When more than one attorney will argue for a side, the time allowed for the side may be divided as they desire.

(d) More than one appeal in same action -- Order of argument. When there is more than one appeal in the same action, the order of argument may be determined by

the Court. If the Court does not determine the order and unless otherwise agreed by parties, the appellant first in order on the docket will open and close.

(e) Failure to appear. If a party fails to appear when the case is reached for argument, the adverse party may present oral argument or, with permission of the Court, may waive it.

(f) Restriction on oral argument. The Court may decline to hear oral argument on any matter not presented in the briefs.

MARYLAND RULES
TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL
APPEALS
CHAPTER 600. DISPOSITION
Md. Rule 8-604 (2013)

Rule 8-604. Disposition

(a) Generally. As to each party to an appeal, the Court shall dispose of an appeal in one of the following ways:

- (1) dismiss the appeal pursuant to Rule 8-602;
- (2) affirm the judgment;
- (3) vacate or reverse the judgment;
- (4) modify the judgment;
- (5) remand the action to a lower court in accordance with section (d) of this

Rule; or

- (6) an appropriate combination of the above.

(b) Affirmance in part and reversal, modification, or remand in part. If the Court concludes that error affects a severable part of the action, the Court, as to that severable part, may reverse or modify the judgment or remand the action to a lower court for further proceedings and, as to the other parts, affirm the judgment.

(c) Correctible error.

- (1) Matters of form. A judgment will not be reversed on grounds of form if the Court concludes that there is sufficient substance to enable the Court to proceed. For that purpose, the appellate court shall permit any entry to be made by either party during the pendency of the appeal that might have been made by that party in the lower court after verdict by the jury or decision by the court.

(2) Excessive amount of judgment. A judgment will not be reversed because it is for a larger amount than claimed in the complaint if the plaintiff files in the appellate court a release of the excess.

(3) Modified judgment. For purposes of implementing subsections (1) and (2), the Court may modify the judgment.

(d) Remand.

(1) Generally. If the Court concludes that the substantial merits of a case will not be determined by affirming, reversing or modifying the judgment, or that justice will be served by permitting further proceedings, the Court may remand the case to a lower court. In the order remanding a case, the appellate court shall state the purpose for the remand. The order of remand and the opinion upon which the order is based are conclusive as to the points decided. Upon remand, the lower court shall conduct any further proceedings necessary to determine the action in accordance with the opinion and order of the appellate court.

Committee note. -- This Rule is not intended to change existing case law regarding limited remands in criminal cases; see *Gill v. State*, 265 Md. 350 (1972); *Weiner v. State*, 290 Md. 425 (1981); *Reid v. State*, 305 Md. 9 (1985).

MARYLAND RULES
TITLE 8. APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL
APPEALS
CHAPTER 600. DISPOSITION
Md. Rule 8-605.1 (2013)

Rule 8-605.1. Reporting of opinions of the Court of Special Appeals

(a) Reporting of opinions. The Court of Special Appeals shall designate for reporting only those opinions that are of substantial interest as precedents.

(b) Request for reporting of unreported opinion. At any time before the mandate issues, the Court of Special Appeals, on its own initiative or at the request of a party or nonparty filed before the date on which the mandate is due to be issued, may designate for reporting an opinion previously designated as unreported. An unreported opinion may not be designated for reporting after the mandate has issued.

COURTS AND JUDICIAL PROCEEDINGS

TITLE 10. EVIDENCE
SUBTITLE 5. PROOF OF FOREIGN LAWS
Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 10-501 (2012)

§ 10-501. Judicial notice

Every court of this State shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States, and of every other jurisdiction having a system of law based on the common law of England.

COURTS AND JUDICIAL PROCEEDINGS
TITLE 10. EVIDENCE
SUBTITLE 5. PROOF OF FOREIGN LAWS
Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 10-504 (2012)

§ 10-504. Evidence of laws

A party may also present to the trial court any admissible evidence of foreign laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken of it, reasonable notice shall be given to the adverse parties either in the pleadings or by other written notice.

§ 10-505. Law in other jurisdictions

The law of a jurisdiction other than those referred to in § 10-501 of this subtitle shall be an issue for the court, but shall not be subject to the provisions concerning judicial notice.

§ 10-507. Short title

This subtitle may be cited as the Maryland Uniform Judicial Notice of Foreign Law Act.

ELECTION LAW

§ 1-201. Statement of purpose.

The intention of this article is that the conduct of elections should inspire public confidence and trust by assuring that:

- (1) all persons served by the election system are treated fairly and equitably;
- (2) all qualified persons may register and vote and that those who are not qualified do not vote;
- (3) those who administer elections are well-trained, that they serve both those who vote and those who seek votes, and that they put the public interest ahead of partisan interests;
- (4) full information on elections is provided to the public, including disclosure of campaign receipts and expenditures;

- (5) citizen convenience is emphasized in all aspects of the election process;
- (6) security and integrity are maintained in the casting of ballots, canvass of votes, and reporting of election results;
- (7) the prevention of fraud and corruption is diligently pursued; and
- (8) any offenses that occur are prosecuted.

<http://supreme.justia.com/cases/federal/us/3/133/case.html> Talbot v. Jansen - 3 U.S. 133 (1795)

<http://spectragator.birfessed.net/>

<http://www.supremelaw.org/ref/citation/citation.htm>

"Therefore, so far from being a necessary and proper means of executing a granted powers, it is an arbitrary and despotic usurpation against the letter, the spirit, and the declared purposes of the Constitution; for its exercise neither "promote(s) the general welfare", nor "secure(s) the blessings of liberty to ourselves and to our posterity", but, on the contrary, puts in jeopardy all these inestimable blessings. It loosens the bonds of Union, seeks to establish injustice, disturbs the domestic tranquility, weakens the common defense, and endangers the general welfare by sowing hatreds and discords among our people, and puts in eminent peril the liberties of the white race, by whom and for whom the Constitution was made. . . "

Stephens, A Constitutional View of the Late War between the States, National Publ., Vol. I, p. 632.

"An officer who acts in violation of the Constitution ceases to represent the government." Brookfield Const. Co. v. Stewart, 284 F.Supp. 94.

"Judges not only can be sued over their official acts, but could be held liable for injunctive and declaratory relief and attorney's fees." Lezama v. Justice Court, A025829.

"In such case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for damages resulting from his unauthorized acts."

"Ignorance of the law does not excuse misconduct in anyone, least of all in a sworn officer of the law." In re McCowan (1917), 177 C. 93, 170 P. 1100.

"For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of AMERICAN, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference you have the same religion, manners, habits, and political principle. You have, in a common cause, fought, and triumphed together; the independence and liberty you possess, are the work of joint councils, and joint efforts -- of common dangers, sufferings and success." George Washington, "Farewell Address", delivered September 17, 1796. (Emphasis added.)

"It becomes necessary, therefore, to determine who were citizens of the several States when the Constitution was adopted. And in order to do this, we must recur to the governments and institutions of the thirteen colonies, when they separated from Great Britain and formed new sovereignties, and took their places in the family of independent nations. We must inquire who, at that time, were recognized as the people or citizens of a state, whose rights and liberties had been outraged by the English government; and who declared their independence and assumed the powers of government to defend their rights by force of arms.
Dred Scott v. Sanford, *supra*, p. 407.

"These sources of inequality, which are common to every people and can never be altered by any because they are founded in the constitution of nature -- this natural aristocracy among mankind has been dilated on because it is a fact essential to be considered in the institution of government. It forms a body of men which contains the greatest collections of virtues and abilities in a free government, is the brightest ornament and glory of the nation, and may always be made the greatest blessing of society if it be judiciously managed in the constitution. But if this be not done, it is always the most dangerous; nay, it may be added, it never fails to be the destruction of the commonwealth [sovereignty]." John Adams, *A Defense of the American Constitutions*, from *The Political Writings of John Adams*, published by Bobbs-Merrill Co., 1954, p. 139. (Emphasis and Insertion added.)

"But birth will not confer these advantages upon a Negro or an Indian. If so, a man may acquire, by the accident of birth, what the government itself has no right to grant. No Negro, or descendant of Negroes, is a citizen of the Union, or any of the States. They are mere "sojourners in the land", inmates, allowed usually by tacit consent, sometimes by legislative enactment, certain specific rights. Their status and that of the citizen is not the same. Vattel, Book 1, para. 213. But the clause of the Constitution in question applies to citizens, not to sojourners or inmates." State v. Clairborne, 1 Meig's Rep. 331, 335.

there is a clear distinction between national and State citizenship. U. S. citizenship does not entitle citizen [small "c"] of the Privileges and Immunities of the Citizen of the State [capital "C"]." K. Tashiro v. Jordan (1927), 256 P. 545, 201 Cal. 239, 53 A.L.R. 1279, affirmed 49 S. Ct. 47, 278 U. S. 123, 73 L.Ed. 214, 14 C. J. S. § 2, p. 1131, note 75.

"A person may be a citizen of the United States, and not a citizen of any particular state. This is the condition of citizens residing in the District of Columbia and in the territories of the United States or who have taken up a residence abroad." Prentiss v. Brennan (1845?), Fed.Cas.No. 11,385, 2 Blatchf. 162. Areas identified by ZIP codes are territories of the U.S.

"The government of the United States is a foreign corporation with respect to a state." In re Merriam, 36 N. E. 505, 141 N. Y. 479, affirmed 16 S. Ct. 1073, 163 U. S. 625, 41 L.Ed. 287.

"Under constitutional amendment 14, United States citizenship is paramount and dominant, and not subordinate and derivative from State Citizenship." Aroer v. United States, 245 U. S. 366, 38 S. Ct. 159, 62 L.Ed. 349.

"A citizen of the United States is ipso facto and at the same time a citizen of the state in which he resides. While the 14th Amendment does not create a national citizenship, it has the effect of making that citizenship 'paramount and dominant' instead of 'derivative and dependent' upon state citizenship." Colgate v. Harvey, 296 U. S. 404, 427.

What Happens Without a Lawyer?

When relative strangers who had briefly cared for her son sued for custody, Deborah Frase faced a reality all-too-familiar to low-income Americans: representing herself in court. Unable to find a free lawyer and denied appointed counsel, Frase argued the case herself and won custody, but the court imposed several conditions. She appealed to Maryland's Court of Appeals, claiming that she had a right to appointed counsel under the state constitution. The majority in a 4-to-3 decision sidestepped the issue. In a strong concurring opinion, however, three justices powerfully argued for a constitutional right to counsel in certain civil cases, noting that "this issue will not go away." Only one vote shy of making legal history, the Frase decision is the closest any court has come to affirming a civil right to counsel.

"Justice should be the same, in substance and availability, without regard to economic status."

— U.S. Supreme Court Justice Lewis Powell, Jr.

Maryland Access to Justice Commission

http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_105_revised_final_aug_2010.authcheckdam.pdf

Legal representation is provided as a matter of right at public expense to low-income

persons in adversarial proceedings where basic human needs—such as shelter,

sustenance, safety, health, or child custody—are at stake. A system is established

whereby it can be readily ascertained whether a particular case falls within the

categories of proceedings for which publicly-funded legal counsel is provided, and

whether a person is otherwise eligible to receive such representation. The failure to

designate a category of proceedings as one in which the right to counsel applies does not

preclude the provision of legal representation from other sources. The jurisdiction

ordinarily does not provide publicly-funded counsel in a case where the

existing legal aid delivery system is willing and able to provide representation, or where the person can otherwise receive such representation at no cost.

Principle 1 echoes the ABA resolution (adopted by its House of Delegates on August

7, 2006) advocating for governments to fund and supply counsel to indigent civil litigants as

a matter of right in those categories of adversarial proceedings in which basic human needs are at stake.

5 The resolution specifies the following five examples of categories involving interests so fundamental and critical as to trigger the right to counsel:

6

-

“Shelter” includes a person’s or family’s access to or ability to remain in a dwelling, and the habitability of that dwelling.

-

“Sustenance” includes a person’s or family’s ability to preserve and maintain assets, income, or financial support, whether derived from employment, court ordered

payments based on support obligations, government assistance including monetary

payments or “in-kind” benefits (e.g., food stamps), or from other sources.

-

“Safety” includes a person’s ability to obtain legal remedies affording protection from

the threat of serious bodily injury or harm, including proceedings to obtain or enforce

protection orders because of alleged actual or threatened violence, and other proceedings to address threats to physical well-being.

-

“Health” includes access to health care for treatment of significant health

problems,
whether the health care at issue would be financed by government programs (e.g., Medicare, Medicaid, VA, etc.), financed through private insurance, provided as an employee benefit, or otherwise.

•

“Child custody” includes proceedings in which: (i) the parental rights of a party are at risk of being terminated, whether in a private action or as a result of proceedings initiated or intervened in by the state for the purposes of child protective intervention, (ii) a parent’s right to residential custody of a child or the parent’s visitation rights are at risk of being terminated, severely limited, or subject to a supervision requirement or (iii) a party seeks sole legal authority to make major decisions affecting the child.

The right to representation for children should be limited only to proceedings initiated by the state, or in which the state intervened, for the purposes of child protective intervention. The above list should not be considered all-inclusive, as jurisdictions may provide for a right to counsel in additional categories of proceedings or for especially vulnerable individuals with specific impairments or barriers requiring the assistance of counsel to guarantee a fair hearing.

AMERICAN BAR ASSOCIATION, RECOMMENDATION 112A (Aug. 7, 2006),
available at
<http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>

American Bar Association’s Task Force on Access to Civil Justice, *Report to the House of Delegates* 13 (Aug. 2006), *available at*

<http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>.

"A justice system in which people forfeit rights because they are unrepresented, rather than because the facts ... or the law dictates their cases' outcome, is unacceptable."

— Prof. Russell Engler, New England School of Law

<http://www.mdcourts.gov/mdatjc/pdfs/implementingacivilrighttocounselinmd2011.pdf>

Hours.

Many thousands of Marylanders are able to resolve their legal problem or question with brief advice. Presumably many Marylanders will be able to continue representing themselves in simple case types, but will be able to do so more effectively with help from a knowledgeable and supportive provider. Those with limited abilities, high conflict matters, or critical needs, will be able to get full representation in contested proceedings. In other words, the hours spent per case will vary based on each person's legal needs. A complex custody matter can require 100 hours of assistance; a simple legal inquiry may be resolved in 15 minutes. For the purpose of this estimate we will use 4 hours per case. This rough estimate attempts to arrive at a weighted average including large volumes of relatively simpler cases (e.g., most evictions) mixed with smaller volumes of relatively more complex and time-consuming matters (e.g., custody cases contested through trial).

<http://www.constitution.org/vattel/vattel.txt>

The Romans often confounded the law of nations with the law of nature, giving the name of "the law of nations" (Jus Gentium) to the law of nature, as being generally acknowledged and adopted by all civilized nations.¹ The definitions given by the emperor Justinian, of the law of nature, the law of nations, and the civil law, are well known. "The law of nature," says he, "is that which nature teaches to all animals":² thus he defines the natural law in its most extensive sense, not that natural law which is peculiar to man, and which is derived as well from his rational as from his animal nature. "The civil law," that emperor adds, "is that which each nation has established for herself, and which peculiarly belongs to each state or civil society. And that law, which natural reason has established among all mankind, and which is equally observed by all people, is called the law of nations, as being law which all nations follow."³ In the succeeding paragraph, the emperor seems to approach nearer to the sense we at present give to that term. "The law of nations," says he, "is

common to the whole human race. The exigencies and necessities of mankind have induced

all nations to lay down and adopt certain rules of right. For wars have arisen, and produced captivity and servitude, which are contrary to the law of nature; since, by the law of nature, all men were originally born free."4 But from what he adds, -- that almost all kinds of contracts, those of buying and selling, of hire, partnership, trust, and an infinite number of others, owe their origin to that law of nations,-- it plainly appears to have been Justinian's idea, that, according to the situations and circumstances in which men were placed, right reason has dictated to them certain maxims of equity, so founded on the nature of things, that they have been universally acknowledged and adopted. Still this is nothing more than the law of nature, which is equally applicable to all mankind.

<http://press-pubs.uchicago.edu/founders/documents/v1ch3s5.html> Alexander Hamilton Natural Law

[http://press-pubs.uchicago.edu/cgi-bin/htsearch?method=and&config=founders&sort=score&words=vattel&format=builtin-long&restrict=&exclude=ALL VATTEL](http://press-pubs.uchicago.edu/cgi-bin/htsearch?method=and&config=founders&sort=score&words=vattel&format=builtin-long&restrict=&exclude=ALL%20VATTEL)
<http://press-pubs.uchicago.edu/cgi-bin/htsearch?restrict=;exclude=;config=founders;method=and;format=builtin-long;sort=score;words=vattel;page=3>

It may be surprising, even to Americans, to discover how much of their Constitution and their life-style is based on principles of Natural Law. For example:

The concept of unalienable rights is based on Natural Law. Twenty-two of these unalienable rights are listed (at the bottom of this quote).

The concept of unalienable duties is based on Natural Law. . . .

The concept of habeas corpus is based on Natural Law.

The concept of limited government is based on Natural Law.

The concept of separation of powers is based on Natural Law.

The concept of checks and balances to correct abuses by peaceful means is based on Natural Law.

The right of self-preservation is based on Natural Law.

The right to contract is based on Natural Law.

Laws protecting the family and the institution of marriage are all based on Natural Law.

The concept of justice by reparation or paying for damages is based on Natural Law.

The right to bear arms is based on Natural Law.

The principle of no taxation without representation is based on Natural Law.

These few examples will illustrate how extensively the entire American constitutional system is grounded in Natural Law. In fact, Natural Law is the foundation and encompassing framework for everything we have come to call "People's Law."

This is precisely what Thomas Jefferson was talking about when he wrote in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty and the Pursuit of Happiness."

These well-remembered phrases from America's initial charter of liberty are all primary pre-suppositions under the principles of Natural law.

. . . When the Founders adopted the Declaration of Independence, they emphasized in phrases very similar to those of Blackstone that God has endowed all mankind "with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

Let us identify some of the unalienable or natural rights which the Founders knew existed but did not enumerate in the Declaration of Independence:

The right of self-government.

The right to bear arms for self-defense.

The right to own, develop, and dispose of property.

The right to make personal choices.

The right of free conscience.

The right to choose a profession.

The right to choose a mate.

The right to beget one's kind.

The right to assemble.

The right to petition.

The right to free speech.
The right to a free press.
The right to enjoy the fruits of one's labors.
The right to improve one's position through barter and sale.
The right to contrive and invent.
The right to explore the natural resources of the earth.
The right to privacy.
The right to provide personal security.
The right to provide nature's necessities — air, food, water, clothing, and shelter.
The right to a fair trial.
The right of free association.
The right to contract.

<http://www.aipnews.com/talk/forums/thread-view.asp?tid=21904&posts=16&start=1>

Natural Law - The Ultimate Source of Constitutional Law

"Man ... must necessarily be subject to the laws of his Creator.. This will of his Maker is called the law of nature.... This law of nature...is of course superior to any other.... No human laws are of any validity, if contrary to this: and such of them as are valid derive all their force...from this original." - Sir William Blackstone (Eminent English Jurist)

Only in America, did a nation's founders recognize that rights, though endowed by the Creator as unalienable prerogatives, would not be sustained in society unless they were protected under a code of law which was itself in harmony with a higher law. They called it "natural law," or "Nature's law." Such law is the ultimate source and established limit for all of man's laws and is intended to protect each of these natural rights for all of mankind. The Declaration of Independence of 1776 established the premise that in America a people might assume the station "to which the laws of Nature and Nature's God entitle them.."

Herein lay the security for men's individual rights - an immutable code of law, sanctioned by the Creator of man's rights, and designed to promote, preserve, and protect him and his fellows in the enjoyment of their rights. They believed that such natural law, revealed to man through his reason, was capable of being understood by both the ploughman and the professor (*phrase used by Jefferson in another context*). Sir William Blackstone, whose writings trained American's lawyers for its first century, capsulized such reasoning:

"For as God, when he created matter, and endued it with a principle of mobility, established certain rules for the...direction of that motion; so, when he created man, and endued him with freewill to conduct himself in all parts of life, he laid down certain immutable laws of human nature, whereby that freewill is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws."

The Founders saw these as moral duties between individuals. Thomas Jefferson wrote:

"Man has been subjected by his Creator to the moral law, of which his feelings, or conscience as it is sometimes called, are the evidence with which his Creator has furnished him The moral duties which exist between individual and individual in a state of nature, accompany them into a state of society . their Maker not having released them from those duties on their forming themselves into a nation."

We should dedicate ourselves to rediscovering and preserving an understanding of our Constitution's basis in natural law for the protection of natural rights - principles which have provided American citizens with more protection for individual rights, while guaranteeing more freedom, than any people on earth.

"The end of law is not to abolish or restrain, but to preserve and enlarge freedom." -John Locke

http://providencefoundation.com/?page_id=2517

<http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2111&context=mlr>

The principal rules for handling an appeal in the Maryland Court of Appeals are these: (1) know the case; (2) read the rules carefully and follow them to the letter; (3) master the record before writing a word of the brief; (4) write the statement of facts first, accurately, fairly and favorably; (5) discard weak questions and unpersuasive arguments in the brief and polish strong arguments to a cutting edge; and (6) do not allow oral argument to be a mere restatement of the brief, but rather go for the jugular, hammering hard the persuasive points. Like other

specialties of the law, the art of appellate advocacy must be learned empirically, through experience. The suggestions offered above may, however, provide a framework around which the individual talents of potential appellate advocates can develop. The effective appellate advocate is not, as Socrates is reported to have said of the Sophists, the one who "makes the lesser cause appear the better"; nor is he, as Judah Benjamin, former Confederate statesman and later leader of the British appeal bar, was once characterized, "the best defender of forlorn hopes." Rather, 'he is the advocate who successfully develops an ability to present a cause, be it persuasive or dubious and whether won or lost below, in its clearest, most forceful and -most compelling light. If appellate counsel can develop that ability, they will be of greater assistance to the Maryland Court of Appeals, not only in deciding appeals correctly but also in distilling the 'arguments of learned counsel into opinions that will better illuminate the paths of the law marked out by judicial precedent. Thus, in the end, elevation of the quality of appellate advocacy in Maryland will not only redound to the distinction of its bar and its highest court, but, even more importantly, will contribute to the quality and growth of the jurisprudence of this state.

Individual Mandate

Beginning in 2014, PPACA includes a mandate for most individuals to have health insurance or potentially pay a penalty for noncompliance. 2 Individuals will be required to maintain minimum essential coverage for themselves and their dependents. Some individuals will be exempt from the mandate or the penalty, while others may be given financial assistance to help them pay for the cost of health insurance and, in some cases, cost-sharing.

<http://healthreformgps.org/wp-content/uploads/CRSreportonPPACAUG2011.pdf>

Healthcare bill exceptions

§ 1501 and § 10106 of the Patient

Protection and Affordable Care Act (PPACA, P.L. 111-148), as amended by § 1002 of the

Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

Federal Law

<http://www.law.cornell.edu/uscode/text/26/5000A>

"Dicta is at most persuasive and cannot function as ground breaking precedent."
State v. Hubbard, 751 So.2d 552,564 (Fla. 1999).

Injury - Last 4 years have been a living hell, trying to get anyone of authority to look at my evidence. I have been to DC and Congress over a dozen times handing out my evidence. I served 2 dozen Congressmen with federal subpoenas for another case on this issue and while serving them also gave them my evidence on ineligibility. I've contacted Senator Mikulski more than a dozen times in the past 4 years and now the latest email response from her says that Obama's birth certificate has been verified as authentic by experts and that is a complete lie. What has been authenticated by experts as a forgery, which is in the evidence. My Senator lied to me to cover up the truth. When the truth comes out, she will be an accessory to the crime.

No one will look at the evidence and that is all we ask is a fair trial on the merits and ON THE EVIDENCE! We demand our right to due process of the law to bring evidence!

In re Dismissal for Failure to State a Claim

FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED

[5] "The general rule in appraising the sufficiency of a complaint for failure to state a claim is that a

complaint should not be dismissed '***unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.' CONLEY VS. GIBSON (1957), 355 U.S. 41, 45, 46, 78 S.Ct. 99, 102, 2 LEd 2d 80; SEYMOUR VS. UNION NEWS COMPANY, 7 Cir., 1954, 217 F.2d 168; and see rule 54c, demand for judgment, FEDERAL RULES OF CIVIL PROCEDURE, 28 USCA:

***every final judgment shall grant the relief to which the party in whose favor it is rendered is

entitled, even if the party has not demanded such relief in his pleadings." U.S. V. WHITE COUNTY BRIDGE

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COMMISSION (1960), 2 Fr Serv 2d 107, 275 F2d 529, 535

"A complaint may not be dismissed on motion if it states some sort of claim, baseless though it may eventually prove to be, and inartistically as the complaint may be drawn. Therefore, under our rules, the

plaintiff's allegations that he is suing in 'criminal libel' should not be literally construed. [3] The

complaint is hard to understand but this, with nothing more, should not bring about a dismissal of the complaint, particularly is this true where a defendant is not represented by counsel, and in view of rule

8{f} of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do

substantial justice BURT VS. CITY OF NEW YORK, 2Cir., (1946) 156 F.2d 791. Accordingly, the complaint will not be dismissed for insufficiency. [4,5] Since the Federal Courts are courts of limited jurisdiction, a

plaintiff must always show in his complaint the grounds upon which that jurisdiction depends." STEIN VS. BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPER HANGERS OF AMERICA, DCCDJ (1950), 11 F.R.D. 153.

"A complaint will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in allegations of essential facts, it cannot be said that under no circumstances will the party be

able to recover." JOHN EDWARD CROCKARD VS. PUBLISHERS, SATURDAY EVENING POST MAGAZINE OF PHILADELPHIA, PA (1956) Fr Serv 29, 19 F.R.D. 511, DCED Pa 19 (1958)

"FRCP 8f: CONSTRUCTION OF pleadings. All pleadings shall be so construed as to do substantial justice.

"

DIOGUARDI VS. DURNING, 2 CIR., (1944) 139 F2d 774

"Counterclaims will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in allegations of essential facts, it cannot be said that under no circumstances will the party be able to recover." LYNN VS VALENTINE VS. LEVY, 23 Fr 46, 19 FDR, DSCDNY (1956) JUDICIARY ACT OF 1789, suit cannot be dismissed because of errors in service

"A complaint may not be dismissed on motion if it states some sort of claim, baseless though it may eventually prove to be, and inartistically as the complaint may be drawn. Therefore, under our rules, the plaintiff's allegations that he is suing in 'criminal libel' should not be literally construed. [3] The complaint is hard to understand but this, with nothing more, should not bring about a dismissal of the complaint, **particularly is this true where a defendant is not represented by counsel,** and in view of rule 8{f} of the rules of civil procedure, 28 U.S.C., which requires that **all pleadings shall be construed as to do substantial justice** BURT VS. CITY OF NEW YORK, 2Cir., (1946) 156 F.2d 791. Accordingly, the complaint will not be dismissed for insufficiency.

at common law: at case law or precedent, nomenclature: 1. a system or set of terms or symbols especially in a particular science, discipline, or art. 2. a set or system of names or terms, as those of a particular science or art.

Enforcement Act of 1870 §16 (give evidence) **PJN**

Enforcement Act of 1870 §18 (reinstates Civil Rights Act) **PJN**

any person who, under color of any law, statute, ordinance, regulation or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any rights secured or protected by the preceding section (above quoted), or to different punishment, pains, or penalties, on account of such person's being an alien, or by reason of his color or race, than is prescribed for the punishment of citizens, shall be deemed guilty of a misdemeanor, and subject to fine and imprisonment as specified in the act.

§ 10-501. **Judicial notice**

Every court of this State shall take **judicial notice** of the common law and statutes of every state, territory, and other jurisdiction of the United States, and of every other jurisdiction having a system of law based on the common law of England

§ 10-504. **Evidence of laws.**

A party may also present to the trial court any admissible evidence of foreign laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken of it, reasonable notice shall be given to the adverse parties either in the pleadings or by other written notice.

find statutes at large not subject to any foreign power 1918?

The Self-Represented Litigant Committee identifies and implements changes to ensure that Maryland Courts are accessible to self-represented litigants. Professor Michael Millemann, of the University of Maryland Francis King Carey School of Law. Self-Help Centers Subcommittee.

<http://books.google.com/books?id=CX0AAAAAYAAJ&pg=PA59&dq=Civil+government+of+the+United+States+and+South+Dakota+%22born+in+the+united+states+of+citizen+parents%22&hl=en&sa=X&ei=GOODxZRfUf7sONKy0QH8zYG4DQ&ved=0CDQQ6AEwAA#v=onepage&q=CiGOODvil%20government%20of%20the%20United%20States%20and%20South%20Dakota%20%22born%20in%20the%20united%20states%20of%20citizen%20parents%22&f=false>

“natural born citizens include those born of parents who are citizens”
Civil government of the United States and South Dakota

<http://www.afriGeneas.com/forume/index.cgi/md/read/id/5495/sbj/now-for-the-legal-language-impaired-among-us/>

This proposition of law, as enunciated by Bouvier, was strictly adhered to by Mr. Justice Story in delivering the opinion of the Supreme Court of the United States in the case of Shanks v. Dupont, reported in 3 Peters, 242, and has been steadfastly adhered to in the decisions of both the Federal and State courts to this day.

In the case of the United States v. Ward, reported in the 42 Fed. Rep., 320, the court held that as Ward's father was a negro, notwithstanding the fact that his mother was an Indian, as he was born of free parents he took the status of his father, and

the court further says:

In *Toyota v. United States* (1925), [268 U.S. 402, 411](#) [45 S.Ct. 563, 69 L.Ed. 1016], in reviewing the naturalization statutes, the court said: "The citizens of the Philippine Islands are not aliens. See *Gonzales v. Williams*, [192 U.S. 1, 13](#) [24 S.Ct. 171, 48 L.Ed. 317]. They owe no allegiance to any foreign government.

<https://docs.google.com/document/d/1zPRYmTSeOpSvXr0rXVun-WIw1OtWxYY9dOstdQmMIqo/edit>

<http://archive.org/stream/cu31924030467793#page/n51/mode/2up>

50. See Edwin D. Dickinson, *The Law of Nations as Part of the National Law of the United States*, 101 U. Pa. L. Rev. 26, 35 (1952) (explaining that this treatise and writings of Grotius, Pufendorf, and Burlamaqui "were an essential and significant part of the minimal equipment of any lawyer of erudition in the eighteenth century"); see also Janis, *supra* note 49, at 57 ("Those meeting at Philadelphia to draft the document were not deficient in formal training in the law of nations."); David Gray Adler, *The President's Recognition Power*, in *The Constitution and the Conduct of American Foreign Policy* 133, 137 (David Gray Adler & Larry N. George eds., 1996) ("During the Founding period and well beyond, Vattel was, in the United States, the unsurpassed publicist on international law."); Douglas J. Sylvester, *International Law as Sword or Shield? Early American Foreign Policy and the Law of Nations*, 32 N.Y.U. J. Int'l L. & Pol. 1, 67 (1999) (explaining that in American judicial decisions, "in all, in the 1780s and 1790s, there were nine citations to Pufendorf, sixteen to Grotius, twenty-five to Bynkershoek, and a staggering ninety-two to Vattel").

51. Letter from Benjamin Franklin to Charles Dumas (Dec. 19, 1775), in 2 *The Revolutionary Diplomatic Correspondence of the United States* 64, 64 (Francis Wharton ed., 1889).

52. Abraham C. Weinfeld, Comment, *What Did the Framers of the Federal Constitution Mean by "Agreements or Compacts"?*, 3 U. Chi. L. Rev. 453, 459 (1936) (quoting Albert de Lapradelle, Introduction to 3 Emmerich de Vattel, *The Law of Nations or the Principles of Natural Law*, at xxx n.1 (Charles G. Fenwick trans., 1916).

In 1978, the Supreme Court wrote that Vattel was the “international jurist most widely cited in the first 50 years after the Revolution.” *U.S. Steel Corp. v. Multistate Tax Comm’n*, 434 U.S. 452, 462 n.12 (1978).

Oaths of Fidelity or Oaths of Allegiance, 1775-1778, MS 3088

Finding Aid for Oaths of Fidelity or Oaths of Allegiance,
Maryland Historical Society

Collection summary

Title Oaths of Allegiance and Oaths of Fidelity Collection

Call number MS3088

Inclusive dates 1775-1778

Abstract The Oath of Fidelity was instituted by Laws of Maryland 1777, Chapter 20, An Act for the Better Security of Government. Every free male 18 years and older was required to subscribe to an oath renouncing the King of England and to pledge allegiance to the revolutionary government of Maryland. Those already engaged in military service were assumed to be loyal. Quakers, Mennonites, and Dunkards were permitted to affirm. There were several penalties associated with failure to obey the instructions of the ACT. Magistrates neglecting to keep books and transmit them to the Governor were to be fined 500 pounds. Persons expected to take the oath who did not do so were required, for the rest of their lives, to pay triple the ordinary tax on real and personal property. They were forbidden to exercise and practice the trade of merchandise or to practice the law, physic or surgery, or the art of an apothecary, or to preach or teach the gospel, or to teach in public or private schools, or to hold or exercise within this state, any office of profit or trust, civil or military, or to vote at any election of electors or senators, or of delegates to the house of delegates. Oaths were to be administered by the magistrates of each county before March 1, 1778. One list of those who subscribed to the oath was to be kept at the county court and another sent to the governor and

Council in Annapolis. The lists from various sources have been consolidated into this collection. This collection consists of documents containing lists of those residents of the respective counties of the State of Maryland who subscribed to the oath before a magistrate and oaths submitted to the Governor and Council. See below for a detailed inventory of the contents of this Collection.

Administrative summary

Repository	H. Furlong Baldwin Library Maryland Historical Society 201 W. Monument Street Baltimore, MD 21201 www.mdhs.org special_collections@mdhs.org
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Access restrictions	Access to the collection is unrestricted
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Use restrictions	Permission to publish transcriptions, quotations, or
citations must be	received in writing from the Special
Collections Librarian.	

Processing note	Collection consolidated and finding aid created in 2011.
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Scope and content	This collection contains Oaths of Allegiance and Fidelity documents signed by the residents of the respective counties or copied and submitted by the magistrates who witnessed them. Contents are filed by county and then alphabetically by the magistrate who witnessed the oath. Folders contain all lists of the specific magistrate. There are also copies of the lists of oaths which were submitted to the Governor and Council. Many of the originals of these lists are in the Maryland State Archives. Oaths have been consolidated from a variety of sources including MS1146, MS 1814, MS 1675, vertical file, and individual private collections.
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See also for additional information:

Oath of Fidelity Index in the Main Reading Room which contains a card catalogue of the names of individuals who took the Oath of Allegiance and the county and magistrate who administered the oath. This index does not contain names for St. Mary's, Washington, or Worcester Counties.

G5031 Kerr, Mrs. Samuel Chase. The Mrs. Samuel Chase Kerr Collection, 1778. This file includes a typed copy of 'Chronicles of St. Mary's – Monthly Bulletin of the St. Mary's County Historical Society, July 1956 which lists names of Subscriber's to the Oath of Allegiance – 1778, St. Mary's County, Maryland including 14 officials who administered the oath. A copy of this Bulletin was made and added to MS3088.

G5059 Dr. Thomas E. Sears Collection Box 1. An alphabetical list of the names of such persons as took & subscribed the Oath or Affirmation of Fidelity on or before the 1st of March 1778 in Talbot County. Also List of such persons as took & subscribed the Oath or Affirmation of Fidelity after 1st March, but at the first county Court thereafter. Md. Historical Society Library (In vault) Portfolio No. 11 No. 15 (handwritten in small bound book)

MF185.C29 Carothers, Bettie Stirling. Volumes 1 & 2. 9000 Men who signed the Oath of Allegiance and Fidelity to Maryland during the Revolution.

MF185.H69 Hodges, Margaret Roberts. Unpublished Revolutionary records of Maryland [microfilm]. Vol 1. Original commissions 1775-1762. Lists of States Militias by county. Vol 2. The Arc & Dove. Lists of militia of Anne Arundel, Baltimore, Calvert, Charles, Kent, St. Mary's Counties. Lists of substituted soldiers by county. Vol 3. Oaths of Allegiance Frederick, Harford, Montgomery, Washington Counties. Vol 4. Soldiers on half pay, families of distressed soldiers. Officers bounty lands. Vol 5. Montgomery County militia; Charles County oaths of allegiance. Vol 6. Oaths of allegiance Calvert, Baltimore, Talbot, Dorchester, St. Mary's Counties.

MF185.W25 Ward, Anna D. Maryland Oath of Fidelity, 1778. Compiled 1967. List of Magistrates by County who returned lists of Oaths of Allegiance. In Main Reading Room with Oath of Fidelity Index Card File. (See above)

MF187.C4.C4S. Ash, Mollie Howard. Cecil County Maryland Signers of the Oath of Allegiance / sworn by county justices March 2nd 1778; copied and published, Elkton, MD: Cecil Whig, 1940.

MF187.P9.H6. Hienton, Louise Joyner & Brown, Helen White. 1778 Oaths of Fidelity, Prince George's County, Maryland.

MS1586 Oaths of Fidelity, 2 boxes. Special Collections. Contains original copies or Photostats of the Oaths of Fidelity and Allegiance. Many of these individual magistrate's lists were Photostats of original documents which are in the Maryland State Archives. Many of them have been transferred from MS1586 to MS3088. For

Anne Arundel County, Oaths of Fidelity are included with other official documents and therefore have been retained in MS1586.

PAM 4622 Buckey Mrs WG. A list of militia & oaths of allegiance. June, 1775 Kent Co., MD & vicinity. Militia lists and oaths of allegiance from Quaker Neck, Chestertown, Kent Lower Langford, Worton and Eastern Neck. Names on this list were all enlisted in the Continental Army.

PAM 3721 List of Signers in Charles County of Oath of Allegiance to Maryland in 1778. Compliments of Charles R. Morehead, El Paso, Texas. March Court, 1778. List of persons in Charles County, Maryland who have taken the oath which is listed in the pamphlet before the following different magistrates and returned by them to Charles County Court: the Worshipful Walter Hanson, Worshipful Walter Hanson Jenifer, Worshipful Wm. Harrison, Worshipful Joseph Anderson, the Worshipful John Dent, The Worshipful Richard Barnes, The Worshipful Daniel Jenifer, The Worshipful Geo. Dent, The Worshipful Warren Dent, The Worshipful John Lancaster, The Worshipful John Parnham, The Worshipful John Dent, The Worshipful Robert Young, The Worshipful Walter Hanson. True copy taken from the original lists test J. Givinn, Clk. Charles Co., Liber X, No. 3. 1775 to 1778-fols, 641 to 651, Annapolis Land Office Md.

PAM 10,060 The Oath of Fidelity in Dorchester County by Albert Levin Richardson. From Maryland Original Research Society—Bulletin #3, Baltimore, Maryland—May, 1913. List of Magistrates in Dorchester County before whom the citizens of that county subscribed the Oath of Fidelity to the State of Maryland in 1778: James Murray, Thomas F. Eccleston, Benjamin Keene, Henry Lake, James Shaw, William Ennalls, and Robert Harrison and a list of 'most of the names of the men' who subscribed to the oath.

PAM 10,433 Buckey Mrs William G. Kent Co. MD list of militia and oaths of allegiance. June, 1775.

PAM 10,514 Washington County, Maryland Records: Oaths of Allegiance, 1778 and Balance Books on Estates (Distributions), 1778-1801. Compiled & Edited by Raymond B. Clark, Jr. October, 1989. Introduction and list of magistrates before whom the oath was taken: The Worshipful Sam Hugh, The Worshipful Chris. Cruso, The Worshipful Richard David, The Worshipful Joseph Chaplin, The Worshipful John Cellar, The Worshipful Andrew Bruce, The Worshipful Daniel Barrits, The Worshipful John Barn, The Worshipful William Yates, The Worshipful Henry Schnebely, The Worshipful Andrew Rentch, The Worshipful Joseph Sprigg

PAM 10,730 American Star, April 7, 1911. Newspaper article which explains that all those who signed the oath of allegiance were not necessarily loyal to the Revolutionary Cause, but that there were a number of insurgents, especially in Somerset and Worcester Counties still loyal to the king.

PAM 12,310 Persons taking the oath of fidelity in Talbot County 1778. Typed copy from Maryland Original Research Society – Bulletin #3, Baltimore, Maryland – May, 1913. Albert Levin Richardson.

§ 170. Id. American Authorities. — In America there has been considerable conflict of opinion, and certainly much

2 3 Hurl. & Colt. 374.
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§ 170.] CHANGE OF NATIONAL DOMICIL. [CHAP. VII.

looseness of expression, with respect to the requisite animus manendi. This has been due to several causes, the principal of which have been: (1) the application of "the doctrine of domicile to a large variety of frequently very diverse subjects ; (2) the legislative habit of using such words as " residence," " inhabitancy," and the like as approximate terms to describe connection between person and place, leaving to the courts the duty of determining their true meaning in accordance with the general tenor, object, and scope of the particular legislation in which they are used ; and (3) the too frequent practice of relying upon cases of municipal domicile as authorities in cases of national and g'Masi-uational domicile.

In most of the cases, however, in which the subject is at all considered, intention to remain permanently/ is either laid down or assumed as the necessary animus manendi.^ In many it is strongly insisted upon, some cases even going to the extent of adopting Vattel's definition either in terms or in substance.

President Rush, in the leading case of *Guier v. O'Daniel*,^

defines domicile to be " residence at a particular place accompanied with positive or presumptive proof of continuing it an unlimited time;" and through the influence of this definition, particularly in its modified form as given by Phillimore, intention to remain " for an unlimited time " has been adopted in a number of the American cases . ^

1 The Venus, 8 Cranch, 253; Ennis Brewst. 439 ; Lindsay v. Murphy, 76

V. Smith, 14 How. 400; The Ann Green, Va. 428 ; Home v. Home, 9 Ired. 99 ;

1 Gall. 274 ; Catlin v. Gladding, 4 Ma- Plummer v. Brandon, 5 Ired. Eq. 190 ; son, 308 ; Burnham v. Rangeley, 1 Eue High, Appellant, 2 Doug. (Mich.) Woodb. & M. 7 ; Butler v. Farasworth, 515 ; Campbell v. "White, 22 Mich. 178;

4 Wash. C. Ct. 101 ; Castor v. Mitchell, Hayes v. Hayes, 74 111. 312 ; Dale v. Ir- id. 191 ; Butler v. Hopper, 1 id. 499 ; win, 78 id. 160 ; Johnson d. Turner, 29 Read v. Bertrand, 4 id. 514; Prentiss v. Ark. 280; Gravillon v. Richards Ex'r, 13 Barton, 1 Brock. 389 ; Kemna v. Brock- La. An. 293 ; Heirs of HoUiman v. Fee- haus, 10 Bias. 128 ; Johnson v. Twenty- hies, 1 Tex. 673; and see vii/ra, § 173, one Bales, 2 Paine, 601; s. c. Van Ness, note 4. See also remarks of Butler, P. J.,

5 ; United States v. Penelope, 2 Pet. Ad. in Se Lower Oxford Election, 11 Phila. 438 ; Sears v. Boston, 1 Met. 250 ; Du- 641.

puyo.Wurtz, 53N.Y. 556; iJe Catharine a 1 Binney, 349, note.

Eoberts' Will, 8 Paige Ch. 519 ; Craw- 8 Mitchell v. United States, 21 Wall,

ford V. Wilson, 4 Barb. 504 ; Vischer v. 350 ; White v. Brown, 1 Wall. Jr. 0.

Vischer, 12 id. 640 ; State v. Ross, 3 Ct. 217 ; Littlefield v. Brooks, 50 Me.

Zab. 517 ; Clark & Mitchener v. Likeiis, 475 ; Stockton v. Staples, 66 id. 197 ;

2 Dutch. 207 ; Taylor 0. Reading, 4 Crawford v. Wilson, 4 Barb. 504 ; Hege-