ENUMERATION OF INALIENABLE RIGHTS

Last revised: 8/2/2007

LIST OF TABLES

TABLE OF AUTHORITIES

Constitutional Provisions

Statutes

Regulations

Cases

Other Authorities

As we say repeatedly on our website, you must know your rights before you have any! A sovereign who is not subject to federal statutory law cannot cite that law in his defense, and can *only* defend himself by litigating in defense of his Constitutional and natural rights. He must do so in equity and not law, and proceed against the perpetrator as a private individual. His standing derives from the injury to his rights, and not from the authority of a federal statute that only applies to those domiciled within the federal zone. This is covered further in the Sovereignty Forms and Instructions Manual, section 1.6.6 available at:

http://famguardian.org/Publications/SovFormsInstr/SovFormsInstr.pdf

There is no single place we have found which even attempts to enumerate all of these rights or "protected liberty interests". You won't find them listed in any statute or legislative act or legal reference book. The only source we have found which identifies them is mainly rulings of the U.S. Supreme Court and state Supreme Courts. The following subsections constitute a summary of these rights, provided for ready reference in order to save you the MUCHO research time we had to devote in producing it:

1. ENUMERATION OF RIGHTS

Table 1: Enumeration of Inalienable Rights

#	Description	Law(s)	Case or other authorities
1	***ASSOCIATION AND RELIGION***		
1.1	Right to associate	First Amendment	
1.2	Right to be left alone		Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting) Washington v. Harper, 494 U.S. 210 (1990) Hill v. Colorado, 530 U.S. 703, 751, 120 S.Ct. 2480, 2508 (2000)
1.3	Freedom from compelled association	First Amendment	Am.Jur.2d, Constitutional law, §546: Forced and Prohibited Associations Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S. Ct. 2729, 111 L. Ed. 2d 52, 5 I.E.R. Cas. (BNA) 673 (1990)
1.4	Right to practice religion	First Amendment	O'Lone v. Estate of Shabazz, 482 U.S. 342 (1987) (for prisoners)
1.5	Collective activity to obtain meaningful access to the courts is a fundamental right within the protections of the First Amendment	First Amendment	Roberts v. United States Jaycees, 468 U.S. 609 (1984) In re Primus, 436 U.S. 412, 426 (1978) NAACP v. Button, 371 U.S. 415, at 429-430 (1963)
1.6	Right to be free from compulsion by state to join a labor union involved in idealogical activites		Abood v. Detroit Board of Education, 431 U.S. 209, 236 (1977) Roberts v. United States Jaycees, 468 U.S. 609 (1984)
2	***SPEECH***		
2.1	Right to speak	First Amendment	Thornburgh v. Abbott, 490 U.S. 401, 407 (1989) (for prisoners)
2.2	Right to not speak or remain silent	First Amendment	Wooley v. Maynard, 430 U.S. 705, 97 S.Ct. 1428, 51 L.Ed.2d 752 (1977) Miranda v. Arizona, 384 U.S. 436 (1966) Abood v. Detroit Bd. of Ed., 431 U.S. 209, 97 S.Ct. 1782, 52 L.Ed.2d 261 (1977) Malloy v. Hogan, 378 U.S. 1 (1964) (direct compulsion to testify) Griffin v. California, 380 U.S. 609, 613-614 (1965) (indirect compulsion to testify prohibited) McCune v. Lile, 536 U.S. 24 (2002) ("we have construed the text to prohibit not only direct orders to testify, but also indirect compulsion effected by comments on a defendant's refusal to take the stand")
2.3	Right of freedom from prior restraints on speech		Southeastern Promotions, Ltd. V. Conrad, 420 U.S. 546, 558-559 (1975)
2.4	Right to remain anonymous when speaking		Macintyre v. Ohio Elections Commission, 514 U.S. 334 (1995) Talley v. California, 362 U.S. 60 (1960)
2.5	Right to not be penalized based on failure to testify		Uniformed Sanitation Men Assn., Inc. v. Commissioner of Sanitation of City of New York, 392 U.S. 280, 284-285 (1968) Lefkowitz v. Turley, 414 U.S. 70, 77-79 (1973) Lefkowitz v. Cunningham, 431 U.S. 801, 804-806 (1977) McKune v. Lile, 536 U.S. 24, 35 (2002)
2.6	Right to not be compelled to give testimony in a civil proceeding		McCarthy v. Arndstein, 266 U.S. 34, 40 (1924)
2.7	Right to demand grant of witness immunity prior to any testimony		Kastigar v. United States, 406 U.S. 441, 446-447 (1972)
3	***DEFENSE AND SELF-DEFENSE***		
3.1	Right to bear arms	Second Amendment	See also: http://famguardian.org/Subjects/GunControl/Research/CourtDecisions/court.htm
3.2	Right to not quarter soldiers in your house	Third Amendment	
3.3	Right to self-defense (when life threatened)		Beard v. U.S., 158 U.S. 550 (1895)
4	***FAMILY, SELF, AND HOME***		
4.1	Right to marry and divorce		Loving v. Virginia, 388 U.S. 1 (1967) (for everyone) Turner v. Safley, 482 U.S. 78 (1987) (for prisoners)
4.2	Right to procreate		Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942)

#	Description	Law(s)	Case or other authorities
4.3	Right to establish a home and bring up children		Troxel v. Granville, 530 U.S. 57 (2000) (“we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own.") Meyer v. Nebraska, 262 U.S. 390, 399, 401 (1923) (establish a home and bring up children) Pierce v. Society of Sisters, 268 U.S. 510, 534-535 (1925) (held that the "liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control.")
4.4	Right to make decisions about the care, custody, and upbringing of one’s children		Stanley v. Illinois, 405 U.S. 645, 651 (1972) ("It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children `come[s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements'" (citation omitted)); Wisconsin v. Yoder, 406 U.S. 205, 232 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"); Quilloin v. Walcott, 434 U.S. 246, 255 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected"); Parham v. J. R., 442 U.S. 584, 602 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course"); Santosky v. Kramer, 455 U.S. 745, 753 (1982) (discussing "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child"); Washington v. Glucksberg, 521 U.S. 702, at 720 (1997) ("In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the `liberty' specially protected by the Due Process Clause includes the righ[t] . . . to direct the education and upbringing of one's children" (citing Meyer and Pierce)) Troxel v. Granville, 530 U.S. 57 (2000)
4.5	Right to use contraceptives		Griswold v. Connecticut, 381 U.S. 479 (1965) Eisenstadt v. Baird, 405 U.S. 438 (1972)
4.6	Right to contract	Constitution, Art. 1, Section 10 (in relation to states) 42 U.S.C. §1981(b)	Sinking Fund Cases, 99 U.S. 700 (1878) (in relation to federal government) Standard Oil v. U.S., 221 U.S. 1 (1910). (noting "the freedom of the individual right to contract when not unduly or improperly exercised [is] the most efficient means for the prevention of monopoly")
4.7	Right to send children to private school		Pierce v. Society of Sisters, 268 U.S. 510 (1925)
4.8	Right to privacy	Fourth Amendment	
4.9	Freedom from unreasonable searches and seizures	Fourth Amendment	
4.10	Spousal privilege against incrimination of spouse		What to Do When the IRS Comes Knocking, Section 5; http://famguardian.org/TaxFreedom/Forms/Discovery/WhatToDoWhenTheIRSComesKnocking.pdf Trammel v. United States, 445 U.S. 40 at 51, 100 S.Ct. at 913 (1980)
4.11	Right to enjoy property		Lynch v. Household Finance Corp., 405 U.S. 538 (1972)
4.12	Right of equal protection	42 U.S.C. §1981(a) Fourteenth Amendment U.S. Constitution, Article IV, Section 2	Gulf, C. & S. F. R. Co. v. Ellis, 165 U.S. 150 (1897)
4.13	Right to not be subjected to involuntary servitude or slavery	Thirteenth Amendment 42 U.S.C. §1994 18 U.S.C. §1589 (abuse of legal process)	Plessy v. Ferguson, 163 U.S. 537 (1896) Clyatt v. United States, 197 U.S. 207; 25 S.Ct. 429; 49 L.Ed. 726 (1905)
4.14	Right to not take anti-psychotic drugs except in presence of compelling state interest		Washington v. Harper, 494 U.S. 210 (1990) Riggins v. Nevada, 504 U.S. 127 (1992) Sell v. United States, 539 U.S. 166 (2003)

#	Description	Law(s)	Case or other authorities
4.15	Right to refusal of artificial provision of life-sustaining food and water to hastening one's own death.		Cruzan v. Director, MDH, 497 U.S. 261 (1990)
4.16	Right to make decisions that will affect one's own or one's family's destiny		Fitzgerald v. Porter Memorial Hospital, 523 F.2d 716, 719-720 (CA7 1975) (footnotes omitted), cert. denied, 425 U.S. 916 (1976)
4.17	Right to not be sterilized as a felon		Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535, 541 (1942) (invalidating a statute authorizing sterilization of certain felons).
4.18	Right of inviolability of the person		Union Pacific R. Co. v. Botsford, 141 U.S. 250, 251-252 (1891) ("The inviolability of the person" has been held as "sacred" and "carefully guarded" as any common law right.) Downer v. Veilleux, 322 A.2d 82, 91 (Me.1974) ("The rationale of this rule lies in the fact that every competent adult has the right to forego treatment, or even cure, if it entails what for him are intolerable consequences or risks, however unwise his sense of values may be to others") Cruzan v. Director, MDH, 497 U.S. 261 (1990)
5	***TRAVEL***		
5.1	Right to travel		Saenz v. Roe, 526 U.S. 489 (1999) (thoroughly explains the right) United States v. Guest, 383 U.S. 745, 757 (1966) Shapiro v. Thompson, 394 U.S. 618 (1969)
5.2	Right of freedom from physical restraint		Kansas v. Hendricks, 521 U.S. 346 (1997) Foucha v. Louisiana, 504 U.S. 71, 80 (1992) Ingraham v. Wright, 430 U.S. 651, 673-674 (1977) Board of Regents v. Roth, 408 U.S. 564, 572 (1972) Jacobson v. Massachusetts, 197 U.S. 11, 26 (1905) ("[T]he liberty secured by the Constitution of the United States to every person within its jurisdiction does not [521 U.S. 357] import an absolute right in each person to be at all times and in all circumstances, wholly free from restraint. There are manifold restraints to which every person is necessarily subject for the common good. On any other basis, organized society could not exist with safety to its members.")
5.3	Right to travel to another state to get an abortion		Doe v. Bolton, 410 U.S. 179, 200 (1973)
5.4	Right of nonresidents to enter or leave a state		Shapiro v. Thompson, 394 U.S. 618, 631 (1969)
5.5	There is *no fundamental right* to have or to register a car		Williams v. Vermont, 472 U.S. 14 (1985)
6	***DUE PROCESS***		
6.1	Right to indictment by Grand Jury, not government	Fifth Amendment	
6.2	Right of freedom from double-jeopardy	Fifth Amendment	
6.3	Right to no incriminate self	Fifth Amendment	
6.4	Right to life, liberty, and property. Cannot be deprived of without due process of law	Fifth Amendment	
6.5	Property may not be taken by state without just compensation	Fifth Amendment	
6.6	Right to not be victimized by warrantless seizures	Fourth Amendment	
6.7	Right to speedy trial in criminal case	Sixth Amendment	
6.8	Right to impartial jury in the district where crime committed	Sixth Amendment	
6.9	Right to be informed of the nature and cause of accusations	Sixth Amendment	
6.10	Right to confront witnesses	Sixth Amendment	
6.11	Right to compel witnesses to testify in your defense	Sixth Amendment	Washington v. Texas, 388 U.S. 14 (1967)
6.12	Right to assistance of Counsel in Criminal	Sixth Amendment	Grosjean v. American Press Co., 297 U.S. 233, 243-244 (1936) ("the fundamental right of the accused to

#	Description	Law(s)	Case or other authorities
	prosecutions		the aid of counsel in a criminal prosecution" is "safeguarded against state action by the due process of law clause of the Fourteenth Amendment"). United States v. Cronic, 466 U.S. 648, 653 (1984) ("Without counsel, the right to a trial itself would be of little avail") McMann v. Richardson, 397 U.S. 759, 771, n. 14 (1970) ("the right to counsel is the right to the effective assistance of counsel.)
6.13	Right of trial by jury	Sixth Amendment	
6.14	Right to be free of cruel or unusual punishment	Eighth Amendment	
6.15	Rights not enumerated in the Constitution are retained by the people	Ninth Amendment	
6.16	Rights not enumerated in the Constitution are retained by the States or the People	Tenth Amendment	
6.17	Right of prisoners of access to court		Lassiter v. Department of Social Servs. Of Durham City, 452 U.S. 18 (1981) (parental rights) Boddie v. Connecticut, 401 U.S. 371 (1971) (divorce) Wong Yang Sung v. McGrath, 339 U.S. 33, 49-50 (1950) (deportation)
6.18	Right to "reasonable notice" or "due notice" of the laws which one is bound to obey	26 CFR §601.702(a)(2)(ii) (publication in federal register before enforceable) 5 U.S.C. §553(b) 44 U.S.C. §1505(a), (c)(2)	Holden v. Hardy, 169 U.S. 366 (1898) ("It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.") Powell v. Alabama, 287 U.S. 45 (1932) ("It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment, and that they, together with a legally *competent* tribunal having jurisdiction of the case, constitute basic elements of the constitutional requirement of due process of law.")
6.19	Right of an indigent defendant to a free transcript in aid of appealing his conviction for violating city ordinances		Griffin v. Illinois, 351 U.S. 12 (1956)
6.20	Right of freedom from institutional confinement		Schall v. Martin, 467 U.S. 253 (1984) (children have a protected liberty interest in "freedom from institutional restraints") Reno v. Flores, 507 U.S. 292 (1993)
6.21	Right to meaningful opportunity to present a defense		Crane v. Kentucky, 476 U.S. 683, 690 (1986) (quoting California v. Trombletta, 467 U.S. 479, 485 (1984)) ("the Constitution guarantees criminal defendants `a meaningful opportunity to present a complete defense.'")
6.22	Right to a fair trial of impartial jurors		Sheppard v. Maxwell, 384 U.S. 333 at 350-351 (1966) Gentile v. State Bar of Nevada, 501 U.S. 1030 (1991) Turner v. Louisiana, 379 U.S. 466, 73 (1965) (evidence in criminal trial must come solely from witness stand in public courtroom with full evidentiary protections).
6.23	Lawyers enjoy a "broad monopoly" or right to do things that other citizens may not lawfully do		Supreme Court of NH v. Piper, 470 U.S. 274 (1985) (Lawyers do enjoy a "broad monopoly . . . to do things other citizens may not lawfully do." In re Griffiths, 413 U.S. 717, GO>731 (1973))
7	***POLITICAL RIGHTS***		
7.1	Right to vote, regardless of gender	Nineteenth Amendment	
7.2	Right to vote without paying a poll tax	24th Amendment	
7.3	Right to vote if 18 or older	26th Amendment	
8	***EDUCATION***		
8.1	Right to teach foreign language in a parochial school		Meyer v. Nebraska, 262 U.S. 390 (1923)
8.2	Right of free speech in educational settings		Board of education of Westside Community Schools v. Mergens by and Through Mergens, 496 U.S. 226 (1990) Shelton v. Tucker, 364 U.S. 479 (1960)
9	***STATES RIGHTS***		

#	Description	Law(s)	Case or other authorities
9.1	Right to NOT spend money on "nontherapeutic abortions for minor adults"		Maher v. Roe, 432 U.S. 464 (1977) Webster v. Reproductive Health Services, 492 U.S. 490, 508-511 (1989)
9.2	Right to *not* be civilly sued in a federal court by a resident of the state		Alden v. Maine, 527 U.S. 706 (1999)
9.3	Right of sovereignty in courts of a foreign sovereign when not conducting "commerce" within the legislative jurisdiction of a foreign sovereign	Foreign Sovereign Immunities Act, 28 U.S.C. §§1602-1611	World-Wide Volkswagen v. Woodson, 444 U.S. 286 (1980)
9.4	Governments or states may violate the Constitutional rights of persons in the context of their employment role as "public officers" (Patronage exception)		Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)
9.5	Right to not subsidize the exercise of a fundamental right		Regan v. Taxation with Representation of Wash, 461 U.S. 540, at 549 (1983) ("[A] legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right.") Buckley v. Valeo, 424 U.S. 1 (1976) Cammarano v. United States, 358 U.S. 498 (1959) Harris v. McRae, 448 U.S. 297 at 317 (1980), n.19. ("A refusal to fund protected activity, without more, cannot be equated with the imposition of a `penalty' on that activity.")
9.6	Right to search an automobile without a search warrant		California v. Carney, 471 U.S. 386 (1985) Carroll v. United States, 267 U.S. 132 (1925)

2. OTHER RESTRAINTS UPON THE GOVERNMENT

The following represent absolute prohibitions upon the actions of the government identified by the U.S. Supreme Court. They are not "rights" per se, but they are intended to protect rights:

2.1 Restraints upon all branches of government

For further information beyond that indicated in the following subsections, refer to the following:

1. *Woe to You Lawyers!*-Fred Rodell. A Professor of Law at Yale University explains how the legal profession is a big fraud.
   http://famguardian.org/Publications/WoeToYouLawyers/woe_unto_you_lawyers.pdf
2. *Federal Usurpation*-Franklin Pierce. Extensive documentation of destruction of the constitution and treason within the government
   http://famguardian.org/Publications/FederalUsurpation/FederalUsurpation.pdf

2.1.1 Legislature may not pass and judiciary may not enforce any law that violates natural law

> *In Hooker v. Canal Co.,*[1] *a Connecticut case, the court say:*
>
> *'**The fundamental maxims of a free government require that the right of personal liberty and private property should be held sacred.**'*
>
> *They cite and approve the expressions of Marshall, C. J., in Fletcher v. Peck:*[2]
>
> *'**And it may well be doubted whether the nature of society and of government does not prescribe some limits to the legislative power.**' &c.*
>
> ***This whole subject is fully treated in the late decision of Booth v. Woodbury,**[3] **where it is expressly held that the legislature can pass no laws contrary to the 'principles of natural justice.'***
>
> ***All these cases, and the jurisprudence of Connecticut on *133 this subject, are in harmony with and in fact founded upon the case of Calder v. Bull,**[4] *a case which went from Connecticut to this court; and the expressions in Goshen v. Stonington are almost identical with those of Mr. Justice Chase, where he says:*
>
> ***'I cannot subscribe to the omnipotence of a State legislature, or that it is absolute and without control, although its authority should not be expressly restrained by the constitution or fundamental law of the State.'***
>
> ***13 But both in this court and many of the State courts the same rule is applied.* [5]
>
> *A case quite in point is Brown v. Hummel,*[6] *in the Supreme Court of Pennsylvania. There a devise of land was made to an orphan asylum, with a provision that the land be never sold, but the rents and profits only be applied to the use of the asylum. The legislature, by a special act, directed that part of the land be sold.*
>
> *The court held unanimously that the act was void and unconstitutional.*

[1] FN34 14 Connecticut, 152; and see Gas Co. *v.* Gas Co., 25 Id. 38, and Hotchkiss *v.* Porter, 30 Id. 418.

[2] FN35 5 Cranch, 185.

[3] FN36 32 Connecticut, 118.

[4] FN37 3 Dallas, 386.

[5] FN38 Terrett *v.* Taylor, 9 Cranch, 43; Wilkinson *v.* Leland, 2 Peters, 627; Irvine's Appeal, 16 Pennsylvania State, 256; Shoenberger *v.* School District, 32 Id. 34; Railroad Co. *v.* Davis, 2 Devereux & Battle, 451; Hatch *v.* Vermont Railroad, 25 Vermont, 49; Benson *v.* Mayor, &c., 10 Barbour, 223; Regent's University *v.* Williams, 9 Gill & Johnson, 365; Billings *v.* Hall, 7 California, 1.

[6] FN39 6 Pennsylvania State, 86.

If the legislature can, by a special act, dispense with the performance of one condition of a devise, they can with any.

Such an act as this is different from those enabling or healing acts often passed, such as those authorizing a sale of minors' lands, or those of lunatics, &c. In all such cases they merely remove a personal disability.[7] *Acts, too, will be cited on the other side in which power has been given to corporations to sell, where in the gifts to them no such power was expressly given. Such cases are from the purpose. *134 To say nothing about the constitutionality or safety of this sort of legislation in general, it may be noted that in many cases the legislature has only aided an intent of a donor left unexpressed or but insufficiently given, or cases in which perhaps the legislature was itself the donor. But can any case be found where, without the assent of the heirs, a power to destroy the identity and substance of the gift has been given in any case where it was plain that the testator meant to keep the land in specie, forever undivided in the corporation, beneficiary, and devisee? What is proper to be done in any case where heirs may have an interest, and what the legislature of Connecticut itself has done, may be seen in the Acts of Connecticut, May Sessions, 1850, at page 82. There Thaddeus and Eunice Burr, she owning it, had granted a lot for a parsonage. An act reciting that the land was not now and never could be wanted for a parsonage, and that a sale was desirable and expedient, authorized a sale. But how? It declares the sale is to be made 'with the assent of the heirs of the said Eunice;' and the act authorized the heirs to release a condition in the deed, in the presence of witnesses; and such release, it was enacted, 'shall operate to forever estop said heirs, and all claiming under them.' This is the right way; and in no other way, assuredly, in a case like the present, could a sale be authorized and the right of property in the heirs be duly respected.*

***14 It will be argued that a legislature has power as parens patrioe to interfere and authorize a sale of land in cases like the one at bar; but the authorities say that the legislatures in this country have no such power.*

In Moore v. Moore,[8] *a Kentucky case, the court say:*

*'**We do not admit that the commonwealth as parens patrioe can rightfully interfere, unless there has been an escheat to her, and then she can become absolute and beneficial owner.** Rights here are regulated by law, and if any person has a claim to property ineffectually dedicated to charity, the commonwealth has *135 no prerogative right to decide on that claim and dispose of the property, as the King of England has been permitted to do.'*
[Stanley v. Colt, 72 U.S. 119, 1866 WL 9404 (U.S.,1866)]

If you would like a summary of all the principles of natural law referred to in the above case, see:

Principles of Natural and Politic Law, J.J. Burlamaqui
http://famguardian.org/PublishedAuthors/Indiv/BurlamaquiJJ/burla_.htm

2.1.2 Government cannot do indirectly what it cannot do directly

*"I turn now to the arguments by which the constitutionality of the act of Congress has been attempted to be supported. It is said that, though Congress cannot directly abrogate contracts, or impair their obligation, it may indirectly, by the exercise of other powers granted to it. This I have conceded, but **I deny that an acknowledged power can be exerted solely for the purpose of effecting indirectly an unconstitutional end which the legislature cannot directly attempt to reach. If the purpose were declared in the act, I think no court would hesitate to pronounce the act void. In Hoke v. Harderson, to which I have referred, Chief Justice Ruffin, when considering at length an argument that a legislature could purposely do indirectly what it could not do directly, used this strong language: 'The argument is unsound in this, that it supposes (what cannot be admitted as a supposition) the legislature will, designedly and wilfully, violate the Constitution, in utter disregard of their oaths and duty. To do indirectly in the abused exercise of an acknowledged power, not given for, but perverted for that purpose, that which is expressly forbidden to be done directly, is a gross and wicked infraction of the Constitution.'**"*
[Sinking Fund Cases, 99 U.S. 700, (1878)]

2.1.3 Government cannot use its taxing powers to take from A and give to B

*****7** Of all the powers conferred upon government that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used and the extent of its exercise is in its very nature unlimited. It is true that express limitation on the amount of tax to levied or the things to be taxed may be imposed by constitution or statute, but in most instances for which taxes are levied, as the support of government, the prosecution of war, the National defence, any limitation is unsafe. The entire resources of the people should in some instances be at the disposal of the government.*

[7] FN40 Powers *v.* Bergen, 2 Selden, 358; Shoenberger *v.* School District, 32 Pennsylvania State, 34; Leggett *v.* Hunter, 5 E. P. Smith, 445.

[8] FN41 4 Dana, 366; and see Lepage *v.* McNamara, 5 Clarke (Iowa), 124, and White *v.* Fisk, 22 Connecticut, 31(54).

The power to tax is, therefore, the strongest, the most pervading of all the powers of government, reaching directly or indirectly to all classes of the people. ***It was said by Chief Justice Marshall, in the case of McCulloch v. The State of Maryland,[9] that the power to tax is the power to destroy.*** *A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent. imposed by the United States on the circulation of all other banks than the National banks, drove out of existence every* ****664*** *State bank of circulation within a year or two after its passage.* ***This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.***

To lay with one hand the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.

Nor is it taxation. A 'tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or state.' 'Taxes are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes.' [10]

Coulter, J., in Northern Liberties v. St. John's Church,[11] *says, very forcibly, 'I think the common mind has everywhere taken in the understanding that taxes are a public imposition, levied by authority of the government for the purpose of carrying on the government in all its machinery and operations-that they are imposed for a public purpose.'*

*****8 We have established, we think, beyond cavil that there can be no lawful tax which is not laid for a public purpose."***
[Citizens' Savings & Loan Ass'n v. City of Topeka, 87 U.S. 655 (1874)]

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*Whether the Legislature of any of the States can revise and correct by law, a decision of any of its Courts of Justice, although not prohibited by the Constitution of the State, is a question of very great importance, and not necessary NOW to be determined; because the resolution or law in question does not go so far. I cannot subscribe to the omnipotence of a State *388 Legislature, or that it is absolute and without control; although its authority should not be expressly restrained by the Constitution, or fundamental law, of the State. The people of the United States erected their Constitutions, or forms of government, to establish justice, to promote the general welfare, to secure the blessings of liberty; and to protect their persons and property from violence. The purposes for which men enter into society will determine the nature and terms of the social compact; and as they are the foundation of the legislative power, they will decide what are the proper objects of it: The nature, and ends of legislative power will limit the exercise of it. This fundamental principle flows from the very nature of our free Republican governments, that no man should be compelled to do what the laws do not require; nor to refrain from acts which the laws permit.* ***There are acts which the Federal, or State, Legislature cannot do, without exceeding their authority. There are certain vital principles in our free Republican governments, which will determine and over-rule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof of the government was established. An ACT of the Legislature (for I cannot call it a law) contrary to the great first principles of the social compact, cannot be considered a rightful exercise of legislative authority.*** *The obligation of a law in governments established on express compact, and on republican principles, must be determined by the nature of the power, on which it is founded. A few instances will suffice to explain what I mean. A law that punished a citizen for an innocent action, or, in other words, for an act, which, when done, was in violation of no existing law; a law that destroys, or impairs, the lawful private contracts of citizens; a law that makes a man a Judge in his own cause;* ***or a law that takes property from A. and gives it to B: It is against all reason and justice, for a people to entrust a Legislature with SUCH powers; and, therefore, it cannot be presumed that they have done it. The genius, the nature, and the spirit, of our State Governments, amount to a prohibition of such acts of legislation; and the general principles of law and reason forbid them.*** *The Legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right, and prohibit what is wrong; but they cannot change innocence into guilt; or punish innocence as a crime; or violate the right of an antecedent lawful private contract; or the right of private property. To maintain that our Federal, or State, Legislature possesses such powers, if they had not been expressly restrained; would, *389 in my opinion, be a political heresy, altogether inadmissible in our free republican governments.*
[Calder v. Bull, 3 U.S. 386, (1798)]

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[9] FN5 4 Wheaton 431.

[10] FN6 Cooley on Constitutional Limitations, 479.

[11] FN7 13 Pennsylvania State, 104; see also Pray *v.* Northern Liberties, 31 Id. 69; Matter of Mayor of New York, 11 Johnson, 77; Camden *v.* Allen, 2 Dutcher, 398; Sharpless *v.* Mayor of Philadelphia, *supra;* Hanson *v.* Vernon, 27 Iowa, 47; Whiting *v.* Fond du Lac, 25 Wisconsin, 188.

*In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that **there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned** a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private contracts of citizens; a law that made a man judge in his own case; **and a law that took the property from A. and gave it to B. 'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private contract, or the right of private property. To maintain that a Federal or State legislature possesses such powers if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.**' 3 Dall. 388.*
[Sinking Fund Cases, 99 U.S. 700, (1878)]

2.1.4 Government may not punish citizens for innocent acts or turn innocense into guilt

*Whether the Legislature of any of the States can revise and correct by law, a decision of any of its Courts of Justice, although not prohibited by the Constitution of the State, is a question of very great importance, and not necessary NOW to be determined; because the resolution or law in question does not go so far. I cannot subscribe to the omnipotence of a State *388 Legislature, or that it is absolute and without control; although its authority should not be expressly restrained by the Constitution, or fundamental law, of the State. The people of the United States erected their Constitutions, or forms of government, to establish justice, to promote the general welfare, to secure the blessings of liberty; and to protect their persons and property from violence. The purposes for which men enter into society will determine the nature and terms of the social compact; and as they are the foundation of the legislative power, they will decide what are the proper objects of it: The nature, and ends of legislative power will limit the exercise of it. This fundamental principle flows from the very nature of our free Republican governments, that no man should be compelled to do what the laws do not require; nor to refrain from acts which the laws permit. **There are acts which the Federal, or State, Legislature cannot do, without exceeding their authority. There are certain vital principles in our free Republican governments, which will determine and over-rule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof of the government was established. An ACT of the Legislature (for I cannot call it a law) contrary to the great first principles of the social compact, cannot be considered a rightful exercise of legislative authority.** The obligation of a law in governments established on express compact, and on republican principles, must be determined by the nature of the power, on which it is founded. A few instances will suffice to explain what I mean. **A law that punished a citizen for an innocent action, or, in other words, for an act, which, when done, was in violation of no existing law**; a law that destroys, or impairs, the lawful private contracts of citizens; a law that makes a man a Judge in his own cause; or a law that takes property from A. and gives it to B: **It is against all reason and justice, for a people to entrust a Legislature with SUCH powers; and, therefore, it cannot be presumed that they have done it. The genius, the nature, and the spirit, of our State Governments, amount to a prohibition of such acts of legislation; and the general principles of law and reason forbid them.** The Legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right, and prohibit what is wrong; but they cannot change innocence into guilt; or punish innocence as a crime; or violate the right of an antecedent lawful private contract; or the right of private property. To maintain that our Federal, or State, Legislature possesses such powers, if they had not been expressly restrained; would, *389 in my opinion, be a political heresy, altogether inadmissible in our free republican governments.*
[Calder v. Bull, 3 U.S. 386, (1798)]

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*In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that **there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned a law which punished a citizen for an innocent act**; a law that destroyed or impaired the lawful private contracts of citizens; a law that made a man judge in his own case; and a law that took the property from A. and gave it to B. **'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private contract, or the right of private property. To maintain that a Federal or State legislature possesses such powers if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.**' 3 Dall. 388.*
[Sinking Fund Cases, 99 U.S. 700, (1878)]

2.1.5 Government cannot hold a man accountable to a law without giving him "reasonable notice" of what he will be held accountable for in advance of any penalties

This concept is exhaustively explained below:

Requirement for Reasonable Notice, Form #05.022

2.2 Restraints upon the Judiciary

For further information beyond that indicated in the following subsections, refer to the following:

3. *Code of Conduct for U.S. Judges*-Federal Judicial Center
   http://www.uscourts.gov/guide/vol2/ch1.html
4. *Judicial Ethics Handbook*
   http://jec.unm.edu/resources/judicial_handbook/ethics/
5. *What Happened to Justice*-proves why we don't have an Article III judiciary and why the courts we do have are in the Executive branch.
   http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm
6. *Global Corruption Report*-Corruption throughtout the world in the judiciary
   http://www.transparency.org/publications/gcr/download_gcr
7. *Recusal: Analysis of Case Law Under 28 U.S.C. § 455 & 144*-Federal Judicial Center (FJC)
   http://famguardian.org/PublishedAuthors/Govt/FJC/Recusal.pdf

2.2.1 No litigant may be deprived of "due process of law"

The U.S. Supreme Court has said the following about "due process" in the context of tax proceedings:

> ***Exactly what due process of law requires in the assessment and collection of general taxes has never been decided by this court, although we have had frequent occasion to hold that, in proceedings for the condemnation of land under the laws of eminent domain, or for the imposition of special taxes for local improvements, notice to the owner at some stage of the proceedings, as well as an opportunity to defend, is essential.*** *[Cites omitted.] But laws for the assessment and collection of general taxes stand upon a somewhat different footing, and are construed with the utmost liberality, sometimes even to the extent of holding that no notice whatever is necessary. Due process of law was well defined by Mr. Justice Field in Hagar v. Reclamation Dist., No. 108, 111 U.S. 701, 28 L.Ed. 569, 4 Sup.Ct.Rep. 663, in the following words: "It is sufficient to observe here, that by 'due process' is meant one which, following the forms of law, is appropriate to the case, and just to the parties to be affected. It must be pursuant in the ordinary mode prescribed by the law; it must be adapted too the end to be attained; and wherever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought. The clause in question means, therefore, that there can be no proceeding against life, liberty, or property which may result in deprivation of either, without the observance of those general rules established in our system of jurisprudence for the security of private rights."*
>
> *Under the Fourth Amendment, the legislature is bound to provide a method for the assessment and collection of taxes that shall not be inconsistent with natural justice; but it is not bound to provide that the particular steps of a procedure for the collection of such taxes shall be proved by written evidence; and it may properly impose upon the taxpayer the burden of showing that in a particular case the statutory method was not observed."*
> *[Turpin v. Lemon, 187 U.S. 51; 23 S.Ct. 20 (1902)]*

In the context of legal proceedings generally, "due process" is defined as follows:

> ***Due process of law***. *Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs.* ***A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.*** *To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant,* ***he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance***. *Pennoyer v. Neff, 96 U.S. 733, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved.* ***If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law.***

An orderly proceeding wherein a person with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights before a court having the power to hear and determine the case. Kazubowski v. Kazubowski, 45 Ill.2d 405, 259 N.E.2d 282, 290. Phrase means that no person shall be deprived of life, liberty, property or of any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. Pettit v. Penn, LaApp., 180 So.2d 66, 69. The concept of "due process of law" as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought. U.S. v. Smith, D.C.Iowa, 249 F.Supp. 515, 516. Fundamental requisite of "due process of law" is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest, and to assert before the appropriate decision-making body the reasons for such choice. Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. Aside from all else, "due process" means fundamental fairness and substantial justice. Vaughn v. State, 3 Tenn.Crim.App. 54, 456 S.W.2d 879, 883.

*Embodied in the due process concept are the basic rights of a defendant in criminal proceedings and the requisites for a fair trial. These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge; the presumption of innocence under which **guilt must be proven by legally obtained evidence** and the verdict must be supported by the evidence presented; rights at the earliest stage of the criminal process; and the guarantee that an individual will not be tried more than once for the same offence (double jeopardy).*
[Black's Law Dictionary, Sixth Edition, page 500]

Due process is the lawful means by which the government protects your right to private property.

"The guaranty of due process of law is one of the most important to be found in the Federal Constitution or any of the Amendments; Ulman v. Mayor, etc. of Baltimore, 72 Md 587, 20 A 141, affd 165 US 719, 41 L Ed 1184, 17 S Ct 1001. It has been described as the very essence of a scheme of ordered justice, Brock v. North Carolina, 344 US 424, 97 L Ed 456, 73 S Ct 349 and it has been said that without it the right to private property could not be said to exist, in the sense in which it is known to our laws.
[Ochoa v. Hernandez y Morales, 230 US 139, 57 L Ed 1427, 33 S Ct 1033]

Due process includes or implies all the minimum elements indicated below, in addition to several other elements not mentioned here:

1. Reasonable notice of the pendency of the suit or proceedings. See:

*"It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that **no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.**"*
[Holden v. Hardy, 169 U.S. 366 (1898)]

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Without proper prior notice to those who may be affected by a government decision, all other procedural rights may be nullified. The exact contents of the notice required by due process will, of course, vary with the circumstances.
[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214]

2. An opportunity for a hearing prior to being deprived of property.

*"This analysis as to liberty parallels the accepted due process analysis as to property. **The Court has consistently held that some kind of hearing is required at some time before a person is finally deprived of his property** [418 U.S. 539, 558] **interests.** Anti-Fascist Committee v. McGrath, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring). The requirement for some kind of a hearing applies to the taking of private property, Grannis v. Ordean, 234 U.S. 385 (1914), the revocation of licenses, In re Ruffalo, 390 U.S. 544 (1968), the operation of state dispute-settlement mechanisms, when one person seeks to take property from another, or to government-created jobs held, absent "cause" for termination, Board of Regents v. Roth, 408 U.S. 564 (1972); Arnett v. Kennedy, 416 U.S. 134, 164 (1974) (POWELL, J., concurring); id., at 171 (WHITE, J., concurring in part and dissenting in part); id., at 206 (MARSHALL, J., dissenting). Cf. Stanley v. Illinois, 405 U.S. 645, 652 -654 (1972); Bell v. Burson, 402 U.S. 535 (1971)."*
[Wolff v. McDonnell, 418 U.S. 539; 94 S.Ct. 2963; 41 L.Ed.2d 935 (1974)]

"In this case the sole question is whether there has been a taking of property without that procedural due process that is required by the Fourteenth Amendment. We have dealt over and over again with the question of

*what constitutes "the right to be heard" (*Schroeder v. New York, *371 U.S. 208, 212) within the meaning of procedural due process. See* Mullane v. Central Hanover Trust Co., *339 U.S. 306, 314 . In the latter case we said that the right to be heard "has little reality or worth unless one is informed that the matter is pending and can choose for himself whether [395 U.S. 337, 340] to appear or default, acquiesce or contest." 339 U.S., at 314 .*
[Sniadach v. Family Finance Corp., 395 U.S. 337 (1969)]

"If the right to notice and a hearing is to serve its full purpose, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be awarded him for wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of due process has already occurred. This Court [the Supreme Court] has not embraced the general proposition that a wrong may be done if it can be undone."
*[*Stanley v. Illinois, 405 U.S. 645*, 647, 31 L.Ed.2d 551, 556,.Ct. 1208 (1972)]*

3. Impartial jurors and decision makers.

26 CFR §601.106(f)(1): Appeals Functions

(1) Rule I.

An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution. Accordingly, an Appeals representative in his or her conclusions of fact or application of the law, shall hew to the law and the recognized standards of legal construction. ***It shall be his or her duty to determine the correct amount of the tax, with strict impartiality as between the taxpayer and the Government, and without favoritism or discrimination as between taxpayers.***

Few, if any, interests under the Constitution are more fundamental than the right to a fair trial by "impartial" jurors*, and an outcome affected by extrajudicial statements would violate that fundamental right. See, e.g., Sheppard, 384 U.S. at 350-351; Turner v. Louisiana, 379 U.S. 466, 473 (1965) (evidence in criminal trial must come solely from witness stand in public courtroom with full evidentiary protections). Even if a fair trial can ultimately be ensured through voir dire, change of venue, or some other device, these measures entail serious costs to the system. Extensive voir dire may not be able to filter out all of the effects of pretrial publicity, and with increasingly widespread media coverage of criminal trials, a change of venue may not suffice to undo the effects of statements such as those made by petitioner. The State has a substantial interest in preventing officers of the court, such as lawyers, from imposing such costs on the judicial system and on the litigants. [501 U.S. 1076]*

The restraint on speech is narrowly tailored to achieve those objectives. The regulation of attorneys' speech is limited -- it applies only to speech that is substantially likely to have a materially prejudicial effect; it is neutral as to points of view, applying equally to all attorneys participating in a pending case; and it merely postpones the attorneys' comments until after the trial. While supported by the substantial state interest in preventing prejudice to an adjudicative proceeding by those who have a duty to protect its integrity, the Rule is limited on its face to preventing only speech having a substantial likelihood of materially prejudicing that proceeding.
[Gentile v. State Bar of Nevada, 501 U.S. 1030 (1991)]

"Moreover, in each case, the decisionmaker must be impartial, there must be some record of the proceedings, and the decisionmaker's conclusions must be set forth in written form indicating both the evidence and the reasons relied upon. Because the Due Process Clause requires these procedures, I agree that the case must be remanded as the Court orders."
[Morrissey v. Brewer, 408 U.S. 471 (1972)]

4. Impartial witnesses:

A fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness*. To this end, no man can be a judge in his own case, and no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered. This Court has said, however, that*

> *Every procedure which would offer a possible temptation to the average man as a judge . . . not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law.*

Tumey v. Ohio, 273 U.S. 510, 532. Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But, to perform its high function in the best way, "justice must satisfy the appearance of justice." Offutt v. United States, 348 U.S. 11, 14. [349 U.S. 137]

It would be very strange if our system of law permitted a judge to act as a grand jury and then try the very persons accused as a result of his investigations. Perhaps no State has ever forced a defendant to accept grand jurors as proper trial jurors to pass on charges growing out of their hearings.{7} A single "judge-grand jury" is even more a part of the accusatory process than an ordinary lay grand juror. Having been a part of that process, a judge cannot be, in the very nature of things, wholly disinterested in the conviction or acquittal of those accused. While he would not likely have all the zeal of a prosecutor, it can certainly not be said that he would have none of that zeal.{8} Fair trials are too important a part of our free society to let prosecuting judges be trial judges of the charges they prefer.{9} It is true that contempt committed in a trial courtroom can under some circumstances be punished summarily by the trial judge. See Cooke v. United States, 267 U.S. 517, 539. But adjudication by a trial judge of a contempt committed in his immediate presence in open court cannot be likened to the proceedings here. For we held in the Oliver case that a person charged with contempt before a "one-man grand jury" could not be summarily tried. [349 U.S. 138]
[In Re. Murchison, 349 U.S. 133 (1955)]

5. Trial by jury in a civil matter when demanded:

U.S. Constitution: Seventh Amendment
Seventh Amendment - Civil Trials

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

6. All actions of the agency must be justified with the authority of law.

26 CFR § 601.106(f)(1)

Rule I. An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution.

7. Right to examine all the evidence being used against you:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While it is important in the case of documentary evidence, it is more important where the evidence consists of testimony of individuals…"

"We have formalized these protections in the requirements of confrontation and cross-examination. This court has been zealous to protect these rights from erosion. It has spoken out…in all types of cases where administrative...actions were under scrutiny."
[Greene v. McElroy, 360 U.S. 474. 496-497 (1959)]

8. Right to speak in your own defense and present evidence in the record in your own defense.

"I agree that a parole may not be revoked, consistently with the Due Process Clause, unless the parolee is afforded, first, a preliminary hearing at the time of arrest to determine whether there is probable cause to believe [408 U.S. 491] that he has violated his parole conditions and, second, a final hearing within a reasonable time to determine whether he has, in fact, violated those conditions and whether his parole should be revoked. ***For each hearing, the parolee is entitled to notice of the violations alleged and the evidence against him, opportunity to be heard in person and to present witnesses and documentary evidence, and the right to confront and cross-examine adverse witnesses, unless it is specifically found that a witness would thereby be exposed to a significant risk of harm.*** *Moreover, in each case, the decisionmaker must be impartial, there must be some record of the proceedings, and the decisionmaker's conclusions must be set forth in written form indicating both the evidence and the reasons relied upon. Because the Due Process Clause requires these procedures, I agree that the case must be remanded as the Court orders."*
[Morrissey v. Brewer, 408 U.S. 471 (1972)]

9. All evidence used must be completely consistent with the rules of evidence.
   9.1. All evidence used must be introduced *only* through testimony under oath. F.R.E. 603.

"Testimony which is not given under oath (or affirmation) is not competent evidence and may not be considered unless objection is waived"
[Rutter Group, Federal Civil Trials and Evidence, 8:220]

IMPORTANT NOTE!: If you don't object to evidence submitted without an oath or authenticating signature, then you are presumed to waive this requirement.

9.2. Witness must lay a foundation for real [physical] evidence, and proponent must offer sufficient evidence to support a finding that the matter in question is what the proponent claims it to be. F.R.E. 901(a). If the person authenticating provides a "pseudo name", refuses to provide their real legal name, refuses to identify themselves, or is protected by the court from identifying themselves and thereby becomes a "secret witness", then none of the evidence is admissible. If the witness cannot be held liable for perjury because he did not swear an oath, then all evidence he provides is inadmissible and lacks relevancy. Rutter Group, Federal Civil Trials and Evidence, 8:375. It is quite frequent for IRS agents to use psudonames and to print those pseudonames on the official IRS identification badges. It is therefore crucial to obtain copies of not only their IRS badges, but also of their state and federal government ID, like driver's licenses and passports, and to compare the IRS ID with the others to ensure consistency.

*"From the scant information available it may tentatively be concluded that **the Confrontation Clause was meant to constitutionalize a barrier against flagrant abuses, trials by anonymous accusers, and absentee witnesses.** That the Clause was intended to ordain common law rules of evidence with constitutional sanction is doubtful, notwithstanding English decisions that equate confrontation and hearsay. Rather, having established a broad principle, it is far more likely that the Framers anticipated it would be supplemented, as a matter of judge-made common law, by prevailing rules of evidence.*
[California v. Green, 399 U.S. 149 (1970)]

*"**No nation can remain true to the ideal of liberty under law and at the same time permit people to have their homes destroyed and their lives blasted by the slurs of unseen and unsworn informers. There is no possible way to contest the truthfulness of anonymous accusations.** The supposed accuser can neither be identified nor interrogated. He may be the most worthless and irresponsible character in the community. What he said may be wholly malicious, untrue, unreliable, or inaccurately reported. In a court of law, the triers of fact could not even listen to such gossip, must less decide the most trifling issue on it."*
[Jay v. Boy, 351 U.S. 345 (1956)]

10. An opportunity to face your accusers and ask them questions on the record.

"The fundamental requisite of due process of law is the opportunity to be heard". Grannis v. Ordean, 234 U.S. 385,394 (1914). The hearing must be "at a meaningful time and in a meaningful manner."Armstrong v. Manzo, 380 U.S. 545, 552(1965). In the present context these principles require…timely and adequate notice detailing reasons…, and an effective opportunity to defend by confronting any adverse witnesses and by presenting arguments and evidence… These rights are important in cases...challenged…as resting on incorrect or misleading factual premises or on misapplication of rules or policies to the facts of particular cases."

*"In almost every setting where important decisions turn on questions of fact, **due process requires an opportunity to confront and cross-examine adverse witnesses**. E.g., ICC v. Lousiville & N.R. Co., 227 U.S. 88, 93-94 (1913) 503 US L.Ed 2nd 391(1992), Willner v. Committee on Character and Fitness, 373 U.S. 474,496-497 (1959)"*
[Goldberg v. Kelly, 397 U.S. 254 (1970) (emphasis added)]

The Sixth Amendment gives a criminal defendant the right "to be confronted with the witnesses against him." This language "comes to us on faded parchment," California v. Green, 399 U.S. 149, 174 (1970) (Harlan, J., concurring), with a lineage that traces back to the beginnings of Western legal culture. There are indications that a right of confrontation existed under Roman law. The Roman Governor Festus, discussing the proper treatment of his prisoner, Paul, stated: "It is not the manner of the Romans to deliver any man up to die before the accused has met his accusers face to face, and has been given a chance to defend himself against the [487 U.S. 1012, 1016] charges." Acts 25:16. It has been argued that a form of the right of confrontation was recognized in England well before the right to jury trial. Pollitt, The Right of Confrontation: Its History and Modern Dress, 8 J. Pub. L. 381, 384-387 (1959).

Most of this Court's encounters with the Confrontation Clause have involved either the admissibility of out-of-court statements, see, e. g., Ohio v. Roberts, 448 U.S. 56 (1980); Dutton v. Evans, 400 U.S. 74 (1970), or restrictions on the scope of cross-examination, Delaware v. Van Arsdall, 475 U.S. 673 (1986); Davis v. Alaska, 415 U.S. 308 (1974). Cf. Delaware v. Fensterer, 474 U.S. 15, 18 -19 (1985) (per curiam) (noting these two categories and finding neither applicable). The reason for that is not, as the State suggests, that these elements are the essence of the Clause's protection - but rather, quite to the contrary, that there is at least some room for

doubt (and hence litigation) as to the extent to which the Clause includes those elements, whereas, as Justice Harlan put it, "[s]imply as a matter of English" it confers at least "a right to meet face to face all those who appear and give evidence at trial." California v. Green, supra, at 175. Simply as a matter of Latin as well, since the word "confront" ultimately derives from the prefix "con-" (from "contra" meaning "against" or "opposed") and the noun "frons" (forehead). Shakespeare was thus describing the root meaning of confrontation when he had Richard the Second say: "Then call them to our presence - face to face, and frowning brow to brow, ourselves will hear the accuser and the accused freely speak . . . ." Richard II, Act 1, sc. 1.

We have never doubted, therefore, that the Confrontation Clause guarantees the defendant a face-to-face meeting with witnesses appearing before the trier of fact. See Kentucky v. Stincer, 482 U.S. 730, 748 , 749-750 (1987) (MARSHALL, J., dissenting). For example, in Kirby v. United States, 174 U.S. 47, 55 (1899), which concerned the admissibility of prior convictions of codefendants to prove an element of the offense [487 U.S. 1012, 1017] of receiving stolen Government property, we described the operation of the Clause as follows: "[A] fact which can be primarily established only by witnesses cannot be proved against an accused . . . except by witnesses who confront him at the trial, upon whom he can look while being tried, whom he is entitled to cross-examine, and whose testimony he may impeach in every mode authorized by the established rules governing the trial or conduct of criminal cases." Similarly, in Dowdell v. United States, 221 U.S. 325, 330 (1911), we described a provision of the Philippine Bill of Rights as substantially the same as the Sixth Amendment, and proceeded to interpret it as intended "to secure the accused the right to be tried, so far as facts provable by witnesses are concerned, by only such witnesses as meet him face to face at the trial, who give their testimony in his presence, and give to the accused an opportunity of cross-examination." More recently, we have described the "literal right to `confront' the witness at the time of trial" as forming "the core of the values furthered by the Confrontation Clause." California v. Green, supra, at 157. Last Term, the plurality opinion in Pennsylvania v. Ritchie, 480 U.S. 39, 51 (1987), stated that "[t]he Confrontation Clause provides two types of protections for a criminal defendant: the right physically to face those who testify against him, and the right to conduct cross-examination."
[Coy v. Iowa, 487 U.S. 1012 (1988)]

11. The right to point out violations of law and other grievances of the government without the imposition of any penalty. The First Amendment guarantees us a right to Petition the Government for redress of grievances. Every such right creates a duty on the part of the government it is directed at, and that right implies the absence of any penalty for engaging in such a petition.
12. The right to not be hauled into a foreign jurisdiction as a nonresident defendant without proof on the record of "minimum contacts" with the forum:

The Due Process Clause of the Fourteenth Amendment limits the power of a state court to render a valid personal judgment against a nonresident defendant. Kulko v. California Superior Court, 436 U.S. 84, 91 (1978). A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Pennoyer v. Neff, 95 U.S. 714, 732 -733 (1878). *Due process requires that the defendant be given adequate notice of the suit, Mullane v. Central Hanover Trust Co., 339 U.S. 306, 313 -314 (1950), and be subject to the personal jurisdiction of the court, International Shoe Co. v. Washington, 326 U.S. 310 (1945). In the present case, it is not contended that notice was inadequate; the only question is whether these particular petitioners were subject to the jurisdiction of the Oklahoma courts.*

As has long been settled, and as we reaffirm today, a state court may exercise personal jurisdiction over a nonresident defendant only so long as there exist "minimum contacts" between the defendant and the forum State. International Shoe Co. v. Washington, supra, at 316. The concept of minimum contacts, in turn, can be seen to perform two related, but [444 U.S. 286, 292] distinguishable, functions. It protects the defendant against the burdens of litigating in a distant or inconvenient forum. And it acts to ensure that the States, through their courts, do not reach out beyond the limits imposed on them by their status as coequal sovereigns in a federal system.

The protection against inconvenient litigation is typically described in terms of "reasonableness" or "fairness." We have said that the defendant's contacts with the forum State must be such that maintenance of the suit "does not offend `traditional notions of fair play and substantial justice.'" International Shoe Co. v. Washington, supra, at 316, quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940). The relationship between the defendant and the forum must be such that it is "reasonable . . . to require the corporation to defend the particular suit which is brought there." 326 U.S., at 317 . Implicit in this emphasis on reasonableness is the understanding that the burden on the defendant, while always a primary concern, will in an appropriate case be considered in light of other relevant factors, including the forum State's interest in adjudicating the dispute, see McGee v. International Life Ins. Co., 355 U.S. 220, 223 (1957); the plaintiff's interest in obtaining convenient and effective relief, see Kulko v. California Superior Court, supra, at 92, at least when that interest is not adequately protected by the plaintiff's power to choose the forum, cf. Shaffer v. Heitner, 433 U.S. 186, 211 , n. 37 (1977); the interstate judicial system's interest in obtaining the most efficient resolution of controversies; and the shared interest of the several States in furthering fundamental substantive social policies, see Kulko v. California Superior Court, supra, at 93, 98.
[World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)

2.2.2 Men are presumed innocent until proven guilty with evidence

> *The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice. Long ago this Court stated:*
>
> *The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.*
> *[Coffin v. United States, 156 U.S. 432, 453 (1895).]*

2.2.3 Courts may not entertain "political questions"

Courts may not involve themselves in any strictly political question:

1. *Baker v. Carr*, 369 U.S. 186 (1962). Establishes criteria for determining jurisdiction to decide specific aspects of political questions.
2. *Luther v. Borden*, 48 U.S. 1 (1849). Denied all courts jurisdiction to hear strictly political matters.
3. *Fletcher v. Tuttle*, 151 Ill. 41, 37 N.E. 683 (1894). Defined "political rights".
4. *O'Brien v. Brown*, 409 U.S. 1 (1972). Ruled that equity courts must refrain from interfering in the administration of the internal affairs of a political party. The court will note that any number of people, including a single person, can defined a political party.

Courts may not involve themselves in the affairs of a political party or its members:

1. *Lynch v. Torquato*, 343 F.2d 370 (3rd Cir. 1965). Court dismissed petitioner's challenge to the method of selecting the Democratic County Committee and Chairman.
2. *Farmer-Labor State Central Committee v. Holm*, 227 Minn. 52, 33 N.W.2d 831 (1948). Court ruled that "In factional controversies within a party, where there is not controlling statute or clear right based on statute law, the courts will not assume jurisdiction, but will leave the matter for determination within the party organization.. . Such a convention is a deliberative body, and unless it acts arbitrarily, oppressively, or fraudulently, its final determination as to candidates, or any other question of which it has jurisdiction, will be followed by the courts."
3. *White v. Berry*, 171 U.S. 366 (1898). Ruled that court of equity will refrain from exercising jurisdiction over the appointment or removal of public officers.

Courts may not compel participation in political parties or interfere with membership in them:

1. *Democratic Party of U.S. v. Wisconsin, ex re. LaFollette*, 450 U.S. 107, 101 S.Ct. 1010, 67 L.Ed.2d 82 (1981). Court ruled that freedom of political association "necessarily presupposes the freedom to identify the people who comprise the association, and to limit the association to those people only."
2. *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 107 S.Ct. 544, 93 L.Ed.2d 514 (1986): Ruled that a state could not constitutionally require that voters in party primaries be registered members of that party.

The criteria for determining whether a question is a "political question" is best described in *Baker v. Carr*, which was explained in *Nixon v. United States*, 506 U.S. 224 (1993) as follows:

> *"A controversy is nonjusticiable -- i.e., involves a political question -- where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it. . . ."*
> *[Nixon v. United States, 506 U.S. 224 (1993)]*

The second criteria above: "or a lack of judicially discoverable and manageable standards for resolving it" is explained in the same case:

> *The majority states that the question raised in this case meets two of the criteria for political questions set out in Baker v. Carr, 369 U.S. 186 (1962). It concludes first that there is "`a textually demonstrable constitutional commitment of the issue to a coordinate political department.'" It also finds that the question cannot be resolved for "`a lack of judicially discoverable and manageable standards.'" Ante, at 228.*

Of course the issue in the political question doctrine is not whether the constitutional text commits exclusive responsibility for a particular governmental function to one of the political branches. There are numerous instances of this sort of textual commitment, e.g., Art. I, 8, and it is not thought that disputes implicating these provisions are nonjusticiable. Rather, the issue is whether the Constitution has given one of the political branches final responsibility for interpreting the scope and nature of such a power.

Although Baker directs the Court to search for "a textually demonstrable constitutional commitment" of such responsibility, there are few, if any, explicit and unequivocal instances in the Constitution of this sort of textual commitment. Conferral on Congress of the power to "Judge" qualifications of its Members by Art. I, 5, may, for example, preclude judicial review of whether a prospective member in fact meets those qualifications. See Powell v. McCormack, 395 U.S. 486, 548 (1969). The courts therefore are usually left to infer the presence of a political question from the text and structure of the Constitution. In drawing the inference that the Constitution has committed final interpretive authority to one of the political branches, courts are sometimes aided by textual evidence that the judiciary was not meant to exercise judicial review - a coordinate inquiry expressed in Baker's "lack of judicially discoverable and manageable standards" criterion. See, e.g., Coleman v. Miller, 307 U.S. 433, 452 -454 (1939), where the Court refused to determine [506 U.S. 224, 241] the lifespan of a proposed constitutional amendment, given Art. V's placement of the amendment process with Congress and the lack of any judicial standard for resolving the question. See also id., at 457-460 (Black, J., concurring).
[Nixon v. United States, 506 U.S. 224 (1993)]

The best description of the political quesitons doctrine appears in the following U.S. Supreme Court case:

"But, fortunately for our freedom from political excitements in judicial duties, this court [the U.S. Supreme Court] can never with propriety be called on officially to be the umpire in questions merely political. The adjustment of these questions belongs to the people and their political representatives, either in the State or general government. These questions relate to matters not to be settled on strict legal principles. *They are adjusted rather by inclination, or prejudice or compromise, often.*

[. . .]

Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament of judges would be that, in such an event, all political privileges and rights would, in a dispute among the people, depend on our decision finally. We would possess the power to decide against, as well as for, them, and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much perverted, if not entirely prostrated. *But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself.* ***Our power begins after theirs [the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed rules; they are per se questions of law, and are well suited to the education and habits of the bench.*** *But the other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a class of men who are so far removed from them as the judiciary, a class also who might decide them erroneously, as well as right, and if in the former way,* ***the consequences might not be able to be averted except by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new elections or instructions in a single month; and if the people, in the distribution of powers under the constitution, should ever think of making judges supreme arbiters in political controversies when not selected by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs, the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching, or to defend them, on the other, under the Constitution and the laws, when they are encroached upon.*** *And if the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate both the laws and Constitution, than on the people themselves in their primary capacity as makers and amenders of constitutions."*
[Luther v. Borden, 48 U.S. 1 (1849)]

For further information on this subject, see:

2.2.4 A man cannot be judge in his own case

*"**No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity.** With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number, is a shilling saved to their own pockets."*
[James Madison, Federalist Paper #10]

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*Whether the Legislature of any of the States can revise and correct by law, a decision of any of its Courts of Justice, although not prohibited by the Constitution of the State, is a question of very great importance, and not necessary NOW to be determined; because the resolution or law in question does not go so far. I cannot subscribe to the omnipotence of a State *388 Legislature, or that it is absolute and without control; although its authority should not be expressly restrained by the Constitution, or fundamental law, of the State. The people of the United States erected their Constitutions, or forms of government, to establish justice, to promote the general welfare, to secure the blessings of liberty; and to protect their persons and property from violence. The purposes for which men enter into society will determine the nature and terms of the social compact; and as they are the foundation of the legislative power, they will decide what are the proper objects of it: The nature, and ends of legislative power will limit the exercise of it. This fundamental principle flows from the very nature of our free Republican governments, that no man should be compelled to do what the laws do not require; nor to refrain from acts which the laws permit. **There are acts which the Federal, or State, Legislature cannot do, without exceeding their authority. There are certain vital principles in our free Republican governments, which will determine and over-rule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof of the government was established. An ACT of the Legislature (for I cannot call it a law) contrary to the great first principles of the social compact, cannot be considered a rightful exercise of legislative authority.** The obligation of a law in governments established on express compact, and on republican principles, must be determined by the nature of the power, on which it is founded. A few instances will suffice to explain what I mean. A law that punished a citizen for an innocent action, or, in other words, for an act, which, when done, was in violation of no existing law; a law that destroys, or impairs, the lawful private contracts of citizens; **a law that makes a man a Judge in his own cause;** or a law that takes property from A. and gives it to B: **It is against all reason and justice, for a people to entrust a Legislature with SUCH powers; and, therefore, it cannot be presumed that they have done it. The genius, the nature, and the spirit, of our State Governments, amount to a prohibition of such acts of legislation; and the general principles of law and reason forbid them.** The Legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right, and prohibit what is wrong; but they cannot change innocence into guilt; or punish innocence as a crime; or violate the right of an antecedent lawful private contract; or the right of private property. To maintain that our Federal, or State, Legislature possesses such powers, if they had not been expressly restrained; would, *389 in my opinion, be a political heresy, altogether inadmissible in our free republican governments.*
[Calder v. Bull, 3 U.S. 386, (1798)]

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*In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that **there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned** a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private contracts of citizens; **a law that made a man judge in his own case**; and a law that took the property from A. and gave it to B. **'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private contract, or the right of private property. To maintain that a Federal or State legislature possesses such powers if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.**' 3 Dall. 388.*
[Sinking Fund Cases, 99 U.S. 700, (1878)]