

The Declaration of Independence, Annotated¹

By Thomas Jefferson² and Timothy Sandefur³

IN CONGRESS, JULY 4, 1776.

The unanimous Declaration of the thirteen united States of America⁴

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature⁵ and of Nature's God entitle them,⁶ a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all⁷ men are

¹ THE DECLARATION OF INDEPENDENCE (U.S. 1776), *reprinted in* UNITED STATES CODE ANNOTATED, ARTICLE 1, § 1 TO § 8, CLAUSE 3, at 1 (West 2004). *The Declaration of Independence, Annotated* is a follow-up to a previous article by Timothy Sandefur, *Liberal Originalism: A Past for the Future*, 27 HARV. J.L. & PUB. POL'Y 489 (2004), which surveyed the theory of constitutional interpretation known as liberal originalism. This theory holds that the Constitution should be interpreted consistently with the Declaration of Independence.

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⁴ *But see* *Troxel v. Granville*, 530 U.S. 57, 91 (2000) (Scalia, J., dissenting) ("The Declaration of Independence, however, is not a legal prescription conferring powers upon the courts.").

⁵ *But see* Carlton F.W. Larson, *The Declaration of Independence: A 225th Anniversary Re-Interpretation*, 76 WASH. L. REV. 701, 711 (2001) ("Invoking 'natural rights' in a modern law school is about as persuasive as citing Cotton Mather's treatise on witchcraft.").

⁶ *But see* *Sup. Ct. of N.H. v. Piper*, 470 U.S. 274, 281 n.10 (1985) ("The 'natural rights' theory . . . was discarded long ago.").

⁷ *Accord* *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 388 (1978) (Marshall, J., separate opinion) ("The self-evident truths and the unalienable rights were intended, however, to apply only to white men."). *But see* *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393, 407 (1857) ("[A]t the time of the Declaration of Independence . . . [blacks were] regarded as beings of an inferior order; . . . and so far inferior, that they had no rights

created equal,⁸ that they are endowed by their Creator with certain unalienable Rights,⁹ that among these are Life,¹⁰ Liberty¹¹ and the pursuit of Happiness.¹² That to secure these rights,¹³ Governments are instituted among Men, deriving their just powers from the consent of the governed,¹⁴ That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter¹⁵ or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable,¹⁶ than to right themselves by abolishing the

which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit.”).

⁸ *But see* Grutter v. Bollinger, 539 U.S. 306, 325(2003) (“[S]tudent body diversity is a compelling state interest that can justify the use of race in university admissions.”).

⁹ *But see* Lochner v. New York, 198 U.S. 45, 75 (1905) (Holmes, J., dissenting) (“The liberty of the citizen to do as he likes so long as he does not interfere with the liberty of others to do the same . . . has been a shibboleth for some well-known writers.”); ROBERT H. BORK, *THE TEMPTING OF AMERICA: THE POLITICAL SEDUCTION OF THE LAW* 121-22 (1990) (“[N]o husband or wife, no father or mother, should act on the principle that a ‘person belongs to himself and not others.’ No citizen should take the view that no part of him belongs to ‘society as a whole.’”).

¹⁰ *But see* Arver v. United States, 245 U.S. 366, 376-77 (1918) (finding military conscription constitutional); Oliver Wendell Holmes, Jr., *Natural Law*, 32 HARV. L. REV. 40, 42 (1919) (“[T]he right to life—is sacrificed without a scruple not only in war, but whenever the interest of society, that is, of the predominant power in the community, is thought to demand it [I]n any event . . . it is only an interest, [so its] sanctity disappears.”).

¹¹ *But see* Herndon by Herndon v. Chapel Hill-Carrboro City Bd. of Educ., 89 F.3d 174, 176-77 (4th Cir. 1996) (holding that compulsory community service by schools does not violate Due Process under the Fourteenth Amendment); Steirer v. Bethlehem Area Sch. Dist., 987 F.2d 989, 997-1000 (3d Cir. 1993) (explaining that mandatory community service is not involuntary servitude).

¹² *But see* Jones v. Bd. of Comm’rs of the Ala. State Bar, 737 F.2d 996, 1000 (11th Cir. 1984) (“The Court, however, has never held that the right to pursue a particular occupation is a fundamental right, and it has not applied strict scrutiny review to classifications affecting an individual’s pursuit of his or her occupation.”).

¹³ *But see* Nollan v. Cal. Coastal Comm’n, 483 U.S. 825, 834 (1987) (“Our cases have not elaborated on the standards for determining what constitutes a ‘legitimate state interest’”); Egan v. City and County of San Francisco, 133 P. 294, 296 (Cal. 1913) (“Generally speaking, anything calculated to promote the education, the recreation, or the pleasure of the public is to be included within the legitimate domain of public purposes.”).

¹⁴ *But see* Seminole Tribe of Fla. v. Florida, 517 U.S. 44, 72 (1996) (holding that Congress cannot abrogate state sovereign immunity); Stump v. Sparkman, 435 U.S. 349, 359-60 (1978) (upholding judicial immunity for judge who issued *ex parte* order that minor be sterilized).

¹⁵ *But see* City of Boerne v. Flores, 521 U.S. 507, 536 (1997) (giving Congress no power under the Fourteenth Amendment to revise Supreme Court’s constitutional interpretation).

¹⁶ *See, e.g.,* Friedman v. Berger, 409 F. Supp. 1225, 1225-26 (S.D.N.Y. 1976), *aff’d*, 547 F.2d 724 (2d Cir. 1976) (“The Medicaid statute (as is true of other parts of the Social Security Act) is an aggravated assault on the English language, resistant to attempts to

forms to which they are accustomed.¹⁷ But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government,¹⁸ and to provide new Guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.¹⁹

He has forbidden his Governors to pass Laws of immediate and pressing importance,²⁰ unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.²¹

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.²²

understand it. The statute is complicated and murky, not only difficult to administer and to interpret but a poor example to those who would like to use plain and simple expressions. The present motion must be decided, however, and what follows is the result of best efforts to find the meaning of the Medicaid statute and other relevant statutes and regulations.”).

¹⁷ See, e.g., *City of Indianapolis v. Edmond*, 531 U.S. 32, 56 (2000) (Thomas, J., dissenting) (“[O]ur decisions . . . stand for the proposition that suspicionless roadblock seizures are constitutionally permissible I am not convinced that [these Fourth Amendment roadblock seizure cases] were correctly decided. Indeed, I rather doubt that the Framers of the Fourth Amendment would have considered ‘reasonable’ a program of indiscriminate stops of individuals not suspected of wrongdoing. Respondents did not, however, advocate . . . overruling . . . and I am reluctant to consider such a step without the benefit of briefing and argument.”) (citations omitted); *United States v. Lopez*, 514 U.S. 549, 601 n.8 (1995) (Thomas, J., concurring) (“Although I might be willing to return to the original understanding [of the Commerce Clause], I recognize that many believe that it is too late in the day to undertake a fundamental reexamination of the past 60 years.”).

¹⁸ But see *Dennis v. United States*, 341 U.S. 494, 549 (1951) (Frankfurter, J., concurring) (“Of course no government can recognize a ‘right’ of revolution . . .”).

¹⁹ Cf. Jeff Canfield, Note, *What A Sham(e): The Broken Beck Rights System in The Real World Workplace*, 47 WAYNE L. REV. 1049 *passim* (2001); Brian J. Woldow, Comment, *The NLRB’s (Slowly) Developing Beck Jurisprudence: Defending A Right In A Politicized Agency*, 52 ADMIN. L. REV. 1075 *passim* (2000) (noting government refusal to meaningfully implement Supreme Court’s decision in *Comm’n Workers of America v. Beck*, 487 U.S. 735 (1988)).

²⁰ But see *Saenz v. Roe*, 526 U.S. 489, 505-07 (1999) (providing that state may not reduce welfare amounts for non-residents).

²¹ But see Catherine Fisk & Erwin Chemerinsky, *In Defense of Filibustering Judicial Nominations*, 26 CARDOZO L. REV. 331 *passim* (2005).

²² But see *Vieth v. Jubelirer*, 541 U.S. 267, 277 (2004) (holding that political

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.²³

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.²⁴

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.²⁵

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.²⁶

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance.²⁷

He has kept among us, in times of peace, Standing Armies²⁸

gerrymandering is a problem “entrusted to one of the political branches or involves no judicially enforceable rights.”).

²³ But see *Guinn v. Leg. of the State of Nev.*, 71 P.3d 1269, 1272 (Nev. 2003) (granting governor’s petition for a writ of mandamus and instructing legislature to disregard 2/3 majority requirement for tax increases).

²⁴ But see *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S. 302, 341-43 (2002) (deciding that a “temporary” 32 months total moratorium on construction is not a *per se* taking of property); *Babbitt v. Sweet Home Chapter of Cmty. for a Great Or.*, 515 U.S. 687, 708 (1995) (including “significant habitat modification or degradation that actually kills or injures wildlife” as “harm”[ful] under the Endangered Species Act).

²⁵ See also John C. Eastman & Timothy Sandefur, *The Senate Is Supposed to Advise and Consent, Not Obstruct and Delay*, 7 NEXUS 11 *passim* (2002) (describing Senate’s refusal to hold hearings on judicial nominees).

²⁶ But see *Humphrey’s Ex’r v. United States*, 295 U.S. 602, 631-32 (1935) (holding that the President’s removal power over independent administrative agencies is constitutional).

²⁷ But see 26 U.S.C. § 1 *et seq.* (2000); 16 U.S.C. § 1 *et seq.* (2000).

²⁸ But see *Bd. of Educ. v. Earls*, 536 U.S. 822, 825 (2002) (permitting random drug testing of school children to advance War on Drugs).

without the Consent of our Legislature.²⁹

He has affected to render the Military independent of and superior to the Civil Power.³⁰

He has combined with others to subject us to a jurisdiction foreign to our constitution,³¹ and unacknowledged by our laws;³² giving his Assent to their Acts of pretended Legislation:³³

For quartering large bodies of armed troops among us:³⁴

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:³⁵

For cutting off our Trade with all parts of the world:³⁶

²⁹ *But see* United States v. Oakland Cannabis Buyers' Coop., 532 U.S. 483, 497-99 (2001) (upholding federal prohibition on marijuana as trumping state law authorizing medical use).

³⁰ *But see* Campbell v. Clinton, 203 F.3d 19, 20-21 (D.C. Cir. 2000) (finding that the congressmen lacked standing to enjoin the President from sending troops to Yugoslavia without congressional approval); Berk v. Laird, 429 F.2d 302, 304-06 (2d Cir. 1970) (questioning the U.S.'s authority to engage in Vietnam war without Declaration of War is political question beyond court's power to determine).

³¹ *But see* Fed. Mar. Comm'n v. S.C. State Ports Auth., 535 U.S. 743, 754 n.8 (2002) (upholding sovereign immunity for "an independent agency that itself lacks any textual basis in the Constitution").

³² *See, e.g.,* Nat'l Cable Television Ass'n Inc. v. United States, 415 U.S. 336, 352-53 (1974) (Marshall, J., concurring in part and dissenting in part) ("The notion that the Constitution narrowly confines the power of Congress to delegate authority to administrative agencies, which was briefly in vogue in the 1930's, has been virtually abandoned by the Court for all practical purposes . . ."); *see also* Tara L. Branum, *President or King? The Use and Abuse of Executive Orders In Modern-Day America*, 28 J. LEGIS. 1, 5-6, 9-10 (2002) (arguing that the executive branch is wrongly embracing qualities of the lawmaking branch, and Congress should "assert its authority to restore the separation of powers intended by the Framers of our Constitution").

³³ *But see* Robert Schlesinger, *Campaign-Finance Law Signed without Ceremony*, BOSTON GLOBE, Mar. 28, 2002, at A3 (noting that President Bush signed a bill despite acknowledging its unconstitutionality).

³⁴ *But see* United States v. Lewis, 728 F. Supp. 784, 789 (D.D.C. 1990), *rev'd*, 921 F.2d 1294 (D.C. Cir. 1990) ("In this 'anything goes' war on drugs, random knocks on the doors of our citizens' homes seeking 'consent' to search for drugs cannot be far away. This is not America. In my opinion, the Fifth Amendment to the Constitution is transgressed when police officers engage in a concerted planned program that involves random indiscriminate stopping, questioning, and searching individuals with the clear purpose to obtain from their lips and their bodies information and evidence that would incriminate them."); United States v. Cothran, 729 F. Supp. 153, 157 (D.D.C. 1990), *rev'd*, 921 F.2d 1294 (D.C. Cir. 1990) ("[P]resent police practices in furtherance of the 'war on drugs' represent, in modern sophisticated dress, the same type of government behavior that led to this nation's war of independence.").

³⁵ *But see* Idaho v. Horiuchi, 215 F.3d 986, 988 (9th Cir. 2000), *vacated as moot*, 266 F.3d 979 (9th Cir. 2001) (ruling that immunity prevented prosecution of federal law enforcement officials for murders that took place while employed); Andrade v. Chojnacki, 65 F. Supp. 2d 431, 452 (W.D. Tex. 1999) (holding that public officials are entitled to qualified immunity so long as his/her conduct does not violate any clearly established statutory or constitutional law); Andrade v. United States, 116 F. Supp. 2d 778, 788 (W.D. Tex. 2000) (holding that the discretionary function exception bars suit for excessive force in attack on Waco compound which resulted in numerous deaths).

³⁶ *But see* Regan v. Wald, 468 U.S. 222, 243-44 (1984) (holding that federal

For imposing Taxes on us without our Consent:³⁷

For depriving us in many cases, of the benefits of Trial by Jury:³⁸

For transporting us beyond Seas to be tried for pretended offenses:³⁹

For abolishing the free System of English Laws in a neighboring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:⁴⁰

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Government:⁴¹

For suspending our own Legislature, and declaring themselves invested with Power to legislate for us in all cases whatsoever.⁴²

He has abdicated Government here, by declaring us out of his Protection and waging War against us.⁴³

He has plundered our seas, ravaged our Coasts, burnt our

regulation amendment prohibiting travel to and from Cuba is constitutional).

³⁷ *But see* *Missouri v. Jenkins*, 495 U.S. 33, 51-58 (1990) (ruling that local government institutions, rather than district courts, have the authority to order tax increase).

³⁸ *But see* *Harris v. United States*, 536 U.S. 545, 568 (2002) (holding that judge may impose an additional punishment as a sentencing factor without jury finding).

³⁹ *But see* *Hamdan v. Rumsfeld*, 415 F.3d 33 (D.C. Cir. 2005) (upholding constitutionality of special military tribunals to try incarcerated alleged terrorists).

⁴⁰ *But see* *Al Odah v. United States*, 321 F.3d 1134, 1141 (D.C. Cir. 2003) (finding that the court has no jurisdiction "to test the constitutionality or the legality of restraints" on the liberties of detainees in Guantanamo Bay, Cuba), *rev'd*, *Rasul v. Bush*, 542 U.S. 466 (2004).

⁴¹ *But see* *Guinn v. Leg. of the State of Nev.*, 71 P.3d 1269, 1275 (Nev. 2003) (nullifying state constitutional clause because "[w]hen a procedural requirement that is general in nature prevents funding for a basic, substantive right, the procedure must yield.").

⁴² *But see* *Gonzales v. Raich*, 125 S. Ct. 2195 (2005) (upholding virtually limitless Congressional power under the Commerce Clause).

⁴³ *But see* Erik Grant Luna, *Our Vietnam: The Prohibition Apocalypse*, 46 DEPAUL L. REV. 483, 546-47 (1996) ("The Court during the past decade let police obtain search warrants on the strength of anonymous tips (Fourth and Sixth Amendments). It did away with the need for warrants when police want to search luggage, trash cans, car interiors, bus passengers, fenced private property and barns (Fourth). It let prosecutors hold drug offenders without bail (Eighth). It permitted the confiscation of property before a suspect is charged, let alone convicted (Fifth). It let prosecutors imprison people twice—at the state and federal levels—for the same crime (Fifth). It let police fly as low as 400 feet over houses in their search for marijuana plants (Fourth). It allowed the seizure of defense attorneys' legal fees in drug cases (Sixth). It allowed mandatory urine testing for federal employees (Fourth). And [it] let stand a sentence of mandatory life without parole for simple drug possession (Eighth).") (quoting Dan Baum, *The Drug War on Civil Liberties*, THE NATION, June 29, 1992, at 886, 888).

towns,⁴⁴ and destroyed the lives of our people.⁴⁵

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages,⁴⁶ and totally unworthy the Head of a civilized nation.⁴⁷

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.⁴⁸

He has excited domestic insurrections amongst us,⁴⁹ and has

⁴⁴ *But see* *Kelo v. City of New London*, 125 S. Ct. 2655, 2668 (2005), No. 04-108, slip. op. at 19-20 (U.S. Jun. 23, 2005) (permitting government condemnation of private homes to transfer to private developers for private use).

⁴⁵ *But see* *Bennis v. Michigan*, 516 U.S. 442, 443 (1996) (upholding forfeiture of petitioner's car, despite her lack of knowledge or participation in activities leading to the forfeiture); David Benjamin Ross, Comment, *Civil Forfeiture: A Fiction That Offends Due Process*, 13 REGENT U. L. REV. 259, 265 (2000) ("[O]fficials today can seize a person's property, real or chattel, without notice or hearing, upon an *ex parte* showing of mere probable cause that the property has somehow been 'involved' in a crime.").

⁴⁶ *See, e.g.,* *People v. Love*, 610 N.Y.S.2d 958, 961 (N.Y. App. Div. 1994) (Carro, J., dissenting) ("In the instant case Jerry Love was awakened after midnight by two police officers pointing their guns at him and ordering him to show his hands, immediately after his female companion was thrown to the floor and handcuffed. Love did not literally die of fright upon having his peace so violently interrupted by the police, as did the Rev. Williams, but he could have, and hardly a soul would know or care. Under the holding of this case, every woman and man may now legally be subjected to a violent intrusion into home or hotel room in the middle of the night merely by dint of an anonymous '911' call, either genuine or fabricated."); *see also* James Bovard, *No-Knock Entries by Police Take Their Toll on Innocent*, CHRISTIAN SCIENCE MONITOR, May 24, 1994, at 18 ("On March 25, [1994,] 13 heavily armed Boston police smashed into the apartment of Rev. Accelynne Williams, a retired Methodist minister. Reverend Williams apparently ran into his bedroom when the raid began; police smashed down the bedroom door, struggled with him, and handcuffed him. Minutes later, Williams was dead of a heart attack. No drugs were found in his apartment. Boston police carried out the raid on a tip from an anonymous informant who did not even give a specific apartment number. At 2 a.m. on Jan. 25, 1993, police broke down the door and rushed into the home of Manuel Ramirez of Stockton, Calif. Mr. Ramirez awoke, grabbed a pistol, and shot and killed one policeman by his bedroom door before the other police killed him.").

⁴⁷ *But see* *United States v. Rapanos*, 235 F.3d 256, 260 (6th Cir. 2000) ("So here we have a person who comes to the United States and commits crimes of selling dope and the government asks me to put him in prison for ten months. And then we have an American citizen who buys land, pays for it with his own money, and he moves some sand from one end to the other and government wants me to give him sixty-three months in prison. Now, if that isn't our system gone crazy, I don't know what is. And I am not going to do it.").

⁴⁸ *Cf.* Timothy Lynch, *An Eerie Efficiency*, 2002 CATO SUP. CT. REV. 171 (noting the immense pressure brought to bear on charged defendants to plead guilty to cooperate with authorities in exchange for lighter sentences).

⁴⁹ *See also* *Low v. Lan*, 118 Cal. Rptr. 2d 60, 63 n.2 (Cal. Ct. App. 2002) ("At oral argument counsel for the Commissioner requested that we use the politically-charged euphemism 'uprising' to describe what happened, alluding that our word choice might have some significance in related litigation. No way. We are not about to dignify the rioting and looting that occurred in Los Angeles in May 1992 as an 'uprising.'").

endeavored to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms:⁵⁰ Our repeated Petitions have been answered only by repeated injury.⁵¹ A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved;⁵² and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right⁵³ do. And for the support of this

⁵⁰ But see Stacy A. Teicher, *In Washington, The Majority May Not Always Rule*, CHRISTIAN SCIENCE MONITOR, Sept. 27, 1999, at 2 (detailing how Rep. Bob Barr prevented appropriation necessary to count votes in Washington, D.C. referendum on marijuana legalization).

⁵¹ See *Government of Guam v. Moylan*, 407 F.2d 567, 568-69 (9th Cir. 1969) ("On urban renewal condemnations . . . the whole scheme is for a public agency to take one man's property away from him and sell it to another. The founding fathers may have never thought of this . . . [B]ut under all modern federal decisions our hands are tied.").

⁵² But see *People v. Liebowitz*, 531 N.Y.S.2d 719, 721 (Co.Ct. 1988) ("Even in the absence of a treaty, it is a court's obligation to enforce recognized principles of international law where questions of right depending on such principles are presented for the court's determination.").

⁵³ But see William H. Rehnquist, *The Notion of a Living Constitution*, 54 TEX. L. REV. 693, 704 (1976) ("If such a society adopts a constitution and incorporates in that

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Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

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constitution safeguards for individual liberty, these safeguards indeed do take on a generalized moral rightness or goodness. . . . [N]either because of any intrinsic worth nor because of any unique origins in someone's idea of natural justice but instead simply because they have been incorporated in a constitution by the people.”).