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Comprehensive Study of "The Law of the Land"

Part XI: Amendment 6

Sunday, October 26, 2014 / 1 p.m. — 3 p.m.

Blog Talk: *Mhhs—Eyes Wide Open*

Chat Room OR Call In: 347 945-5899

Definitions For Review:

Accusation – A formal charge against a person, to the effect that he is guilty of a punishable offense, laid before a court or magistrate having jurisdiction to inquire into the alleged crime. **Coplon v. State, 15 Ala.App. 331, 73 So. 225, 228.**

"Accusation" is equivalent of information" at common law which is mere allegation of prosecuting officer by whom it is preferred. **Sutton v. State, 54 Ga.App. 349, 188 S.E. 60, 62.**

ACCUSATOR POST RATIONABILE TEMPUS NON EST AUDIENDUS, NISI SE BENE DE OMISSIONE EXCUSAVERIT. **Moore, 817.** An accuser ought not to be heard after the expiration of a reasonable time, unless he can account satisfactorily for the delay.

Ascertained- To fix; to render certain or definite; to estimate and determine; to clear of doubt or obscurity. **Pughe v. Coleman, Tex.Civ.App., 44 S.W. 578.** To insure as a certainty. **United States v. Foster, C.C.A.Iowa, 131 F.2d 3, 7.** To find out by investigation, U. S. v. **Carver, 43 S.Ct. 181, 182, 260 U.S. 482, 67 L.Ed. 361.** Sometimes it means to "assess", **Commonwealth v. Deford Co., 137 Va. 542, 120 S.E. 281, 285;** or to "hear, try, and determine," **In re Higgins' Estate, 143 N.Y.S. 552, 556, 81 Misc. 579.**

Compulsory- n. In ecclesiastical procedure, a compulsory is a kind of writ to compel the attendance of a witness, to undergo examination. **Phillirn. Ecc. Law, 1258.**

COMPULSORY, *adj.* Involuntary; forced; coerced by legal process or by force of statute.

Counsel- 1. In practice. An advocate, counsellor, or pleader. **3 Bl.Comm. 26; 1 Kent, Comm. 307.** One who assists his

client with advice, and pleads for him in open court. One who has been admitted as an attorney and counsellor at law. **Baker v. State, 9 Okl.Cr. 62, 130 P. 820, 821.**

Counsellors who are associated with those regularly retained in a cause, either for the purpose of advising as to the points of law involved, or preparing the case on its legal side, or arguing questions of law to the court, or preparing or conducting the case on its appearance before an appellate tribunal, are said to be "of counsel."

2. Knowledge. A grand jury is sworn to keep secret "the commonwealth's counsel, their fellows', and their own."

3. Advice given by one person to another in regard to a proposed line of conduct, claim, or contention. **State v. Russell, 83 Wis. 330, 53 N.W. 441.**

The words "counsel" and "advise" may be, and frequently are, used in criminal law to describe the offense of a person who, not actually doing the felonious act, by his will contributed to it or procured it to be done. **Omer v. Corn., 95 Ky. 353, 25 S.W. 594.**

Counsel's signature. This is required, in some jurisdictions, to be affixed to pleadings, etc., as affording the court a means of judging whether they are interposed in good faith and upon legal grounds. It has been held that the word "counsel" in this connection denotes a person capable of testifying, and that a certificate bearing only the firm signatures of partnerships of attorneys is insufficient. **Benedict v. Seiberling, D.C., 17 F.2d 831, 838.**

Junior counsel. The younger of the counsel employed on the same side of a case, or the one lower in standing or rank, or who is intrusted with the less important parts of the preparation or trial of the cause.

Impartial Jury- Within constitutional provision is one which is of impartial frame of mind at beginning of trial, is influenced only by legal and competent

evidence produced during trial, and bases its verdict upon evidence connecting defendant with the commission of the crime charged. **Const. U.S. Amend. 6. Durham v. State, 182 Tenn. 577, 188 S.W.2d 555, 558, 160 A.L.R. 746.**

Prosecution - In criminal law. A criminal action; a proceeding instituted and carried on by due course of law, before a competent tribunal, for the purpose of determining the guilt or innocence of a person charged with crime. **U. S. v. Reisinger, 9 S.Ct. 99, 128 U.S. 398, 32 L.Ed. 480; Sigsbee v. State, 43 Fla. 524, 30 So. 816; People v. Ellis, 204 Mich. 157, 169 N.W. 930, 931.** The continuous following up, through instrumentalities created by law, of a person accused of a public offense with a steady and fixed purpose of reaching a judicial determination of the guilt or innocence of the accused. **Davenport v. State, 20 Okl. Cr. 253, 202 P. 18, 24.**

The means adopted to bring a supposed offender to justice and punishment by due course of law, carried on in the name of the government. **Summerour v. Fortson, 174 Ga. 862, 164 S.E. 809.**

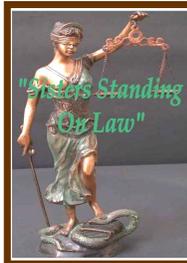
By an easy extension of its meaning "prosecution" is sometimes used to designate the state as the party proceeding in a criminal action, or the prosecutor, or counsel; as when we speak of "the evidence adduced by the prosecution."

The term is also frequently used respecting civil litigation, **Eastman Marble Co. v. Vermont Marble Co., 236 Mass. 138, 128 N.E. 177, 182;** and includes every step in action, from its commencement to its final determination. **Ray Wong v. Earle C. Anthony, Inc., 199 Cal. 15, 247 P. 894, 895; The Brazil, C.C.A.Ill., 134 F.2d 929, 930.**

STANDING. One's place in the community in the estimation of others; his relative position and social, commercial, or moral relations; his repute, grade, or rank. **Gross v. State, 186 Ind. 581, 117 N.E. 562, 564, 1 A.L.R. 1151.**

STANDING BY. Used in law as implying knowledge, under such circumstances as rendered it the duty of the possessor to communicate it; and it is such knowledge, and not the mere fact of "standing by," that lays the foundation of responsibility. The phrase does not import an actual

presence, "but implies knowledge under such circumstances as to render it the duty of the possessor to communicate it." **Anderson v. Hubble**, 93 Ind. 573, 47 Am.Rep. 394; **Gatling v. Rodman**, 6 Ind. 292; **Richardson v. Chickering**, 41 N.H. 380, 77 Am.Dec. 769; **Morrison v. Morrison**, 2 Dana, Ky., 16; **Piqua State Bank v. Brannum**, 103 Kan. 25, 173 P. 1, 2.



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Witnesses- n. In general, one who, being present, personally sees or perceives a thing; a beholder, spectator, or eyewitness. **In re Harter's Estate**, 229 Iowa 238, 294 N.W. 357, 362.

One who testifies to what he has seen, heard, or otherwise observed. **Wigginton v. Order of United Commercial Travelers of America**, C.C.A.Ind., 126 F.2d 659, 666.

A person whose declaration under oath (or affirmation) is received as evidence for any purpose, whether such declaration be made on oral examination or by deposition or affidavit. Code Civ.Proc.Cal. § 1878.

A person attesting genuineness of signature to document by adding his signature. **In re Gorrell's Estate**, 19 N.J.Misc. 168, 19 A.2d 334, 335.

One who is called upon to be present at a transaction, as a wedding, or the making of a will, that he may thereafter, if necessary, testify to the transaction.

Accused, by availing himself of statute providing that accused shall be a competent witness at his own request but not otherwise, assumes position of "witness". **State v. McKinnon**, 223 N.C. 160, 25 S.E.2d 606, 609; **State v. Auston**, 223 N.C. 203, 25 S.E.2d 613, 614.

Adverse witness. A witness whose mind discloses a bias hostile to the party examining him. **Brown; Greenough v. Eccles**, 5 C.B.(N.S.) 801.

Witness to will. One who has attested the will by subscribing his name thereto. **In re Johnson's Will**, 175 Wis. 1, 183 N.W. 888, 889.

WITNESS AGAINST HIMSELF. The federal constitutional provision that no person shall be compelled in any criminal case, to be a "witness against himself" must be applied in a broad spirit to secure to citizen immunity from self-accusation and provision applies to all proceedings

Wherein defendant is acting as a witness in any investigation that requires him to give testimony that might tend to show him guilty of crime. **U.S.C.A.Const. Amend. 5. United States v. Goodner**, D.C.Colo., 35 F.Supp. 286, 290.

Reminder Notes for Future Classes:

State - A People permanently occupying a fixed territory, bound together by common-law, habits, and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. *Black's Law Dictionary 4th Edition.*

Parties to the Constitution – United States:

1. **Moors** – Supreme Authority, *and*
2. **Union [United] States of America** – Europeans, the People adopted into the Nation.

Status – The etymology of the word **state** comes from the latin “Status” – stare – to stand; Status – manner of standing, attitude, position, carriage, manner, dress, apparel; and other senses.

All **legislative powers** herein granted shall be vested in a **Congress of the United States** - Moors, which shall **consist-[stands together with]** of a **Senate and House of Representatives** – [members elected from the Union States]

The 3 Great Departments of Government:

- ♦ **Legislative** – pass law – this is appropriate if you comprehend that the Moors make up the United States and only the sovereign of the land can make any laws.
- ♦ **Executive** – approve and execute the laws that have been passed.
- ♦ **Judicial** – expound and enforce the laws that have been passed.

7 Lawful Questions:

1. What must the accused have a right to?
2. What elements of the accusation must the alleged accused be informed of? What would we call this?
3. What must the accused be confronted with?
This can also be known as what?
4. What must the alleged accused have compulsory process for?
5. What must the alleged accused have for his defense? Is this Counsel defined as an attorney?
6. Are there provisions in the American Constitution 1791 regarding attorneys?

Group Discussion Question

7. In light of the beginning portion of the VI Bill of Right where it says “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...” Since Moors cannot be members of the state or district of the state how does this apply to Moors and what Article of the American Constitution supports the position of Moors as it relates to the VI Bill of Right?

Supreme Laws for Review:

"The Sixth Amendment, when naturally read, thus implies a right of self-representation. This reading is re-enforced by the Amendment's roots in English legal history." [Faretta v. California](#)

"In the long history of British criminal jurisprudence, there was only one tribunal that ever adopted a practice of forcing counsel upon an unwilling defendant in a criminal proceeding. The tribunal was the Star Chamber." [Faretta v. California](#)

"The courts indulge every reasonable presumption against waiver of fundamental constitutional rights." [Johnson v. Zerbst](#)

"We hold, therefore, that absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial." [Argersinger v. Hamlin, 407 US 35 \(1972\)](#)

"A conviction obtained where the accused was denied counsel is treated as void for all purposes." [Burgett v. Texas, 389 US 109 \(1967\)](#)

"The right to counsel exists not only at the trial but also at every stage of a criminal proceeding where substantial rights of a criminal accused might be effected." [Mempa v. Ray, 389 US 128, 134 \(1967\)](#)

"There is therefore, secondly, another way whereby governments are dissolved, and that is, when the legislative, or the prince, either of them, act contrary to their trust. First, The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people." - "The Second Treatise of Civil Government" (1690) by John Locke, at Chapter XIX "Of the Dissolution of Government" Sec. 221.

"The people are the masters of both Congress and the courts, not to overthrow the Constitution, but to overthrow the men who would pervert it!" Abraham Lincoln



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Concluding Lawful Perspective:

"If we can't think for ourselves, if we're unwilling to question authority, then we're just putty in the hands of those in power. But if the citizens are educated and form their own opinions, then those in power work for us. In every country, we should be teaching our children the scientific method and the reasons for a Bill of Rights. With it comes a certain decency, humility and community spirit. In the demon-haunted world that we inhabit by virtue of being human, this may be all that stands between us and the enveloping darkness."

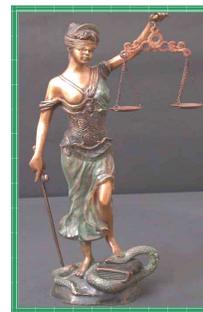
— Carl Sagan

Next Class:

An Analysis of "The Spirit of the Supreme Law of the Land" Part IX –6th Bill of Rights of the American Constitution 1791.

Hint:

"The guaranty of trial by jury contained in the Constitution was intended for a state of war, as well as a state of peace, and is equally binding upon rulers and people at all times and under all circumstances." [Ex parte Milligan, 71 U.S. 2 \(1866\)](#)



Sisters Standing On Law

13 Month Syllabus Topics

Part 1 —Preamble	Part 7 — Bill of Right I
Part 2 —Article I	Part 8— Bill of Right II & III
Part 3 —Article II	Part 9 — Bill of Right IV
Part 4 —Article III	Part 10 — Bill Right V
Part 5 — Article IV & V	Part 11 — Bill of Right VI
Part 6 —Article VI & VII	Part 12 — Bill of Right VII & VIII
	Part 13 — Bill of Right IX & X