Natural Law

**USH**



|  |
| --- |
| **An Overview of Natural Law Theory** |
| Jonathan Dolhenty, Ph.D.http://www.radicalacademy.com/philnaturallaw.htm |
|  |
|  | Since law must always be some dictate of reason, natural law also will be some dictate of reason. In fact, it is law discovered by human reason. Our normal and natural grasp of the natural law is effected by reason, that is, by the thinking mind, and in this service reason is sometimes called "conscience." We, in all our human acts, inevitably see them in their relation to the natural law, and we mentally pronounce upon their agreement or disagreement with the natural law. Such a pronouncement may be called a "judgment of conscience." The "norm" of morality is the natural law as applied by conscience. Lastly, we can say that the natural law is the disposition of things as known by our human reason and to which we must conform ourselves if we are to realize our proper end or "good" as human beings.To sum it up, then, we can say that the natural law:* is not made by human beings;
* is based on the structure of reality itself;
* is the same for all human beings and at all times;
* is an unchanging rule or pattern which is there for human beings to discover;
* is the naturally knowable moral law;
* is a means by which human beings can rationally guide themselves to their good.

It is interesting to note that virtually everyone seems to have some knowledge of natural law even before such knowledge is codified and formalized. Even young children make an appeal to "fair play," demand that things be "fair and square," and older children and adults often apply the "golden rule." When doing so, they are spontaneously invoking the natural law. This is why many proponents of the natural law theory say it is the law which is "written upon the hearts of men." Natural law theory is of the "practical order" of things and the first principle of the practical order is a principle that directs human acts in all their operations, and it will be concerned with the "good," since we act in terms of what a least seems good to us. Therefore, the primary principle of the practical order -- the first precept of natural law -- is a formulation based upon the notion of the good and is stated in the following way: The "good" (according to reason) must be done, and evil (what is contrary to reason) must be avoided. The simplest statement of this precept is, of course, "Do good and avoid evil."Although we rarely express the precept of "Do good and avoid evil" explicitly (just as we rarely state the Principle of Contradiction explicitly in daily life), nevertheless we always act in terms of such a precept. This fact points to the fundamental truth of such a precept, and indicates how it expresses something "natural" to human beings. A human being naturally inclines to seek what appears good to reason, and naturally shrinks from what appears to be evil. Hence, the justification of speaking of this basic moral law as "natural" law.The most fundamental inclination of all, "Do good and avoid evil," will give rise to other primary precepts such as the natural inclination to self-preservation, to live in society, to avoid harm to others, and to know truths about the reality we live in and our own human nature. |

|  |
| --- |
| **Examples of Civil Law** |
|  |
|  | **Deuteronomy 5**1 Moses summoned all Israel and said:       Hear, O Israel, the decrees and laws I declare in your hearing today. Learn them and be sure to follow them. 2 The LORD our God made a covenant with us at Horeb. 3 It was not with our fathers that the LORD made this covenant, but with us, with all of us who are alive here today. 4 The LORD spoke to you face to face out of the fire on the mountain. 5 (At that time I stood between the LORD and you to declare to you the word of the LORD, because you were afraid of the fire and did not go up the mountain.) And he said:  6 "I am the LORD your God, who brought you out of Egypt, out of the land of slavery.  7 "You shall have no other gods before [[a](http://www.biblegateway.com/passage/?book_id=5&chapter=5&version=31#fen-NIV-5061a)] me.  8 "You shall not make for yourself an idol in the form of anything in heaven above or on the earth beneath or in the waters below. 9 You shall not bow down to them or worship them; for I, the LORD your God, am a jealous God, punishing the children for the sin of the fathers to the third and fourth generation of those who hate me, 10 but showing love to a thousand generations of those who love me and keep my commandments.  11 "You shall not misuse the name of the LORD your God, for the LORD will not hold anyone guiltless who misuses his name.  12 "Observe the Sabbath day by keeping it holy, as the LORD your God has commanded you. 13 Six days you shall labor and do all your work, 14 but the seventh day is a Sabbath to the LORD your God. On it you shall not do any work, neither you, nor your son or daughter, nor your manservant or maidservant, nor your ox, your donkey or any of your animals, nor the alien within your gates, so that your manservant and maidservant may rest, as you do. 15 Remember that you were slaves in Egypt and that the LORD your God brought you out of there with a mighty hand and an outstretched arm. Therefore the LORD your God has commanded you to observe the Sabbath day.  16 "Honor your father and your mother, as the LORD your God has commanded you, so that you may live long and that it may go well with you in the land the LORD your God is giving you.  17 "You shall not murder.  18 "You shall not commit adultery.  19 "You shall not steal.  20 "You shall not give false testimony against your neighbor.  21 "You shall not covet your neighbor's wife. You shall not set your desire on your neighbor's house or land, his manservant or maidservant, his ox or donkey, or anything that belongs to your neighbor."  22 These are the commandments the LORD proclaimed in a loud voice to your whole assembly there on the mountain from out of the fire, the cloud and the deep darkness; and he added nothing more. Then he wrote them on two stone tablets and gave them to me.  23 When you heard the voice out of the darkness, while the mountain was ablaze with fire, all the leading men of your tribes and your elders came to me. 24 And you said, "The LORD our God has shown us his glory and his majesty, and we have heard his voice from the fire. Today we have seen that a man can live even if God speaks with him. 25 But now, why should we die? This great fire will consume us, and we will die if we hear the voice of the LORD our God any longer. 26 For what mortal man has ever heard the voice of the living God speaking out of fire, as we have, and survived? 27 Go near and listen to all that the LORD our God says. Then tell us whatever the LORD our God tells you. We will listen and obey."  28 The LORD heard you when you spoke to me and the LORD said to me, "I have heard what this people said to you. Everything they said was good. 29 Oh, that their hearts would be inclined to fear me and keep all my commands always, so that it might go well with them and their children forever!  30 "Go, tell them to return to their tents. 31 But you stay here with me so that I may give you all the commands, decrees and laws you are to teach them to follow in the land I am giving them to possess."  32 So be careful to do what the LORD your God has commanded you; do not turn aside to the right or to the left. 33 Walk in all the way that the LORD your God has commanded you, so that you may live and prosper and prolong your days in the land that you will possess.**Deuteronomy 14**Clean and Unclean Food  1 You are the children of the LORD your God. Do not cut yourselves or shave the front of your heads for the dead, 2 for you are a people holy to the LORD your God. Out of all the peoples on the face of the earth, the LORD has chosen you to be his treasured possession.  3 Do not eat any detestable thing. 4 These are the animals you may eat: the ox, the sheep, the goat, 5 the deer, the gazelle, the roe deer, the wild goat, the ibex, the antelope and the mountain sheep. [[a](http://www.biblegateway.com/passage/?book_id=5&chapter=14&version=31#fen-NIV-5296a)] 6 You may eat any animal that has a split hoof divided in two and that chews the cud. 7 However, of those that chew the cud or that have a split hoof completely divided you may not eat the camel, the rabbit or the coney. [[b](http://www.biblegateway.com/passage/?book_id=5&chapter=14&version=31#fen-NIV-5298b)] Although they chew the cud, they do not have a split hoof; they are ceremonially unclean for you. 8 The pig is also unclean; although it has a split hoof, it does not chew the cud. You are not to eat their meat or touch their carcasses.  9 Of all the creatures living in the water, you may eat any that has fins and scales. 10 But anything that does not have fins and scales you may not eat; for you it is unclean.  11 You may eat any clean bird. 12 But these you may not eat: the eagle, the vulture, the black vulture, 13 the red kite, the black kite, any kind of falcon, 14 any kind of raven, 15 the horned owl, the screech owl, the gull, any kind of hawk, 16 the little owl, the great owl, the white owl, 17 the desert owl, the osprey, the cormorant, 18 the stork, any kind of heron, the hoopoe and the bat.  19 All flying insects that swarm are unclean to you; do not eat them. 20 But any winged creature that is clean you may eat.  21 Do not eat anything you find already dead. You may give it to an alien living in any of your towns, and he may eat it, or you may sell it to a foreigner. But you are a people holy to the LORD your God.       Do not cook a young goat in its mother's milk.**The Code of Hammurabi****2**   If any one bring an accusation against a man, and the accused go to the river and leap into the river, if he sink in the river his accuser shall take possession of his house. But if the river prove that the accused is not guilty, and he escape unhurt, then he who had brought the accusation shall be put to death, while he who leaped into the river shall take possession of the house that had belonged to his accuser. **3**   If any one bring an accusation of any crime before the elders, and does not prove what he has charged, he shall, if it be a capital offense charged, be put to death.**6**   If any one steal the property of a temple or of the court, he shall be put to death, and also the one who receives the stolen thing from him shall be put to death.**8**   If any one steal cattle or sheep, or an ass, or a pig or a goat, if it belong to a god or to the court, the thief shall pay thirtyfold; if they belonged to a freed man of the king he shall pay tenfold; if the thief has nothing with which to pay he shall be put to death.**16**   If any one receive into his house a runaway male or female slave of the court, or of a freedman, and does not bring it out at the public proclamation of the major domus, the master of the house shall be put to death.**25**   If fire break out in a house, and some one who comes to put it out cast his eye upon the property of the owner of the house, and take the property of the master of the house, he shall be thrown into that self-same fire.**282**   If a slave say to his master: "You are not my master," if they convict him his master shall cut off his ear. |

|  |
| --- |
| **Hobbes, Locke, Montesquieu, and Rousseau on Government** |
| http://www.gardenoflearning.com/4philosophersarticle.pdf |
|  |
|  |
|  | Starting in the 1600s, European philosophers began debating the question of who should govern a nation. As the absolute rule of kings weakened, Enlightenment philosophers argued for different forms of democracy. In 1649, a civil war broke out over who would rule Eng1and Parliament or King Charles 1. The war ended with the beheading of the king. Shortly after Charles was executed, an English philosopher, Thomas Hobbes (1588-1679), wrote *The Leviathan,* a defense of the absolute power of kings. The title of the book referred to a leviathan, a mythological, whale-like sea monster that devoured whole ships. Hobbes likened the leviathan to government, a powerful state created to impose order.Hobbes began *The Leviathan* by describing the “state of nature” where all individuals were naturally equal. Every person was free to do what he or she needed to do to survive. As a result, everyone suffered from “continued fear and danger of violent death; and the life of man [was] solitary, poor, nasty, brutish, and short.” In the state of nature, there were no laws or anyone to enforce them. The only way out of this situation, Hobbes said, was for individuals to create some supreme power to impose on everyone.Hobbes borrowed a concept from English contract law: an implied agreement. Hobbes asserted that the people agreed among themselves to “lay down” their natural rights of equality and freedom and give absolute power to a sovereign. The sovereign, created by the people, might be a person or a group. The sovereign would make and enforce the laws to secure a peaceful society making life, liberty, and property possible. Hobbes called this agreement the "social contract."Hobbes believed that a government headed by a king was the best form that the sovereign could take. Placing all power in the hands of a king would mean more resolute and consistent exercise of political authority, Hobbes argued. Hobbes also maintained that the social contract was an agreement only among the people and not between them and their king. Once the people had given absolute power to the king, they had no right to revolt against him.Hobbes warned against the church meddling with the king's government. He feared religion could become a source of civil war. Thus, he advised that the church become a department of the king’s government, which would closely control all religious affairs. In any conflict between divine and royal law, Hobbes wrote, the individual should obey the king or choose death. But the days of absolute kings were numbered. A new age with fresh ideas was emerging-the European Enlightenment.Enlightenment thinkers wanted to improve human conditions on earth rather than concern themselves with religion and the afterlife. These thinkers valued reason, science, religious tolerance, and what they called "natural rights"-life, liberty, and property. Enlightenment philosophers John Locke, Charles Montesquieu, and Jean-Jacques Rousseau all developed theories of government in which some or even all the people would govern. These thinkers had a profound effect on the American and French revolutions and the democratic governments that they produced.**Locke: The Reluctant Democrat**John Locke (1632-1704) was born shortly before the English Civil War. Locke studied science and medicine at Oxford University and became a professor there. He sided with the Protestant Parliament against the Roman Catholic King James II in the Glorious Revolution of 1688-89. This event reduced the power of the king and made parliament the major authority in English government.In 1690, Locke published his *Two Treatises of Government.* He generally agreed with Hobbes about thebrutality of the state of nature, which required a social contract to assure peace. But he disagreed with Hobbeson two major points. First, Locke argued that natural rights such as life, liberty, and property existed in the state of nature andcould never be taken away or even voluntarily given up by individuals. These rights were "inalienable" (impossible to surrender). Locke also disagreed with Hobbes about the social contract. For him, it was not just an agreement among the people, but between them and the sovereign (preferably a king). According to Locke, the natural rights of individuals limited the power of the king. The king did not hold absolute power, as Hobbes had said, but acted only to enforce and protect the natural rights of the people. If a sovereign violated these rights, the social contract was broken, and the people had the right to revolt and establish a new government. Less than 100 years after Locke wrote his *Two Treatises of Government,* Thomas Jefferson used his theory in writing the Declaration of Independence.Although Locke spoke out for freedom of thought, speech, and religion, he believed property to be the most important natural right. He declared that owners may do whatever they want with their property as long as they do not invade the rights of others. Government, he said, was mainly necessary to promote the "public good," that is to protect property and encourage commerce and little else. "Govern lightly," Locke said. Locke favored a representative government such as the English Parliament, which had a hereditary House of Lords and an elected House of Commons. But he wanted representatives to be only men of property and business. Consequently, only adult male property owners should have the right to vote. Locke was reluctant to allow the propertyless masses of people to participate in government because he believed that they were unfit.The supreme authority of government, Locke said, should reside in the law-making legislature, like England's Parliament. The executive (prime minister) and courts would be creations of the legislature and under its authority.**Montesquleu: The Balanced Democrat**When Charles Montesquieu (1689-1755) was born, France was ruled by an absolute king, Louis XIV. Montesquieu was born into a noble family and educated in the law. He traveled extensively throughout Europe, including England, where he studied the Parliament. In 1722, he wrote a book, ridiculing the reign of Louis XIV and the doctrines of the Roman Catholic Church. Montesquieu published his greatest work, *The Spirit of the Laws,* in 1748. Unlike Hobbes and Locke, Montesquieu believed that in the state of nature individuals were so fearful that they avoided violence and war. The need for food, Montesquieu said, caused the timid humans to associate with others and seek to live in a society. "As soon as man enters into a state of society," Montesquieu wrote, "he loses the sense of his weakness, equality ceases, and then commences the state of war."Montesquieu did not describe a social contract as such. But he said that the state of war among individuals and nations led to human laws and government. Montesquieu wrote that the main purpose of government is to maintain law and order, political liberty, and the property of the individual. Montesquieu opposed the absolute monarchy of his home country and favored the English system as the best model of government.Montesquieu somewhat misinterpreted how political power was actually exercised in England. When he wrote *The Spirit of the Laws,* power was concentrated pretty much in Parliament, the national legislature. Montesquieu thought he saw a separation and balancing of the powers of government in England. Montesquieu viewed the English king as exercising executive power balanced by the law-making Parliament, which was itself divided into the House of Lords and the House of Commons, each checking the other. Then, the executive and legislative branches were still further balanced by an independent court system.Montesquieu concluded that the best form of government was one in which the legislative, executive, and judicial powers were separate and kept each other in check to prevent any branch from becoming too powerful. He believed that uniting these powers, as in the monarchy of Louis XIV, would lead to despotism. While Montesquieu's separation of powers theory didnot accurately describe the government of England, Americans later adopted it as the foundation of the U.S. Constitution.**Rousseau: The Extreme Democrat**Jean-Jacques Rousseau (17121778) was born in Geneva, Switzerland, where all adult male citizens could vote for a representative government. Rousseau traveled in France and Italy, educating himself. In 1751, he won an essay contest. He wrote that man was naturally good and was corrupted by society. He quickly became a celebrity in the French salons where artists, scientists, and writers gathered to discuss the latest ideas.A few years later he published another essay in which he described savages in a state of nature as free, equal, peaceful, and happy. When people began to claim ownership of property, Rousseau argued, inequality, murder, and war resulted. According to Rousseau, the powerful rich stole the land belonging to everyone and fooled the common people into accepting them as rulers. Rousseau concluded that the social contract was not a willing agreement, as Hobbes, Locke, and Montesquieu had believed, but a fraud against the people committed by the rich.In 1762, Rousseau published his most important work on political theory, *The Social Contract.* His opening line is still striking today: "Man is born free, and everywhere he is in chains." Rousseau agreed with Locke that the individual should never be forced to give up his or her natural rights to a king. The problem in the state of nature, Rousseau said, was to find a way to protect everyone's life, liberty, and property while each person remained free. Rousseau's solution was for people to enter into a social contract. They would give up all their rights, not to a king, but to "the whole community," all the people. He called allthe people the "sovereign," a term used by Hobbes to mainly refer to a king. The people then exercised their "general will" to make laws for the "public good."Rousseau argued that the general will of the people could not be decided by elected representatives. He believed in a direct democracy in which everyone voted to express the general will and to make the laws of the land. Rousseau had in mind a democracy on a small scale, a city-state like his native Geneva. In Rousseau's democracy, anyone who disobeyed the general will of the people "will be forced to be free." He believed that citizens must obey the laws or be forced to do 13'0 as long as they remained a resident of the state. This is a "civil state," Rousseau says, where security, justice, liberty, and property are protected and enjoyed by all.All political power, according to Rousseau, must reside with the people, exercising their general will. There can be no separation of powers, as Montesquieu proposed. The people, meeting together, will deliberate individually on laws and then by majority vote find the general will. Rousseau's general will was later embodied in the words "We the people. . ." at the beginning of the U.S. Constitution.Rousseau was rather vague on the mechanics of how his democracy would work. There would be a government of sorts, entrusted with administering the general will. But it would be composed of "mere officials" who got their orders from the people.Rousseau believed that religion divided and weakened the state. "It is impossible to live in peace with people you think are damned," he said. He favored a "civil religion" that accepted God, but concentrated on the sacredness of the social contract.Rousseau realized that democracy as he envisioned it would be hard to maintain. He warned, "As soon as any man says of the affairs of the State, 'What does it matter to me?' the State may be given up for lost |

|  |
| --- |
| **Two Treatises on Government** |
| John Locke1680-4690http://www.lonang.com/exlibris/locke/loc-202.htm |
|  |
|  | **§ 4.** To understand political power aright, and derive it from its original, we must consider what estate all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of Nature, without asking leave or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another, there being nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of Nature, and the use of the same faculties, should also be equal one amongst another, without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty. **§ 5.** This equality of men by Nature, the judicious Hooker looks upon as so evident in itself, and beyond all question, that he makes it the foundation of that obligation to mutual love amongst men on which he builds the duties they owe one another, and from whence he derives the great maxims of justice and charity. His words are: "The like natural inducement hath brought men to know that it is no less their duty to love others than themselves, for seeing those things which are equal, must needs all have one measure; if I cannot but wish to receive good, even as much at every man's hands, as any man can wish unto his own soul, how should I look to have any part of my desire herein satisfied, unless myself be careful to satisfy the like desire, which is undoubtedly in other men weak, being of one and the same nature: to have anything offered them repugnant to this desire must needs, in all respects, grieve them as much as me; so that if I do harm, I must look to suffer, there being no reason that others should show greater measure of love to me than they have by me showed unto them; my desire, therefore, to be loved of my equals in Nature, as much as possible may be, imposeth upon me a natural duty of bearing to themward fully the like affection. From which relation of equality between ourselves and them that are as ourselves, what several rules and canons natural reason hath drawn for direction of life no man is ignorant." (Eccl. Pol. i.) **§ 6.** But though this be a state of liberty, yet it is not a state of licence; though man in that state have an uncontrollable liberty to dispose of his person or possessions, yet he has not liberty to destroy himself, or so much as any creature in his possession, but where some nobler use than its bare preservation calls for it. The state of Nature has a law of Nature to govern it, which obliges every one, and reason, which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions; for men being all the workmanship of one omnipotent and infinitely wise Maker; all the servants of one sovereign Master, sent into the world by His order and about His business; they are His property, whose workmanship they are made to last during His, not one another's pleasure. And, being furnished with like faculties, sharing all in one community of Nature, there cannot be supposed any such subordination among us that may authorise us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for ours. Every one as he is bound to preserve himself, and not to quit his station wilfully, so by the like reason, when his own preservation comes not in competition, ought he as much as he can to preserve the rest of mankind, and not unless it be to do justice on an offender, take away or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another. **§ 7.** And that all men may be restrained from invading others' rights, and from doing hurt to one another, and the law of Nature be observed, which willeth the peace and preservation of all mankind, the execution of the law of Nature is in that state put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree as may hinder its violation. For the law of Nature would, as all other laws that concern men in this world, be in vain if there were nobody that in the state of Nature had a power to execute that law, and thereby preserve the innocent and restrain offenders; and if any one in the state of Nature may punish another for any evil he has done, every one may do so. For in that state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, every one must needs have a right to do. **§ 8.** And thus, in the state of Nature, one man comes by a power over another, but yet no absolute or arbitrary power to use a criminal, when he has got him in his hands, according to the passionate heats or boundless extravagancy of his own will, but only to retribute to him so far as calm reason and conscience dictate, what is proportionate to his transgression, which is so much as may serve for reparation and restraint. For these two are the only reasons why one man may lawfully do harm to another, which is that we call punishment. In transgressing the law of Nature, the offender declares himself to live by another rule than that of reason and common equity, which is that measure God has set to the actions of men for their mutual security, and so he becomes dangerous to mankind; the tie which is to secure them from injury and violence being slighted and broken by him, which being a trespass against the whole species, and the peace and safety of it, provided for by the law of Nature, every man upon this score, by the right he hath to preserve mankind in general, may restrain, or where it is necessary, destroy things noxious to them, and so may bring such evil on any one who hath transgressed that law, as may make him repent the doing of it, and thereby deter him, and, by his example, others from doing the like mischief. And in this case, and upon this ground, every man hath a right to punish the offender, and be executioner of the law of Nature. **§ 9.** I doubt not but this will seem a very strange doctrine to some men; but before they condemn it, I desire them to resolve me by what right any prince or state can put to death or punish an alien for any crime he commits in their country? It is certain their laws, by virtue of any sanction they receive from the promulgated will of the legislature, reach not a stranger. They speak not to him, nor, if they did, is he bound to hearken to them. The legislative authority by which they are in force over the subjects of that commonwealth hath no power over him. Those who have the supreme power of making laws in England, France, or Holland are, to an Indian, but like the rest of the world - men without authority. And therefore, if by the law of Nature every man hath not a power to punish offences against it, as he soberly judges the case to require, I see not how the magistrates of any community can punish an alien of another country, since, in reference to him, they can have no more power than what every man naturally may have over another. **§ 10.** Besides the crime which consists in violating the laws, and varying from the right rule of reason, whereby a man so far becomes degenerate, and declares himself to quit the principles of human nature and to be a noxious creature, there is commonly injury done, and some person or other, some other man, receives damage by his transgression; in which case, he who hath received any damage has (besides the right of punishment common to him, with other men) a particular right to seek reparation from him that hath done it. And any other person who finds it just may also join with him that is injured, and assist him in recovering from the offender so much as may make satisfaction for the harm he hath suffered. **§ 11.** From these two distinct rights (the one of punishing the crime, for restraint and preventing the like offence, which right of punishing is in everybody, the other of taking reparation, which belongs only to the injured party) comes it to pass that the magistrate, who by being magistrate hath the common right of punishing put into his hands, can often, where the public good demands not the execution of the law, remit the punishment of criminal offences by his own authority, but yet cannot remit the satisfaction due to any private man for the damage he has received. That he who hath suffered the damage has a right to demand in his own name, and he alone can remit. The damnified person has this power of appropriating to himself the goods or service of the offender by right of self-preservation, as every man has a power to punish the crime to prevent its being committed again, by the right he has of preserving all mankind, and doing all reasonable things he can in order to that end. And thus it is that every man in the state of Nature has a power to kill a murderer, both to deter others from doing the like injury (which no reparation can compensate) by the example of the punishment that attends it from everybody, and also to secure men from the attempts of a criminal who, having renounced reason, the common rule and measure God hath given to mankind, hath, by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a lion or a tiger, one of those wild savage beasts with whom men can have no society nor security. And upon this is grounded that great law of nature, "Whoso sheddeth man's blood, by man shall his blood be shed." And Cain was so fully convinced that every one had a right to destroy such a criminal, that, after the murder of his brother, he cries out, "Every one that findeth me shall slay me," so plain was it writ in the hearts of all mankind. **§ 12.** By the same reason may a man in the state of Nature punish the lesser breaches of that law, it will, perhaps, be demanded, with death? I answer: Each transgression may be punished to that degree, and with so much severity, as will suffice to make it an ill bargain to the offender, give him cause to repent, and terrify others from doing the like. Every offence that can be committed in the state of Nature may, in the state of Nature, be also punished equally, and as far forth, as it may, in a commonwealth. For though it would be beside my present purpose to enter here into the particulars of the law of Nature, or its measures of punishment, yet it is certain there is such a law, and that too as intelligible and plain to a rational creature and a studier of that law as the positive laws of commonwealths, nay, possibly plainer; as much as reason is easier to be understood than the fancies and intricate contrivances of men, following contrary and hidden interests put into words; for truly so are a great part of the municipal laws of countries, which are only so far right as they are founded on the law of Nature, by which they are to be regulated and interpreted. **§ 13.** To this strange doctrine - viz., That in the state of Nature every one has the executive power of the law of Nature - I doubt not but it will be objected that it is unreasonable for men to be judges in their own cases, that self-love will make men partial to themselves and their friends; and, on the other side, ill-nature, passion, and revenge will carry them too far in punishing others, and hence nothing but confusion and disorder will follow, and that therefore God hath certainly appointed government to restrain the partiality and violence of men. I easily grant that civil government is the proper remedy for the inconveniences of the state of Nature, which must certainly be great where men may be judges in their own case, since it is easy to be imagined that he who was so unjust as to do his brother an injury will scarce be so just as to condemn himself for it. But I shall desire those who make this objection to remember that absolute monarchs are but men; and if government is to be the remedy of those evils which necessarily follow from men being judges in their own cases, and the state of Nature is therefore not to be endured, I desire to know what kind of government that is, and how much better it is than the state of Nature, where one man commanding a multitude has the liberty to be judge in his own case, and may do to all his subjects whatever he pleases without the least question or control of those who execute his pleasure? and in whatsoever he doth, whether led by reason, mistake, or passion, must be submitted to? which men in the state of Nature are not bound to do one to another. And if he that judges, judges amiss in his own or any other case, he is answerable for it to the rest of mankind. **§ 14.** It is often asked as a mighty objection, where are, or ever were, there any men in such a state of Nature? To which it may suffice as an answer at present, that since all princes and rulers of "independent" governments all through the world are in a state of Nature, it is plain the world never was, nor never will be, without numbers of men in that state. I have named all governors of "independent" communities, whether they are, or are not, in league with others; for it is not every compact that puts an end to the state of Nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises and compacts men may make one with another, and yet still be in the state of Nature. The promises and bargains for truck, etc., between the two men in Soldania, in or between a Swiss and an Indian, in the woods of America, are binding to them, though they are perfectly in a state of Nature in reference to one another for truth, and keeping of faith belongs to men as men, and not as members of society. **§ 15.** To those that say there were never any men in the state of Nature, I will not oppose the authority of the judicious Hooker (Eccl. Pol. i. 10), where he says, "the laws which have been hitherto mentioned" - i.e., the laws of Nature - "do bind men absolutely, even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do; but for as much as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our Nature doth desire, a life fit for the dignity of man, therefore to supply those defects and imperfections which are in us, as living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others; this was the cause of men uniting themselves as first in politic societies." But I, moreover, affirm that all men are naturally in that state, and remain so till, by their own consents, they make themselves members of some politic society, and I doubt not, in the sequel of this discourse, to make it very clear.  |

|  |
| --- |
| **Common Sense** |
| OF THE ORIGIN AND DESIGN OF GOVERNMENT IN GENERAL. WITH CONCISE REMARKS ON THE ENGLISH CONSTITUTIONThomas Paine1775 |
|  |
|  | SOME writers have so confounded society with government, as to leave little or no distinction between them; whereas they are not only different, but have different origins. Society is produced by our wants, and government by our wickedness; the former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices. The one encourages intercourse, the other creates distinctions. The first is a patron, the last a punisher. 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; for when we suffer, or are exposed to the same miseries by a government, which we might expect in a country without government, our calamities is heightened by reflecting that we furnish the means by which we suffer! Government, like dress, is the badge of lost innocence; the palaces of kings are built on the ruins of the bowers of paradise. For were the impulses of conscience clear, uniform, and irresistibly obeyed, man would need no other lawgiver; but that not being the case, he finds it necessary to surrender up a part of his property to furnish means for the protection of the rest; and this he is induced to do by the same prudence which in every other case advises him out of two evils to choose the least. Wherefore, security being the true design and end of government, it unanswerably follows that whatever form thereof appears most likely to ensure it to us, with the least expense and greatest benefit, is preferable to all others. In order to gain a clear and just idea of the design and end of government, let us suppose a small number of persons settled in some sequestered part of the earth, unconnected with the rest, they will then represent the first peopling of any country, or of the world. In this state of natural liberty, society will be their first thought. A thousand motives will excite them thereto, the strength of one man is so unequal to his wants, and his mind so unfitted for perpetual solitude, that he is soon obliged to seek assistance and relief of another, who in his turn requires the same. Four or five united would be able to raise a tolerable dwelling in the midst of a wilderness, but one man might labor out the common period of life without accomplishing any thing; when he had felled his timber he could not remove it, nor erect it after it was removed; hunger in the mean time would urge him from his work, and every different want call him a different way. Disease, nay even misfortune would be death, for though neither might be mortal, yet either would disable him from living, and reduce him to a state in which he might rather be said to perish than to die. Thus necessity, like a gravitating power, would soon form our newly arrived emigrants into society, the reciprocal blessings of which, would supersede, and render the obligations of law and government unnecessary while they remained perfectly just to each other; but as nothing but heaven is impregnable to vice, it will unavoidably happen, that in proportion as they surmount the first difficulties of emigration, which bound them together in a common cause, they will begin to relax in their duty and attachment to each other; and this remissness, will point out the necessity, of establishing some form of government to supply the defect of moral virtue. Some convenient tree will afford them a State-House, under the branches of which, the whole colony may assemble to deliberate on public matters. It is more than probable that their first laws will have the title only of Regulations, and be enforced by no other penalty than public disesteem. In this first parliament every man, by natural right will have a seat. But as the colony increases, the public concerns will increase likewise, and the distance at which the members may be separated, will render it too inconvenient for all of them to meet on every occasion as at first, when their number was small, their habitations near, and the public concerns few and trifling. This will point out the convenience of their consenting to leave the legislative part to be managed by a select number chosen from the whole body, who are supposed to have the same concerns at stake which those have who appointed them, and who will act in the same manner as the whole body would act were they present. If the colony continue increasing, it will become necessary to augment the number of the representatives, and that the interest of every part of the colony may be attended to, it will be found best to divide the whole into convenient parts, each part sending its proper number; and that the elected might never form to themselves an interest separate from the electors, prudence will point out the propriety of having elections often; because as the elected might by that means return and mix again with the general body of the electors in a few months, their fidelity to the public will be secured by the prudent reflection of not making a rod for themselves. And as this frequent interchange will establish a common interest with every part of the community, they will mutually and naturally support each other, and on this (not on the unmeaning name of king) depends the strength of government, and the happiness of the governed. Here then is the origin and rise of government; namely, a mode rendered necessary by the inability of moral virtue to govern the world; here too is the design and end of government, viz., freedom and security. And however our eyes may be dazzled with snow, or our ears deceived by sound; however prejudice may warp our wills, or interest darken our understanding, the simple voice of nature and of reason will say, it is right. I draw my idea of the form of government from a principle in nature, which no art can overturn, viz., that the more simple any thing is, the less liable it is to be disordered, and the easier repaired when disordered; and with this maxim in view, I offer a few remarks on the so much boasted constitution of England. That it was noble for the dark and slavish times in which it was erected is granted. When the world was overrun with tyranny the least therefrom was a glorious rescue. But that it is imperfect, subject to convulsions, and incapable of producing what it seems to promise, is easily demonstrated. Absolute governments (though the disgrace of human nature) have this advantage with them, that they are simple; if the people suffer, they know the head from which their suffering springs, know likewise the remedy, and are not bewildered by a variety of causes and cures. But the constitution of England is so exceedingly complex, that the nation may suffer for years together without being able to discover in which part the fault lies, some will say in one and some in another, and every political physician will advise a different medicine. I know it is difficult to get over local or long standing prejudices, yet if we will suffer ourselves to examine the component parts of the English constitution, we shall find them to be the base remains of two ancient tyrannies, compounded with some new republican materials. First.- The remains of monarchical tyranny in the person of the king. Secondly.- The remains of aristocratical tyranny in the persons of the peers. Thirdly.- The new republican materials, in the persons of the commons, on whose virtue depends the freedom of England. The two first, by being hereditary, are independent of the people; wherefore in a constitutional sense they contribute nothing towards the freedom of the state. To say that the constitution of England is a union of three powers reciprocally checking each other, is farcical, either the words have no meaning, or they are flat contradictions. To say that the commons is a check upon the king, presupposes two things. First.- That the king is not to be trusted without being looked after, or in other words, that a thirst for absolute power is the natural disease of monarchy. Secondly.- That the commons, by being appointed for that purpose, are either wiser or more worthy of confidence than the crown. But as the same constitution which gives the commons a power to check the king by withholding the supplies, gives afterwards the king a power to check the commons, by empowering him to reject their other bills; it again supposes that the king is wiser than those whom it has already supposed to be wiser than him. A mere absurdity! There is something exceedingly ridiculous in the composition of monarchy; it first excludes a man from the means of information, yet empowers him to act in cases where the highest judgment is required. The state of a king shuts him from the world, yet the business of a king requires him to know it thoroughly; wherefore the different parts, unnaturally opposing and destroying each other, prove the whole character to be absurd and useless. Some writers have explained the English constitution thus; the king, say they, is one, the people another; the peers are an house in behalf of the king; the commons in behalf of the people; but this hath all the distinctions of an house divided against itself; and though the expressions be pleasantly arranged, yet when examined they appear idle and ambiguous; and it will always happen, that the nicest construction that words are capable of, when applied to the description of something which either cannot exist, or is too incomprehensible to be within the compass of description, will be words of sound only, and though they may amuse the ear, they cannot inform the mind, for this explanation includes a previous question, viz. How came the king by a power which the people are afraid to trust, and always obliged to check? Such a power could not be the gift of a wise people, neither can any power, which needs checking, be from God; yet the provision, which the constitution makes, supposes such a power to exist. But the provision is unequal to the task; the means either cannot or will not accomplish the end, and the whole affair is a felo de se; for as the greater weight will always carry up the less, and as all the wheels of a machine are put in motion by one, it only remains to know which power in the constitution has the most weight, for that will govern; and though the others, or a part of them, may clog, or, as the phrase is, check the rapidity of its motion, yet so long as they cannot stop it, their endeavors will be ineffectual; the first moving power will at last have its way, and what it wants in speed is supplied by time. That the crown is this overbearing part in the English constitution needs not be mentioned, and that it derives its whole consequence merely from being the giver of places pensions is self evident, wherefore, though we have and wise enough to shut and lock a door against absolute monarchy, we at the same time have been foolish enough to put the crown in possession of the key. The prejudice of Englishmen, in favor of their own government by king, lords, and commons, arises as much or more from national pride than reason. Individuals are undoubtedly safer in England than in some other countries, but the will of the king is as much the law of the land in Britain as in France, with this difference, that instead of proceeding directly from his mouth, it is handed to the people under the most formidable shape of an act of parliament. For the fate of Charles the First, hath only made kings more subtle not- more just. Wherefore, laying aside all national pride and prejudice in favor of modes and forms, the plain truth is, that it is wholly owing to the constitution of the people, and not to the constitution of the government that the crown is not as oppressive in England as in Turkey. An inquiry into the constitutional errors in the English form of government is at this time highly necessary; for as we are never in a proper condition of doing justice to others, while we continue under the influence of some leading partiality, so neither are we capable of doing it to ourselves while we remain fettered by any obstinate prejudice. And as a man, who is attached to a prostitute, is unfitted to choose or judge of a wife, so any prepossession in favor of a rotten constitution of government will disable us from discerning a good one.  |

|  |
| --- |
| **The Coercive (Intolerable) Acts** |
| http://www.ushistory.org/declaration/related/intolerable.htm |
|  | **Boston Port Act**AN ACT to discontinue, in such manner, and for or such time as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares, and merchandise, at the town, and within the harbour, of Boston, in the province of Massachuset's Bay, in North America.**Administration of Justice Act**... that an indifferent trial cannot be had within the said province, in that case, it shall and may be lawful for the governor ..., to direct, with the advice and consent of the council, that the inquisition, indictment, or appeal, shall be tried in some other of his Majesty's colonies, or in *Great Britain…***Massachusetts Government Act**Be it therefore enacted ..., that from and after August 1, 1774, so much of the charter ... [of 1691] ... which relates to the time and manner of electing the assistants or counsellors for the said province, be revoked, ... and that the offices of all counsellors and assistants, elected and appointed in pursuance thereof, shall from thenceforth cease and determine: And that, from and after the said August 1, 17 74, the council, or court of assistants of the said province for the time being, shall be composed of such of the inhabitants or proprietors of lands within the same as shall be thereunto nominated and appointed by his Majesty . .**Quartering Act**…His Majesty's forces in *North America*, to cause any officers or soldiers in His Majesty's service to be quartered and billeted in such manner as is now directed by law where no barracks are provided by the colonies. |

|  |
| --- |
| **Various Views on Government** |
| Quoteland |
|  | The divine right of kings may have been a plea for feeble tyrants, but the divine right of government is the keystone of human progress, and without it governments sink into police, and a nation is degraded into a mob. -[Benjamin Disraeli](http://www.quoteland.com/author.asp?AUTHOR_ID=157)Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. The First Amendment was designed to allow rebellion to remain as our heritage. The Constitution was designed to keep government off the backs of the people. The Bill of Rights was added to keep the precincts of belief and expression, of the press, of political and social activities free from surveillance. The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. The aim was to allow men to be free and independent and to assert their rights against government. -[William O. Douglas](http://www.quoteland.com/author.asp?AUTHOR_ID=1498)“It is requisite the government be so constituted as one man need not be afraid of another. “-[Charles Montesquieu](http://www.quoteland.com/author.asp?AUTHOR_ID=186)“The ultimate aim of government is not to rule, or restrain, by fear, nor to exact obedience, but contrariwise, to free every man from fear, that he may live in all possible security; in other words, to strengthen his natural right to exist and work without injury to himself or others.No, the object of government is not to change men from rational beings into beasts or puppets, but to enable them to develop their minds and bodies in security, and to employ their reason unshackled; neither showing hatred, anger, or deceit, nor watched with the eyes of jealousy and injustice. In fact, the true aim of government is liberty. “-[Baruch (­Benedict de) Spinoza](http://www.quoteland.com/author.asp?AUTHOR_ID=1557)"Government is not reason, it is not eloquence, it is force; like fire, a troublesome servant and a fearful master. Never for a moment should it be left to irresponsible action." -[George Washington](http://www.quoteland.com/author.asp?AUTHOR_ID=288)"The Constitution only gives people the right to pursue happiness. You have to catch it yourself." -[Benjamin Franklin](http://www.quoteland.com/author.asp?AUTHOR_ID=281)“Democracy is two wolves and a lamb voting on what to have for lunch.Liberty is a well-armed lamb contesting the vote.”-[Benjamin Franklin](http://www.quoteland.com/author.asp?AUTHOR_ID=281), 1759"The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government." -[Thomas Jefferson](http://www.quoteland.com/author.asp?AUTHOR_ID=176)"Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter." -[Thomas Jefferson](http://www.quoteland.com/author.asp?AUTHOR_ID=176)"If we run into such debts as that we must be taxed in our meat and in our drink, in our necessaries and our comforts, in our labors and our amusements, for our callings and our creeds, as the people of England are, our people, like them, must come to labor sixteen hours in the twenty-four, and give the earnings of fifteen of these to the government for their debts and daily expenses; And the sixteenth being insufficient to afford us bread, we must live, as they do now, on oatmeal and potatoes, have no time to think, no means of calling the mismanagers to account; but be glad to obtain subsistence by hiring ourselves to rivet their chains around the necks of our fellow sufferers; And this is the tendency of all human governments. A departure from principle in one instance becomes a precedent for a second, that second for a third, and so on 'til the bulk of the society is reduced to be mere automatons of misery, to have no sensibilities left but for sinning and suffering ... And the forehorse of this frightful team is public debt. Taxation follows that, and in its train wretchedness and oppression." -[Thomas Jefferson](http://www.quoteland.com/author.asp?AUTHOR_ID=176) |

|  |
| --- |
| **The Declaration of Independence** |
| Grievances against King George IIIhttp://www.ushistory.org/Declaration/document/index.htm |
|  | He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.He has made Judges dependent on his Will alone for the tenure of their offices, and the amount and payment of their salaries.He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.For quartering large bodies of armed troops among us:For cutting off our Trade with all parts of the world:For imposing Taxes on us without our Consent:For depriving us in many cases, of the benefit of Trial by Jury:For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands. |

|  |
| --- |
| **The Constitution of the United States of America** |
| http://www.archives.gov/exhibits/charters/constitution\_transcript.html |
|  | We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.Article. I.**Section. 1.**All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.**Section. 2.**The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html%22%20%5Cl%20%2214). The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.**Section. 3.**The Senate of the United States shall be composed of two Senators from each State, [chosen by the Legislature](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#17) thereof for six Years; and each Senator shall have one Vote.Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; [and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#17).No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.**Section. 4.**The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.The Congress shall assemble at least once in every Year, and such Meeting shall [be on the first Monday in December](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#20), unless they shall by Law appoint a different Day.**Section. 5.**Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.**Section. 6.**The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.**Section. 7.**All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.**Section. 8.**The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;To borrow Money on the credit of the United States;To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;To establish Post Offices and post Roads;To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;To constitute Tribunals inferior to the supreme Court;To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;To provide and maintain a Navy;To make Rules for the Government and Regulation of the land and naval Forces;To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--AndTo make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.**Section. 9.**The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.No Bill of Attainder or ex post facto Law shall be passed.No Capitation, or other direct, Tax shall be laid, [unless in Proportion to the Census or enumeration herein before directed to be taken](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#16).No Tax or Duty shall be laid on Articles exported from any State.No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.**Section. 10.**No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.Article. II.**Section. 1.**The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.[The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html%22%20%5Cl%20%2212).The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.[In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html%22%20%5Cl%20%2225).The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."**Section. 2.**The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.**Section. 3.**He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.**Section. 4.**The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.Article III.**Section. 1.**The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.**Section. 2.**The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;-- [between a State and Citizens of another State](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#11),--between Citizens of different States,--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.**Section. 3.**Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.Article. IV.**Section. 1.**Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.**Section. 2.**The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.[No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html%22%20%5Cl%20%2213).**Section. 3.**New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.**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.Article. V.The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.Article. VI.All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.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.Article. VII.The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.The Word, "the," being interlined between the seventh and eighth Lines of the first Page, the Word "Thirty" being partly written on an Erazure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page. Attest William Jackson Secretarydone in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independance of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names, |

|  |
| --- |
| **The Bill of Rights** |
| http://www.archives.gov/exhibits/charters/bill\_of\_rights\_transcript.html |
|  | Amendment ICongress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.Amendment IIA well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.Amendment IIINo Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.Amendment IVThe right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.Amendment VNo person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.Amendment VIIn all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.Amendment VIIIn 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.Amendment VIIIExcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.Amendment IXThe enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.Amendment XThe powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. |

|  |
| --- |
| **Sotomayor’s ‘wise Latina’ comment a staple of her speeches** |
| http://www.cnn.com/2009/POLITICS/06/05/sotomayor.speeches/ |
|  | **WASHINGTON (CNN)** -- Judge Sonia Sotomayor has spoken for years about how her experiences as a Latina woman have influenced her public and private life.Judge Sonia Sotomayor has been meeting with lawmakers in advance of her confirmation hearings.In her speeches, she often discussed her "Latina soul" and explained how even the traditional dishes of her Puerto Rican family shaped her views.And she often said that she hoped those experiences would help her reach better judicial conclusions than someone without such a varied background might reach.The line was almost identical every time:"I would hope that a wise Latina woman with the richness of her experiences would, more often than not, reach a better conclusion."That sentence, or a similar one, has appeared in speeches Sotomayor delivered in 1994, 1999, 2002, 2004 and 2001. In that speech, she included the phrase "than a white male who hasn't lived that life" at the end, which sparked cries of racism from some Republicans.Those instances were included in documents Sotomayor sent Thursday to Capitol Hill, part of her response to the lengthy questionnaire sent to her by the Senate Judiciary Committee before her [Supreme Court](http://topics.cnn.com/topics/U_S_Supreme_Court) confirmation hearing.Sotomayor supporters brought up the 1994 speech themselves, after former House Speaker Newt Gingrich, radio host Rush Limbaugh and others labeled Sotomayor a racist over the remark. Gingrich has since recanted.The supporters point out that Republicans did not object to those remarks in 1998 during Sotomayor's confirmation to the U.S. Court of Appeals for the 2nd Circuit.Sotomayor has spent the last three days in meetings with senators on Capitol Hill answering their questions about her judicial record -- and defending those comments. While the judge has made no public comments herself about the matter, others have. "She told me she had used the phrase before but that she would not be using it again," said Sen. Susan Collins, R-Maine. "She's clearly a very bright individual who learns from her past mistakes," Collins said.But Collins said she was "still uncomfortable that she [Sotomayor] made the statement, particularly as a sitting judge.""I can understand her explanation that it was intended to be a statement to inspire the young people to whom she was talking and that it did not reflect how she approaches cases before her," she said. "But that's why I want to read more of her cases to make sure that is the case."[Sen. Dianne Feinstein](http://topics.cnn.com/topics/Dianne_Feinstein), D-California, said after meeting with [Sotomayor](http://topics.cnn.com/topics/Sonia_Sotomayor) that the judge had told her, " 'It was a poor choice of words. If you read on and read the rest of my speech you wouldn't be concerned with it, but it was a poor choice of words.' "But Senate Minority Leader [Mitch McConnell](http://topics.cnn.com/topics/Mitch_McConnell) of Kentucky wasn't mollified."If it was a bad choice of words, it was a bad choice of words repeatedly ... leading one to believe that it probably wasn't just an isolated statement but a core belief," he said.Sotomayor's point -- that a person's experiences influence how he or she sees the world -- doesn't sit well with some Republicans, who believe that viewpoint means the law takes a back seat to a more nuanced judgment. It also highlights a basic difference in how many conservatives and liberals view the federal judiciary.Many conservatives seek a strict adherence to the law as it is written, while many liberals believe that the circumstances of individual cases could lead to differing decisions even if two cases appear nearly identical on the surface. |