

# GLOSSARY

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## FOUNDING PRINCIPLES

**Due process:** The government must interact with all citizens according to the duly-enacted laws and apply these rules equally among all citizens.

**Civil discourse:** Reasoned and respectful sharing of ideas between individuals is the primary way people influence change in society/government, and is essential to maintain self-government.

**Federalism:** The people delegate certain powers to the national government, while the states retain other powers; and the people, who authorize the states and national government, retain all freedoms not delegated to the governing bodies.

**Individual Responsibility:** Individuals must take care of themselves and their families, and be vigilant to preserve their liberty.

**Liberty:** Except where authorized by citizens through the Constitution, government does not have the authority to limit freedom.

**Limited government:** Citizens are best able to pursue happiness when government is confined to those powers which protect their life, liberty, and property.

**Majority rule/minority rights:** Laws may be made with the consent of the majority, but only to the point where they do not infringe on the inalienable rights of the minority.

**Natural rights:** Rights which belong to us by nature and can only be justly taken away through due process.

**Private property:** The natural rights of all individuals to create, obtain, and control their possessions, beliefs, faculties, and opinions, as well as the fruits of their labor.

**Rule of Law:** Government and citizens all abide by the same laws regardless of political power. Those laws are justly applied, consistent with an ethos of liberty, and stable.

## KEY TERMS

**Anti-Federalists:** A faction of Founders that supported amending the Articles of Confederation, were concerned about a strong central government, wanted to maintain strong state governments, and fought for the Bill of Rights as a way to protect citizens from a strong central government.

**Coercion test:** A test used by the Supreme Court to determine if someone is being coerced or forced into participating in a religious ceremony, or indirectly by offering aide to private religious schools.

**Commerce:** The economic system that constitutes the working environment for business including the legal, economic, political, social, cultural and technological systems that are in operation in any nation-state.

**Commerce Clause:** Article I, Section 8 of the Constitution states, "Congress shall have the power...to regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes."

**Double jeopardy:** The Fifth Amendment states, "[N]or shall any person be subject for the same offense to be twice put in jeopardy of life or limb..." The government cannot continually prosecute a person for the same crime repeatedly to obtain the verdict it wants.

**Due process:** Requirement that government must use fair and reasonable procedures in making, applying, and enforcing the law

**Eighth Amendment:** "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

**Eminent domain:** The government's right to acquire private property for public use, with just compensation

**Endorsement test:** Test used to determine whether government policies or actions that endorse (support) a specific religious message and, therefore, violate the Establishment Clause.

**Equal protection:** The Fourteenth Amendment states that "No state shall...deny to any person within its jurisdiction the equal protection of the laws."

**Establishment Clause:** The clause in the First Amendment that states, "Congress shall make no law respecting an establishment of religion."

**Federalists:** A group of Founders that believed the central government was not strong enough under the Articles of Confederation and advocated for the new Constitution. They believed a bill of rights was not needed because the Constitution itself limited the government's powers. They also feared that creating a list of rights might lead to other dangers, such as implying powers that had not been granted to the government.

**Fifth Amendment:** "No 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."

**First Amendment:** "Congress 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"

**Fourteenth Amendment:** Amendment which guaranteed citizenship to freed slaves. The Amendment also placed limitations on the actions of state governments.

**Fourth Amendment:** "The 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."

**Free Exercise Clause:** The clause of the First Amendment that states, "Congress shall make no law...prohibiting the free exercise thereof."

**Fundamental fairness:** A determination that laws are fairly written and fairly applied.

**General Law Test:** A test to determine the constitutionality of laws relating to religion. Laws that apply to all religions in general are usually constitutional. Laws that apply to only one religion are unconstitutional.

**Hate Speech:** Derogatory speech directed toward a specific group.

**Incorporation:** The Supreme Court's application of portions of the Bill of Rights to the states through the Fourteenth Amendment from *Gitlow v. New York* (1925). Originally, the Bill of Rights applied only to the actions of the federal government.

**Intellectual property:** Things that are intangible; songs, books, poems, music, and even art.

**Jim Crow laws:** Laws enacted after the Civil War which created “legal” racial discrimination and upheld by the *Plessy v. Ferguson* (1896) ruling which established the separate but equal doctrine. Examples of these laws include but are not limited to: segregation of public schools, public transportation, restaurants, and even the military.

**Just compensation:** Compensation for the loss of property value, either from a public works project or eminent domain. It is generally understood to be the fair market value at the time or what a willing buyer would pay in cash to a willing seller at the time of the taking.

**Lemon test:** Three-part test sometimes used by the Court to distinguish acceptable and unacceptable government involvement in religion. Acceptable policies or actions must a) have a primarily secular purpose; b) neither principally aid nor harm religion; and c) not cause the government to be excessively entangled with religion.

**Libel:** Speech that intentionally spreads falsehood about someone’s character

**John Locke:** Locke believed that a government’s purpose is to protect individual natural rights such as life, liberty, and property, and therefore citizens must be able to dissolve the government if it failed to protect them.

**Magna Carta:** The oldest document in the British and American heritage of rights. Contributed to the adoption of the 1st, 3rd, 4th, 5th, 6th, and 8th amendments of the Bill of Rights, and speaks of these rights as ancient.

**Militia:** An individual or group of individuals charged with the duty to protect themselves and their neighbors.

**Natural rights:** Rights which belong to us by nature and can only be justly taken away through due process.

**Ninth Amendment:** “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

**Partial taking:** When citizens have lost some of their property or their property’s value through regulation or other government actions.

**“Picket Fence” Approach:** The idea that there is some room for religion to influence government and vice-versa in the constitutional system. This concept is in contrast to

the “wall of separation” approach

**Property:** Anything that is excludable such as land, houses, cars, and other material things; as well as future profits from the sale of an object or idea, and even one’s conscience, thoughts, and reputation.

**Protected speech:** All speech that does not incite “imminent lawless action” or immediate illegal behavior is protected.

**Public use:** Formally relates to the building of highways, railroads, or other uses that constitute the public welfare or public interest

**Ratify:** The process in which nine of the thirteen original states had to approve the Constitution in order for it to become law.

**Right to privacy:** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. The Supreme Court has ruled that the Ninth Amendment protects some forms of privacy.

**Rights:** The Founders believed that natural rights, or rights which were inherent from birth, could not be denied to anyone.

**Second Amendment:** “A 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.”

**Sedition Act of 1798:** Outlawed any criticism of the President or any member of Congress under the threat of fines and jail.

**Segregation:** Arbitrary discrimination against a particular group based on race, gender, or sexual orientation.

**Self-incrimination:** This Fifth Amendment provision prevents the government from being able to force an individual to give evidence against himself.

**Seventh Amendment:** “In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.”

**Separation of Church and State:** Principle that the federal government and religious institutions should be separate. This language is not actually included in the Constitution or Bill of Rights, but can be found in a letter written by President Thomas Jefferson.

**Sixth Amendment:** “In 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 defense.”

**Slander:** Speech that intentionally spreads falsehood about someone’s character, or speech that maliciously puts others in harm’s way.

**Standing Army:** A permanent military group maintained during times of peace and of war.

**Takings clause:** This clause of the Fifth Amendment states, “nor shall private property be taken for public use without just compensation.” The government cannot take private land for the purpose of “public use” without paying the property owner.

**Tenth Amendment:** “The 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.”

**Third Amendment:** “No 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.”

**Total Incorporation:** The notion that every part of the Bill of Rights should be applied to the states.

**Unprotected speech:** Speech that intentionally spreads falsehood about someone’s character, such as libel or slander, or speech that maliciously puts others in harm’s way, such as speech that may start a riot, incite a panic, or otherwise threaten public safety

**Unenumerated rights:** Rights not listed in the first eight amendments or elsewhere in the Constitution, but still protected by the Constitution under the Ninth Amendment.

**Voucher System:** Parents receive a fixed amount of public funds called a voucher to pay for a charter, private, or religious school of their choice.

**“Wall of Separation” principle:** The idea that there should be significant separation between government and religion.

**Warrant:** A document that law enforcement officials must obtain by showing evidence

beyond a reasonable suspicion, in order to search an individual or place or to make an arrest.