

CONTROLLING CONSTITUTIONAL PRINCIPLES, PURPOSES & PRACTICES
A U. S. Supreme Court Decision for the Foundational Pillars of a Nation
United States v. Cruikshank, 92 U.S. 542 (1875)



1. Citizens are the members of the political community to which they belong. They are the people who compose the community, and who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual, as well as their collective, rights. The duty of a government to afford protection is limited always by the power it possesses for that purpose.

2. There is in our political system a government of each of the several States, and a Government of the United States. Each is distinct from the others, and has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of those governments will be different from those he has under the other.

For this reason, the people of the United States,

"in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for

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the common defence, promote the general welfare, and secure the blessings of liberty"

to themselves and their posterity (Const. Preamble), ordained and established the government of the United States, and defined its powers by a Constitution, which they adopted as its fundamental law, and made its rule of action.

Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:
Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause

The people of the United States resident within any State are subject to two governments -- one State and the other National -- but there need be no conflict between the two. **The powers which one possesses the other does not. They are established for different purposes, and have separate jurisdictions.** Together, they make one whole, and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad. True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act.

It is the natural consequence of a citizenship

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which owes allegiance to two sovereignties and claims protection from both. The citizen cannot complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and, within their respective spheres, must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction.

The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States.

The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is, and always has been, one of the attributes of citizenship under a free government. It "derives its source," to use the language of Chief Justice Marshall in *Gibbons v. Ogden*, 9 Wheat. 1, 22 U. S. 211, "from those laws whose authority is acknowledged by civilized man throughout the world." It is found wherever civilization exists. It was not, therefore, a right granted to the people by the Constitution. The Government of the United States, when established, found it in existence, with the obligation on the part of the States to afford it protection. As no direct power over it was granted to Congress, it remains, according to the ruling in *Gibbons v. Ogden, id.*, 22 U. S. 203, subject to State jurisdiction.

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Only such existing rights were committed by the people to the protection of Congress as came within the general scope of the authority granted to the national government.

The first amendment to the Constitution prohibits Congress from abridging "the right of the people to assemble and to petition the government for a redress of grievances." This, like the other amendments proposed and adopted at the same time, was not intended to limit the powers of the State governments in respect to their own citizens, but to operate upon the National Government alone. *Barron v. The City of Baltimore*, 7 Pet. 250; *Lessee of Livingston v. Moore, id.*, 551; *Fox v. Ohio*, 5 How. 434; *Smith v. Maryland*, 18 *id.* 76; *Withers v. Buckley*, 20 *id.* 90; *Pervear v. The Commonwealth*, 5

Wall. 479; *Twitchell v. The Commonwealth*, 7 *id.* 321; *Edwards v. Elliott*, 21 *id.* 557. It is now too late to question the correctness of this construction. As was said by the late Chief Justice, in

Twitchell v. The Commonwealth, 7 Wall. 325, "the scope and application of these amendments are no longer subjects of discussion here." They left the authority of the States just where they found it, and added nothing to the already existing powers of the United States.

The right of the people peaceably to assemble for the purpose of petitioning Congress for a redress of grievances, or for any thing else connected with the powers or the duties of the national government, is an attribute of national citizenship, and, as such, under the protection of, and guaranteed by, the United States. The very idea of a government republican in form implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances. If it had been alleged in

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these counts that the object of the defendants was to prevent a meeting for such a purpose, the case would have been within the statute, and within the scope of the sovereignty of the United States.

The Fourteenth Amendment prohibits a State from denying to any person within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it, and which we have just considered, add anything

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to the rights which one citizen has under the Constitution against another. The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the national government is limited to the enforcement of this guaranty.

In criminal cases, prosecuted under the laws of the United States, the accused has the constitutional right "to be informed

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of the nature and cause of the accusation." Amend. VI. In *United States v. Mills*, 7 Pet. 142, this was construed to mean that the indictment must set forth the offence "with clearness and all necessary certainty, to apprise the accused of the crime with which he stands charged;" and in *United States v. Cook*, 17 Wall. 174 that "every ingredient of which the offence is composed must be accurately and clearly alleged." It is an elementary principle of criminal pleading that, where the definition of an offence, whether it be at common law or by statute,

"includes generic terms, it is not sufficient that the indictment shall charge the offence in the same generic terms as in the definition, but it must state the species -- it must descend to particulars."

But it is needless to pursue the argument further. The conclusion is irresistible that these counts are too vague and general. They lack the certainty and precision required by the established rules of criminal pleading. It follows that they are not good and sufficient in law. They are so defective that no judgment of conviction should be pronounced upon them.

“The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these “unalienable rights with which they were endowed by their Creator.”