AN ESSAY ON THE RIGHTS AND DUTIES OF NATIONS, RELATIVE TO FUGITIVES FROM JUSTICE pdf

1: CODE OF CRIMINAL PROCEDURE CHAPTER FUGITIVES FROM JUSTICE

2. An essay on the rights and duties of nations relative to fugitives from justice: considered with reference to the affair of the Chesapeake 2. 3. An essay on the rights and duties of nations relative to fugitives from justice: considered with reference to the affair of the Chesapeake 3. 4. An.

A person in any other State of the United States charged with treason or any felony who shall flee from justice and be found in this 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. Acts , 59th Leg. All peace officers of the State shall give aid in the arrest and detention of a fugitive from any other State that he may be held subject to a requisition by the Governor of the State from which he fled. When a complaint is made to a magistrate that any person within his jurisdiction is a fugitive from justice from another State, he shall issue a warrant of arrest directing a peace officer to apprehend and bring the accused before him. The complaint shall be sufficient if it recites: The name of the person accused; 2. The State from which he has fled; 3. The offense committed by the accused; 4. That he has fled to this State from the State where the offense was committed; and 5. That the act alleged to have been committed by the accused is a violation of the penal law of the State from which he fled. When the accused is brought before the magistrate, he shall hear proof, and if satisfied that the accused is charged in another State with the offense named in the complaint, he shall require of him bail with sufficient security, in such amount as the magistrate deems reasonable, to appear before such magistrate at a specified time. In default of such bail, he may commit the defendant to jail to await a requisition from the Governor of the State from which he fled. A properly certified transcript of an indictment against the accused is sufficient to show that he is charged with the crime alleged. One arrested under the provisions of this title shall not be committed or held to bail for a longer time than ninety days. The magistrate who held or committed such fugitive shall immediately notify the Secretary of State and the district or county attorney of his county of such fact and the date thereof, stating the name of such fugitive, the State from which he fled, and the crime with which he is charged; and such officers so notified shall in turn notify the Governor of the proper State. A fugitive not arrested under a warrant from the Governor of this State before the expiration of ninety days from the day of his commitment or the date of the bail shall be discharged. A person who has once been arrested under the provisions of this title and discharged under the provisions of the preceding Article or by habeas corpus shall not be again arrested upon a charge of the same offense, except by a warrant from the Governor of this State. When the Governor deems it proper to demand a person who has committed an offense in this State and has fled to another State, he may commission any suitable person to take such requisition. The accused, if brought back to the State, shall be delivered up to the sheriff of the county in which it is alleged he has committed the offense. The officer or person so commissioned shall receive as compensation the actual and necessary traveling expenses upon requisition of the Governor to be allowed by such Governor and to be paid out of the State Treasury upon a certificate of the Governor reciting the services rendered and the allowance therefor. The commissioners court of the county where an offense is committed may in its discretion, on the request of the sheriff and the recommendation of the district attorney, pay the actual and necessary traveling expenses of the officer or person so commissioned out of any fund or funds not otherwise pledged. The Governor may offer a reward for the apprehension of one accused of a felony in this State who is evading arrest, by causing such offer to be published in such manner as he deems most likely to effect the arrest. The reward shall be paid out of the State Treasury to the person who becomes entitled to it upon a certificate of the Governor reciting the facts which entitle such person to receive it. Each sheriff upon the close of any regular term of the district or criminal district court in his county, or within thirty days thereafter, shall make out and mail to the Director of the Department of Public Safety a certified list of all persons, who, after indictment for a felony, have fled from said county. Such lists shall contain the full name of each such fugitive, the offense with which he is charged, and a description giving his age, height, weight,

color and occupation, the complexion of the skin and the color of eyes and hair, and any peculiarity in person, speech, manner or gait that may serve to identify such person so far as the sheriff may be able to give them. The Director of the Department of Public Safety shall prescribe and forward to all sheriffs the necessary blanks upon which are to be made the lists herein required. Where appearing in this Article, the term "Governor" includes any person performing the functions of Governor by authority of the laws of this State. The term "Executive Authority" includes the Governor, and any person performing the functions of Governor in a State other than this State, and the term "State", referring to a State other than this State, includes any other State organized or unorganized of the United States of America. Subject to the provisions of this Article, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the Executive Authority of any other State of the United States any person charged in that State with treason, felony, or other crime, who has fled from justice and is found in this State. No demand for the extradition of a person charged with crime in another State shall be recognized by the Governor unless in writing, alleging, except in cases arising under Section 6, that the accused was present in the demanding State at the time of the commission of the alleged crime, and that thereafter he fled from the State, and accompanied by a copy of an indictment found or by information supported by affidavit in the State having jurisdiction of the crime, or by a copy of an affidavit before a magistrate there, together with a copy of any warrant which issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the Executive Authority of the demanding State that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that State; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand; provided, however, that all such copies of the aforesaid instruments shall be in duplicate, one complete set of such instruments to be delivered to the defendant or to his attorney. When a demand shall be made upon the Governor of this State by the Executive Authority of another State for the surrender of a person so charged with crime, the Governor may call upon the Secretary of State, Attorney General or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered. When it is desired to have returned to this State a person charged in this State with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another State, the Governor of this State may agree with the Executive Authority of such other State for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other State, upon condition that such person be returned to such other State at the expense of this State as soon as the prosecution in this State is terminated. The Governor of this State may also surrender on demand of the Executive Authority of any other State any person in this State who is charged in the manner provided in Section 23 of this Act with having violated the laws of the State whose Executive Authority is making the demand, even though such person left the demanding State involuntarily. The Governor of this State may also surrender, on demand of the Executive Authority of any other State, any person in this State charged in such other State in the manner provided in Section 3 with committing an act in this State, or in a third State, intentionally resulting in a crime in the State whose Executive Authority is making the demand, and the provisions of this Article not otherwise inconsistent, shall apply to such cases, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the State and to command the aid of all peace officers and other

persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Article to the duly authorized agent of the demanding State. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance. When the writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding State. The center shall develop a course to satisfy the requirements of this subsection. The officer or agent of a demanding State to whom a prisoner may have been delivered following extradition proceedings in another State, or to whom a prisoner may have been delivered after waiving extradition in such other State, and who is passing through this State with such a prisoner for the purpose of immediately returning such prisoner to the demanding State may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding State after a requisition by the Executive Authority of such demanding State. Such prisoner shall not be entitled to demand a new requisition while in this State. The arrest of a person may be lawfully made also by any peace officer or private person, without a warrant upon reasonable information that the accused stands charged in the courts of a State with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by warrant reciting the accusation, commit him to the county jail for such time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the Executive Authority of the State having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the State in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor in this State. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty days after the date of such new bond. If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this State. Recovery may be had on such bond in the name of the State as in the case of other bonds given by the accused in criminal proceedings within this State. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another State or hold him until he has been tried and discharged or convicted and punished in this State. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.

The governor may recall his warrant of the arrest or may issue another warrant whenever he deems proper. Each warrant issued by the Governor shall expire and be of no force and effect when not executed within one year from the date thereof. Whenever the Governor of this State shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this State, from the Executive Authority of any other State, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the state seal, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed, or in which the prosecution for such offense is then pending. When the return to this State is required of a person who has been convicted of a crime in this State and has escaped from confinement, or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement, or the circumstances of the breach of the terms of his bail, probation or parole, the State in which he is believed to be, including the location of the person therein at the time application is made. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Governor. In all cases of extradition, the commissioners court of the county where an offense is alleged to have been committed, or in which the prosecution is then pending may in its discretion, on request of the sheriff and the recommendation of the prosecuting attorney, pay the actual and necessary expenses of the officer or person commissioned to receive the person charged, out of any county fund or funds not otherwise pledged. A person brought into this State by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had reasonable opportunity to return to the State from which he was extradited. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge or justice of the peace shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding State, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding State, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding State or of this State. Nothing in this Act contained shall be deemed to constitute a waiver by this State of its right, power or privilege to try such demanded person for crime committed within this State, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this State, nor shall any proceedings had under this Article which result, or fail to result in, extradition to be deemed a waiver by this State of any of its rights, privileges or jurisdiction in any way whatsoever. After a person has been brought back to this State by, or after waiver of extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition. The provisions of this Article shall be interpreted and construed as to effectuate its general

purposes to make uniform the law of those States which enact it. Acts , 83rd Leg. This article may be cited as the "Interstate Agreement on Detainers Act. The contracting states solemnly agree that: The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations, or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures. As used is this agreement: The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decision of the state parole agency relating to the prisoner. If trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor. Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement. This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. Added by Acts , 64th Leg.

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2: Taxing and Spending Clause - Wikipedia

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Organization, Mission and Functions Manual: Wickersham, who ordered the establishment of the Bureau of Investigation. The mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners; and to perform these responsibilities in a manner that is responsive to the needs of the public and is faithful to the Constitution of the United States. The major functions of the FBI are to: Conduct professional investigations and authorized intelligence collection to identify and counter the threat posed by domestic and international terrorists and their supporters within the United States, and to pursue extraterritorial criminal investigations to bring the perpetrators of terrorist acts to justice. Conduct counterintelligence activities and coordinate counterintelligence activities of other agencies in the intelligence community within the United States. Executive Order includes international terrorist activities in its definition of counterintelligence. Coordinate the efforts of U. Investigate violations of the laws of the United States and collect evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise specifically assigned to another investigative agency. Locate and apprehend fugitives for violations of specified federal laws and, when so requested, state and local fugitives pursuant to federal statutory authority. Conduct professional investigations to identify, disrupt, and dismantle existing and emerging criminal enterprises whose activities affect the United States. Address international criminal organizations and terrorist groups, which threaten the American people and their property, through expanded international liaison and through the conduct of extraterritorial investigations as mandated by laws and Executive Orders. Gather, analyze and assess information and intelligence of planned or committed criminal acts. Establish and implement quality outreach programs that will ensure FBI and community partnerships and sharing. Conduct personnel investigations requisite to the work of the Department of Justice and whenever required by statute or otherwise. Establish and conduct law enforcement training programs and conduct research to provide assistance to state and local law enforcement personnel. Develop new approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement and assist in conducting state, local and international law enforcement training programs. Provide timely and relevant criminal justice information and identification services concerning individuals, stolen property, criminal organizations and activities, crime statistics, and other law enforcement related data, not only to the FBI, but to qualified law enforcement, criminal justice, civilian, academic, employment, licensing, and firearms sales organizations. Operate the Federal Bureau of Investigation Laboratory not only to serve the FBI, but also to provide, without cost, technical and scientific assistance, including expert testimony in federal or local courts, for all duly constituted law enforcement agencies, other organizational units of the Department of Justice, and other federal agencies; and to provide identification assistance in mass disasters and for other humanitarian purposes. Review and assess operations and work performance to ensure compliance with laws, rules, and regulations and to ensure efficiency, effectiveness, and economy of operations. Effectively and appropriately communicate and disclose information on the FBI mission, accomplishments, operations, and values to Congress, the media, and the public. Federal Bureau of Investigation Field Offices.

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3: Negative vs. Positive Rights | Globalization

*An essay on the rights and duties of nations relative to fugitives from justice: considered with reference to the affair of the Chesapeake. [David Everett] on www.enganchecubano.com *FREE* shipping on qualifying offers.*

Idea and General Principles of the Law of Nations. What is meant by a nation or state. It is a moral person. Definition of the law of nations. In what light nations or states are to be considered. To what laws nations are subject. In what the law of nations originally consists. Definition of the necessary law of nations. Nations can make no change in it, nor dispense with the arising from it. Society established by nature between all mankind. And between all nations. The object of this society of nations. General obligation imposed by it. Explanation of this observation. The second general law is the liberty and independence of nations. Effect of that liberty. Distinctions between internal and external, perfect and imperfect obligations and rights. Effect of that equality. Each nation is mistress of her own actions, when they do not affect the perfect rights of others. Foundation of the voluntary law of nations. Right of nations against the infractors of the law of nations. Measure of that right. Conventional law of nations, or law of treaties. Customary law of nations. General rule respecting that law. Positive law of nations. General maxim respecting the use of the necessary and the voluntary law. Of Nations or Sovereign States. Of the state, and of sovereignty. Authority of the body politic over the members. Of the several kinds of government. What are sovereign states. States bound by unequal alliance. Two states subject to the same prince. States forming a federal republic. A state that has passed under the dominion of another. Objects of this treatise. General Principles of the Duties of a Nation towards herself. A nation ought to act agreeably to her nature. Preservation and perfection of a nation. End of civil society. A nation is under an obligation to preserve herself. A nation has a right to every thing necessary for her preservation. She ought to avoid every thing that might occasion her destruction. Her right to every thing that may promote this end. A nation ought to perfect herself and her condition. The right she derives from these obligations. A nation ought to know herself. Of the Constitution of a Stale, and the Duties and rights of a Nation in that respect. Of the public authority. What is the constitution of a state. The nation ought to choose the best constitution. Political, fundamental, and civil laws. Support of the constitution, and obedience to the laws. Right of a nation with respect to her constitution and government. She may reform the government. Of the legislative power, and whether it can alter the constitution. The nation ought not to attempt it without great caution. She is the judge of all disputes relative to the government. No foreign power has a right to interfere. Of the Sovereign, his Obligations, and his Rights. He is solely established for the safety and advantage of society. He is intrusted with the obligations of the nation, and invested with her rights. His duty with respect to the preservation and perfection of the nation. His rights in that respect. He ought to know the nation. Extent of his power: The prince is bound to respect and support the fundamental laws. He may change the laws not fundamental. He is bound to maintain and observe the existing laws. In what sense he is subject to the laws. His person is sacred and inviolable. But the nation may repress a tyrant, and renounce her allegiance to him. Arbitration between the king and his subjects. Obedience which subjects owe to a sovereign. In what cases they may resist him. Whether elective kings be real sovereigns. Successive and hereditary states: Other origin of that right. Other sources, which still amount to the same thing. A nation may change the order of the succession. The order of succession ought commonly to be observed. Who are to decide disputes respecting the succession to a sovereignty. The right of succession not to depend on the judgment of a foreign power.

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4: OHCHR | Convention relating to the Status of Refugees

Essay on the rights and duties of nations, relative to fugitives from justice: considered with reference to the affair of the Chesapeake / by an American Everett.

And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof. The first section requires states to extend "full faith and credit" to the public acts, records and court proceedings of other states. Congress may regulate the manner in which proof of such acts, records or proceedings may be admitted. Duryee , 1t1 U. However, in McElmoyle v. Cohen , 38 U. The court found that out-of-state judgments are subject to the procedural law of the states where they are enforced, notwithstanding any priority accorded in the states in which they are issued. Rights of state citizens; rights of extradition[edit] Clause 1: Privileges and Immunities[edit] Main article: Clause One of Section 2 requires interstate protection of "privileges and immunities". The seeming ambiguity of the clause has given rise to a number of different interpretations. Some contend that the clause requires Congress to treat all citizens equally. Others suggest that citizens of states carry the rights accorded by their home states while traveling in other states. Neither of these theories has been endorsed by the Supreme Court, which has held that the clause means that a state may not discriminate against citizens of other states in favor of its own citizens. Coryell , 6 F. Most other benefits were held not to be protected privileges and immunities. In Corfield the circuit court sustained a New Jersey law giving state residents the exclusive right to gather clams and oysters. Extradition of fugitives[edit] Main article: Extradition Clause 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. Clause Two requires that fugitives from justice may be extradited on the demand of executive authority of the state from which they flee. The Supreme Court has held that it is not compulsory for the fugitive to have fled after an indictment was issued, but only that the fugitive fled after having committed the crime. The Constitution provides for the extradition of fugitives who have committed " treason , felony or other crime. Dennison , [1] the Supreme Court held that the federal courts may not compel state governors to surrender fugitives through the issue of writs of mandamus. The Dennison decision was overruled by Puerto Rico v. Branstad ; now, the federal courts may require the extradition of fugitives. The motives of the governor demanding the extradition may not be questioned. The accused cannot defend himself against the charges in the extraditing state; the fugitive must do so in the state receiving him. However, the accused may prevent extradition by offering clear evidence that he was not in the state he allegedly fled from at the time of the crime. Fugitives brought to states by means other than extradition may be tried, even though the means of the conveyance was unlawful; the Supreme Court so ruled in Mahon v. Justice , U. In Mahon a body of armed men from Kentucky forcibly took, without a warrant, a man in West Virginia to bring him back to Kentucky for formal arrest and trial. Fugitive Slave Clause[edit] Main article: Fugitive Slave Clause 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. Butler withdrew the clause. However, on the next day the clause was quietly reinstated and adopted by the Convention without objection. This clause was added to the clause that provided extradition for fugitives from justice. The Fugitive Slave Act of created the mechanism for recovering a fugitive slave, overruled any state laws giving sanctuary, made it a federal crime to assist an escaped slave, and allowed slave-catchers into every U. As free states sought to undermine the federal law, the even more severe Fugitive Slave Act of was enacted. In , during the Civil War, an effort to repeal this clause of the Constitution failed. New states and federal property[edit] Clause 1: New states[edit] See also: Since the establishment of the United States in , the number of states has expanded from the original 13 to It also forbids the creation of new states from parts of existing states without the consent of the affected

states and Congress. This latter provision was designed to give Eastern states that still had claims to Western lands e. It was feared that the political power of future new western states would eventually overwhelm that of the established eastern states. Once the new Constitution went into effect, however, Congress admitted Vermont and Kentucky on equal terms and thereafter formalized the condition in its acts of admission for subsequent states, declaring that the new state enters "on an equal footing with the original States in all respects whatever. Hagan , [9] that the Constitution mandated admission of new states on the basis of equality. For instance the Supreme Court struck down a provision which limited the jurisdiction of the state of Alabama over navigable waters within the state. The Court held, Alabama is, therefore, entitled to the sovereignty and jurisdiction over all the territory within her limits The doctrine, however, can also be applied to the detriment of states, as occurred with Texas. Before admission to the Union, Texas , as an independent nation , controlled water within three miles of the coast, the normal limit for nations. Under the equal footing doctrine, however, Texas was found not to have control over the three-mile belt after admission into the Union, because the original states did not at the time of joining the union control such waters. Instead, by entering the Union, Texas was found to have surrendered control over the water and the soil under it to Congress. Under the Submerged Lands Act of , Congress returned maritime territory to some states, but not to others; the Act was sustained by the Supreme Court. The constitution is silent on the question of whether or not a state may unilaterally leave, or secede from, the Union. However, the Supreme Court, in Texas v. White , held that a state cannot unilaterally do so. All the obligations of perpetual union, and all the guaranties of republican government in the Union, attached at once to the State. The act which consummated her admission into the Union was something more than a compact; it was the incorporation of a new member into the political body. And it was final. The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union between the original States. There was no place for reconsideration, or revocation, except through revolution, or through consent of the States. Property Clause[edit] 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. Additionally, the clause also proclaims that nothing contained within the Constitution may be interpreted to harm prejudice any claim of the United States, or of any particular State. The exact scope of this clause has long been a matter of debate. The federal government owns about twenty-eight percent of the land in the United States. Although federal property can be found in every state, the largest concentrations are in the west, where, for example, the federal government owns over eighty percent of the land within Nevada. In another case, Kleppe v. The case prohibited the entering upon the public lands of the United States and removing wild burros under the New Mexico Estray Law. In a series of opinions by the Supreme Court of the United States , referred to as the Insular Cases , the Court ruled that territories belonged to, but were not part of the United States. Therefore, under the Territorial clause Congress had the power to determine which parts of the Constitution applied to the territories. Obligations of the United States[edit] Clause 1: The Guarantee Clause mandates that all U. The Constitution does not explain what exactly constitutes a republican form of government. There are, however, several places within it where the principles behind the concept are articulated. Additionally, as it required the ratification of only nine states in order to become established, rather than the unanimous consent required by the Articles of Confederation , the Constitution was more republican, as it protected the majority from effectively being ruled or held captive by the minority. A republican form of government is distinguished from a direct democracy , which the Founding Fathers had no intentions of entering. As James Madison wrote in Federalist No. At the time, the Rhode Island constitution was the old royal charter established in the 17th century. An attempt to hold a popular convention to write a new constitution was declared insurrection by the charter government, and the convention leaders were arrested. Borden , [19] the Court held that the determination of whether a state government is a legitimate republican form as guaranteed by the Constitution is a political question to be resolved by the Congress. In effect, the court held the clause to be non-justiciable. Borden ruling left the responsibility to

establish guidelines for the republican nature of state governments in the hands of the Congress. This power became an important part of Reconstruction after the American Civil War. The Radical Republican majority used this clause as the basis for taking control of the ex-Confederate states and for promoting civil rights for freedmen , plus the limiting of political and voting rights for ex- Confederates , abolishing the ex-Confederate state governments, setting guidelines for the readmission of the rebellious states into the Union. Borden still holds today, the Court, by looking to the Equal Protection Clause of the Fourteenth Amendment adopted 19 years after Luther v. Borden was decided , has developed new criteria for determining which questions are political in nature and which are justiciable. Protection from invasion and domestic violence[edit] [Section Four requires the United States to protect each state from invasion, and, upon the application of the state legislature or executive, if the legislature cannot be convened , from domestic violence. This provision was invoked by Woodrow Wilson during the Colorado coal strike.

AN ESSAY ON THE RIGHTS AND DUTIES OF NATIONS, RELATIVE TO FUGITIVES FROM JUSTICE pdf

5: Article Four of the United States Constitution - Wikipedia

An essay on the rights and duties of nations relative to fugitives from justice [microform]: considered Mr. Barbour's motion [microform] Essay on the rights and duties of nations, relative to fugitives from justice [electronic resource]: co.

And as mentioned above these atomic incidents also bond together in characteristic ways to form complex rights. The privilege on this first level entitles you to use your computer. The claim correlates to a duty in every other person not to use your computer. Also on the second order, your immunity prevents others from altering your first-order claim over your computer. Your immunity, that is, prevents others from waiving, annulling, or transferring your claim over your computer. The four incidents together constitute a significant portion of your property right. Of course all of these incidents are qualified: These qualifications to the incidents carve the contours of your property right, but they do not affect its basic shape. There may also be more incidents associated with ownership than shown in the figure above. A naval captain has an active privilege-right to walk the decks and an active power-right to order that the ship set sail. A player in a chess tournament has a passive claim-right that his opponent not distract him, and a professor has a passive immunity-right that her university not fire her for publishing unpopular views. The holder of a negative right is entitled to non-interference, while the holder of a positive right is entitled to provision of some good or service. A right against assault is a classic example of a negative right, while a right to welfare assistance is a prototypical positive right Narveson Since both negative and positive rights are passive rights, some rights are neither negative nor positive. Privileges and powers cannot be negative rights; and privileges, powers, and immunities cannot be positive rights. The privilege- right to enter a building, and the power- right to enter into a binding agreement, are neither negative nor positive. It is sometimes said that negative rights are easier to satisfy than positive rights. However, when it comes to the enforcement of rights, this difference disappears. Moreover, the point is often made that the moral urgency of securing positive rights may be just as great as the moral urgency of securing negative rights Shue The Will Theory and the Interest Theory 2. However, some diagrams of Hohfeldian incidents that we could construct do not correspond to any right. Rights are only those collections of Hohfeldian incidents that have a certain function or perhaps certain functions. To take an analogy: The question of the function of rights is the question of what rights do for those who hold them. Before discussing the two major positions on this issue, we can survey some statements that theorists have made that may appear to be describing which Hohfeldian incidents are rights: Rights tell us what the bearer is at liberty to do. He is claiming that the other has a duty not to interfere. Through history many have asserted, for example, that God has the right to command man; yet presumably no one asserting such a right would maintain that society ought to defend God in the possession of anything. On Mill see also Hart , â€” To take an example from the scholarly literature, it is not uncommon to encounter a general statement that all rights are, or at least include, claim-rights see, e. The statement that rights are claims is prescriptive for, not descriptive of, usage. Each theory presents itself as capturing an ordinary understanding of what rights do for those who hold them. Which theory offers the better account of the functions of rights has been the subject of spirited dispute, literally for ages. In Hohfeldian terms, will theorists assert that every right includes a Hohfeldian power over a claim. An owner has a right, according to the interest theorist, not because owners have choices, but because the ownership makes owners better off. A promisee has a right because promisees have some interest in the performance of the promise, or alternatively some interest in being able to form voluntary bonds with others. Your rights, the interest theorist says, are the Hohfeldian incidents you have that are good for you. The contest between will-based and interest-based theories of the function of rights has been waged for hundreds of years. Each theory has stronger and weaker points as an account of what rights do for rightholders. The will theory captures the powerful link between rights and normative control. To have a right is to have the ability to determine what others may and may not do, and so to exercise authority over a certain domain of affairs. The resonant connection between rights and authority the authority to control what others

may do is for will theorists a matter of definition. Within the will theory there can be no such thing as an unwaivable right: Yet intuitively it would appear that unwaivable rights are some of the most important rights that we have: Moreover, since the will theorist holds that all rights confer sovereignty, she cannot acknowledge any rights in beings incapable of exercising sovereignty. Within the will theory it is impossible for incompetents like infants, animals, and comatose adults to have rights. Yet we ordinarily would not doubt that these incompetents can have rights, for example the right not to be tortured MacCormick , â€" Will theories also have difficulties explaining bare privilege-rights such as in the Hobbesian state of nature , which are not rights of authority over others. The interest theory is more capacious than the will theory. It can accept as rights both unwaivable rights the possession of which may be good for their holders and the rights of incompetents who have interests that rights can protect. The interest theory also taps into the deeply plausible connection between holding rights and being better off. However, the interest theory is also misaligned with any ordinary understanding of rights. We commonly accept that people can have interests in x without having a right to x; and contrariwise that people can have a right to x without having interests sufficient to explain this. In the second category are many of the rights of office-holders and role-bearers Jones , 31â€"32; Wenar b. Yet there appear to be many rights for which the interests of the putative right-holder are not sufficient to hold other person s to be under a duty. For example, Raz himself allows that the interest of a journalist in protecting his sources is not itself sufficient reason to hold others to be under the corresponding duty Raz , , â€"8. Nor does this difficulty only affect the rights of office-holders like journalists; Raz admits that weighty rights such as the rights of free expression and freedom of contract are not justified solely by the interests of the individual citizens who hold them Raz a, 30â€"43, Or again, parents may have the right to receive child benefit payments from the state, but here only the interests of the children, and not the interests of the parents, could be sufficient to hold the state to be under a duty. Will theorists and interest theorists have developed their positions with increasing technical sophistication. The issues that divide the two camps are clearly defined, and the debates between them are often intense. Kramer, Simmonds, and Steiner , Van Duffel a, Kramer The seemingly interminable debate between these two major theories has driven some to conclude that the debate itself rests on the mistaken premise that there is a single concept of a right for which these theories provide rival analyses Van Duffel b, Hayward The deadlock has encouraged other theorists to develop alternative positions on the function of rights. Like the will theory, these demand theories center on the agency of the right-holder. They may, however, have more difficulties in explaining power-rights. Other recent analyses of what rights do for rightholders are varied. Scanlon , defends the position that rights are constraints on the discretion of individuals or institutions to act. Recently, theorists have attempted to make progress on the question of functionality by scrutinizing the claim-right in particular, and by shifting attention onto the corresponding duty. The promisor, for example, owes a duty of performance to the promisee. After all, not all duties are directed to specific others: The violation of any duty may be wrong it may be wrong not to give to charity , but the violation of a directed duty is a wronging of the being to whom the duty is owed: And unlike a mere wrong, the wronging of some being calls, ceteris paribus, for apology and compensation. Cruft further argues that the violation of any duty owed to a being is disrespectful of that being. The question is what could possibly account for the extra significance of the duties that have direction. The History of the Language of Rights Intellectual historians have tangled over the origins of rights. Yet insofar as it is really the emergence of the concept of a right that is at issue, the answer lies beyond the competence of the intellectual historian and within the domain of the anthropologist. Even the most primitive social order must include rules specifying that certain individuals or groups have special permission to perform certain actions. Moreover, even the most rudimentary human communities must have rules specifying that some are entitled to tell others what they must do. Such rules ascribe rights. The genesis of the concept of a right was simultaneous with reflective awareness of such social norms. The more productive characterization of the debate within intellectual history concerns when a word or phrase appeared that has a meaning close to the meaning of our modern word. The Roman jurist Ulpian, for instance, held that justice means rendering each his right ius. The ancient authors

often used words imprecisely, and smeared their meanings across and beyond the Hohfeldian categories. The intellectual historians themselves have occasionally congested the discussion by taking different features of rights as definitive of the modern concept. Moreover, the scholarly debate has sometimes accepted over-optimistic assumptions about the sharpness of conceptual boundaries. Nevertheless, two broad trends in the scholarly discussions are clear. Donohue now argues that ius is used in a subjective sense throughout the works of the classical Roman jurists in the first century BCE to the third century CE. The second and related trend has been to establish that terms referring to active rights what we would call privilege-rights and power-rights predate terms referring to passive rights what we would call claim-rights and immunity-rights. It appears that the earliest medieval debates using recognizably modern rights-language, for instance, concerned topics such as whether the pope has a power- right to rule an earthly empire, and whether the poor have a privilege- right to take what they need from the surplus of the rich. Rights and Freedom Most rights entitle their holders to freedom in some sense; indeed holding a right can entail that one is free in one or more of a variety of senses. In the most general terms, the active incidentsâ€”the privilege and the powerâ€”entitle their holders to freedom to act in certain ways. The passive incidentsâ€”the claim and the immunityâ€”often entitle their holders to freedom from undesirable actions or states. We can be more specific. A government employee with a security clearance, for instance, has a privilege-right that makes him free to read classified documents. One can be free in this non-forbidden way without having the physical ability to do what one is free to do. You may be free to join the march, even when both your knees are sprained. The actions you are free to do in this sense may or may not be possible for you, but at least they are not disallowed. Someone who has a pair of privilege rightsâ€”no duty to perform the action, no duty not to perform the actionâ€”is free in an additional sense of having discretion over whether to perform the action or not. You you may be free to join the march, or not, as you like. This dual non-forbiddenness again does not imply physical ability.

AN ESSAY ON THE RIGHTS AND DUTIES OF NATIONS, RELATIVE TO FUGITIVES FROM JUSTICE pdf

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In Europe, there is the European Convention of Human Rights and internationally rights are established within the United Nations declaration. Human rights feature prominently in the constitutions of most nation states.

Constitutional text[edit] 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; Background[edit] One of the most often claimed defects of the Articles of Confederation was its lack of a grant to the central government of the power to lay and collect taxes. Without the power to independently raise its own revenues, the Articles left Congress vulnerable to the discretion of the several State governmentsâ€”each State made its own decision as to whether it would pay the requisition or not. Some states were not giving Congress the funds for which it asked by either paying only in part, or by altogether ignoring the request from Congress. The Congress recognized this limitation and proposed amendments to the Articles in an effort to supersede it. Powers granted[edit] The power to tax is a concurrent power of the federal government and the individual states. Butler stated that the clause also granted "a substantive power As argued under the Articles, the lack of a power to tax renders government impotent. Typically, the power is used to raise revenues for the general support of government. But, Congress has employed the taxing power in uses other than solely for the raising of revenue, such as: The Court had previously held that Congress did not have the power to directly regulate labor, and found the law at issue to be an attempt to indirectly accomplish the same end. This ruling appeared to have been reinforced in United States v. Butler , [10] in which the Supreme Court of the United States ruled that the processing taxes instituted under the Agricultural Adjustment Act were an unconstitutional attempt to regulate state activity in violation of the Tenth Amendment. However, despite its outcome, Butler affirmed that Congress does have a broad power to tax, and to expend revenues within its discretion. Implicit power to spend[edit] With the power to tax implicitly comes the power to spend the revenues raised thereby in order to meet the objectives and goals of the government. To what extent this power ought to be utilized by the Congress has been the source of continued dispute and debate since the inception of the federal government, as will be explained below. In South Dakota v. Dole , [16] the Court upheld a federal law which withheld highway funds from states that did not raise their legal drinking age to Limitations on taxing power[edit] Several Constitutional provisions address the taxation and spending authority of Congress. These include both requirements for the apportionment of direct taxes and the uniformity of indirect taxes , the origination of revenue bills within the House of Representatives , the disallowal of taxes on exports, the General Welfare requirement, the limitation on the release of funds from the treasury except as provided by law, and the apportionment exemption of the Sixteenth Amendment. Additionally, Congress and the legislatures of the various states are prohibited from conditioning the right to vote in federal elections on payment of a poll tax or other types of tax by the Twenty-fourth Amendment. Origination Clause[edit] The Constitution provides in the Origination Clause that all bills for raising revenue must originate in the House of Representatives. The idea underlying the clause is that Representatives, being the most numerous branch of Congress, and most closely associated with the people, know best the economic conditions of the people they represent, and how to generate revenues for the support of government in the least burdensome manner. Additionally, Representatives are regarded the most accountable to the people, and thus are least likely to exercise the taxing power abusively or injudiciously. General Welfare Clause[edit] See also: General Welfare clause to pay the Debts and provide for the common Defence and general Welfare of the United States; Of all the limitations upon the power to tax and spend, the General Welfare Clause appears to have achieved notoriety as one of the most contentious. The dispute over the clause arises from two distinct disagreements. The first concerns whether the General Welfare Clause grants an independent spending power or is a restriction upon the taxing power. The second disagreement pertains to what exactly is meant by the phrase "general welfare. James

Madison advocated the ratification of the Constitution in The Federalist and at the Virginia ratifying convention upon a narrow construction of the clause, asserting that spending must be at least tangentially tied to one of the other specifically enumerated powers, such as regulating interstate or foreign commerce, or providing for the military, as the General Welfare Clause is not a specific grant of power, but a statement of purpose qualifying the power to tax. Further, Jefferson himself later described the distinction between the parties over this view as "almost the only landmark which now divides the federalists from the republicans This narrow view was overturned in in United States v. However, the Court did limit the power to spending for matters affecting only the national welfare. The tax imposed in Butler was nevertheless held unconstitutional as a violation of the Tenth Amendment reservation of power to the states. Shortly after Butler, in Helvering v. Dole [16] the Court held Congress possessed power to indirectly influence the states into adopting national standards by withholding, to a limited extent, federal funds where a state did not mean certain conditions required by Congress. Following that ruling, the Court later held by a 7â€”2 vote in National Federation of Independent Business v. To date, the Hamiltonian view of the General Welfare Clause predominates in case law. Historically, however, the Anti-Federalists were wary of such an interpretation of this power during the ratification debates in the s. An additional view of the General Welfare Clause that is not as well known, but as authoritative as the views of both Madison and Hamilton, can be found in the pre-Revolutionary writings of John Dickinson , who was also a delegate to the Philadelphia Convention. The parliament unquestionably possesses a legal authority to regulate the trade of Great Britain, and all her colonies. Such an authority is essential to the relation between a mother country and her colonies; and necessary for the common good of all. He who considers these provinces as states distinct from the British Empire, has very slender notions of justice, or of their interests. We are but parts of a whole; and therefore there must exist a power somewhere, to preside, and preserve the connection in due order. This power is lodged in the parliament; and we are as much dependent on Great Britain, as a perfectly free people can be on another. I have looked over every statute relating to these colonies, from their first settlement to this time; and I find every one of them founded on this principle, till the Stamp Act administration. All before, are calculated to regulate trade, and preserve or promote a mutually beneficial intercourse between the several constituent parts of the empire; and though many of them imposed duties on trade, yet those duties were always imposed with design to restrain the commerce of one part, that was injurious to another, and thus to promote the general welfare. The raising of a revenue thereby was never intended. Renz, is that taxing for the general welfare is but taxation as a means of regulating commerce. Renz expands upon this point: If we excise "general welfare" from the Tax Clause, we are presented with the claim that Congress may not levy duties for purposes other than paying the debts and providing for the common defense. Indeed, omitting the general welfare phrase would eliminate nearly all duties for regulatory purposes. A strong argument could be made that while Congress might have the power to regulate foreign and interstate commerce, the omission of "general welfare" from the Tax Clause was intended to deny it the power to regulate commerce by means of duties. Virtually every state constitution has a general welfare clause which is interpreted as granting the state an independent power to regulate for the general welfare. An international example is provided with a report from the Supreme Court of Argentina: The Court recognized that the United States utilized the clause only as a source of authority for federal taxation and spending, not for general legislation, but recognized differences in the two constitutions. Here, the requirement is that taxes must be geographically uniform throughout the United States. This means taxes affected by this provision must function "with the same force and effect in every place where the subject of it is found. Justice Story characterized this requirement in a light more relevant to practicality and fairness: It was to cut off all undue preferences of one state over another in the regulation of subjects affecting their common interests. Unless duties, imposts, and excises were uniform, the grossest and most oppressive inequalities, vitally affecting the pursuits and employments of the people of different states, might exist. A somewhat notable exception to this limitation has been upheld by the Supreme Court. In United States v. Ptasynski, [37] the Court allowed a tax exemption which was quasi-geographical in

nature. In the case, oil produced within a defined geographic region above the Arctic Circle was exempted from a federal excise tax on oil production. The basis for the holding was that Congress had determined the Alaskan oil to be of its own class and exempted it on those grounds, even though the classification of the Alaskan oil was a function of where it was geographically produced. Congress decides to implement a uniform tax on all coal mining. The tax so implemented distinguishes between different grades of coal e. Even though the exempted grade could potentially be defined by where it is geographically produced, the tax itself is still geographically uniform. Apportionment of direct taxes[edit] Language elsewhere in the Constitution also expressly limits the taxing power. Article I, Section 9 has more than one clause so addressed. No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. As of the Census , nearly 34 million people populated California CA. At the same time, the national population was This gave CA a 12 percent share of the national population, roughly. Apportionment and income taxes[edit] Before , direct taxes were understood to be limited to "capitation or poll taxes " Hylton v. United States [38] and "taxes on lands and buildings, and general assessments, whether on the whole property of individuals or on their whole real or personal estate" Springer v. It was not the income tax per se, but the lack of a provision for its apportionment as a direct tax which made the tax unconstitutional. The resulting case law prohibiting unapportioned taxes on incomes derived from property was later eliminated by the ratification of the Sixteenth Amendment in The text of the amendment was clear in its aim: The Congress shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. Shortly after, in , the U. Supreme Court ruled in Brushaber v. Union Pacific Railroad that under the Sixteenth Amendment income taxes were constitutional even though unapportioned, just as the amendment had provided. No Tax or Duty shall be laid on Articles exported from any State. This provision was an important protection for the southern states secured during the Constitutional Convention. United States Shoe Corp. The Court unanimously affirmed the ruling of the lower Federal Circuit Court that a "user fee" imposed in such a manner is, in fact, a tax on exports and unconstitutional. However, Congress may tax goods not in transit even though they are intended for export so long as the tax is not imposed solely for the reason that the good will be exported. Restrictions on spending[edit] The constraints placed upon the Taxing and Spending Clause and the subsequent powers derived therefrom do not stop at the Taxing Power. Disguised regulations[edit] While such holdings are rare and unlikely under contemporary jurisprudence, the Supreme Court has shown in the past its possible willingness to intervene on Congressional spending where its effects amount to a disguised regulation on private activity. The case illustrative of this is United States v. By entering into contracts with farmers who reduced their output of selected crops, Congress had placed non-participating farmers at a distinct disadvantage to farmers who cooperated. As such, the program was not truly voluntary as it left the farmers no real choice; the options for the farmers were either cooperation or financial ruin. Under those circumstances, the regulatory scheme essentially required submission of farmers to a regulatory scheme Congress had no power to impose on its own. While the Court today is much more likely to defer to Congressional spending via the Commerce Clause , there are still circumstances where such spending may not be justifiable or validated by that power. Furthermore, entitlements may not be denied on grounds that violate a constitutionally protected right. Dole [16] reaffirmed the authority of Congress to attach conditional strings to the receipt of federal funds by state or municipal governments. In addition to the requirement that spending be for the general welfare, however, the Court devised more scrutinous criteria for determining the constitutionality of the conditions imposed: First, there can be no surprises; that is, the conditions for receipt must be stated clearly and the beneficiary must be aware of those conditions and their consequences.

AN ESSAY ON THE RIGHTS AND DUTIES OF NATIONS, RELATIVE TO FUGITIVES FROM JUSTICE pdf

7: Article 6, Clause 2: United States v. Robins

Human Rights is a collection of fourteen essays (to which Gewirth has added a helpful introduction) which further state and defend this thesis or apply it.

Our writers will check your work for inaccuracies. They will provide you with track changes, a list of fixes, and make sure the original instructions were followed. Seek Help From The Professionals In addition to our , example college essays, we provide writing guides, tutorials, citation generators, and flash card creators. All our resources are guaranteed to save you time, as well as help you write better papers and earn higher grades. Completing any type of academic writing project, including book reports, term or research papers as well as various types of essays can be a daunting enterprise for college students, especially the first few times they are faced with these types of assignments. The report emphasizes that in far too many cases, high school simply does not prepare students for the rigors of college life, including most especially all of the writing they must do to succeed. Even high school students who received an exemplary, top-flight education may not have the experience or know-how to complete college-level writing assignment. Even experienced and proficient writers will likely remember how difficult it was as first, though, but fortunately academic writing is a skill, and a skill can be learned. The purpose of Paperdue is to help students become better writers and earn higher grades for their hard work. Our website presents a learn-by-example approach where students at any writing level can become more proficient by reading college essay examples on their specific topic, seeing how other writers have approached a topic and then learning information from these samples. These essays provide a useful starting point for developing fresh ideas, topics, titles, outlines, thesis statements, and identifying relevant resources which will help them in structuring and completing their own papers. In addition, the Purdue Online Writing Lab OWL provides useful guidance concerning citation styles, including example papers, as well as how to write about subject-specific categories such as the social sciences, health care, engineering, journalism, art history and creative writing,. Likewise, the Harvard College Writing Center provides valuable information concerning essay-writing strategies, discipline-specific online writing tutorials, and various writing guides for college students. Whether you are trying to write an argumentative essay, persuasive essay, narrative essay, scholarship essay, personal essay or even a rhetorical analysis, we have all the model papers that you need to succeed. Each of these different types of essays involves using a different approach, structure and type of content, and it is easy to become overwhelmed by the details, especially for the first time. For this purpose, besides our database of more than , professionally written essays, we offer comprehensive online tutorials, research tools and writing guidelines for helping students complete the specific task at hand. Our company and website have been around since and we have helped thousands of students just like you complete their writing assignments, become better writers and earn higher grades in the process. Because written assignments form the basis for almost all types of performance assessments in college, their importance cannot be overstated. Furthermore, college educators grade written assignments from different perspectives depending on their own personal preferences and subjective interpretations of the subject matter. Therefore, it is essential for students to rely on reputable and honest custom essay writing services in order to avoid the shoddy, copy-and-paste work that is provided by most other essay writing companies who rely on English as second language ESL writers. Indeed, even ESL writers who may otherwise be brilliant in their respective fields will invariably lack the background, expertise and knowledge needed to write at the college level for native English speakers. There are literally hundreds of these fly-by-night services operating today, and students need to find the right essay writing service for their individual needs. All of the academic writers who complete our college-level example essays are from the United States and English is their primary language. Our dedicated cadre of professional academic writers is committed to providing our valued clientele with unique, high-quality, thoroughly researched and thoughtfully crafted research projects, including virtually any type of writing assignment required at the undergraduate or

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AN ESSAY ON THE RIGHTS AND DUTIES OF NATIONS, RELATIVE TO FUGITIVES FROM JUSTICE pdf

8: Rights (Stanford Encyclopedia of Philosophy)

The Comity of Inter-state Extradition of Fugitives from Justice precision their relative rights and duties. In this case to ereign nations, but it has had the.

The question on which I am now to give a decision, is grounded on a habeas corpus to bring the prisoner before me; and on motion by counsel on behalf of the consul of his Britannic majesty, the officer authorized by treaty to make the requisition, that the prisoner, charged with murder committed within the jurisdiction of Great Britain, shall be delivered up to justice, in virtue of the 27th article of the treaty of amity and commerce between the United States and Great Britain, signed the 19th of November, Objections have been made by counsel on behalf of the prisoner to this motion, on a variety of grounds; and this case has been very fully argued on both sides. Two papers have been produced on behalf of the prisoner: The motion before me has been opposed on a variety of grounds. It is contended, that it is a question of magnitude whether a citizen of the United States shall be tried by a jury of his own country, or in a foreign one: It was also contended that this would strike at the root of the liberties of the people: It was also contended, that this is not an offence within the contemplation of the treaty: These were the points on which the objections to this motion were argued. In the course of the arguments, warm and pathetic appeals to the passions were made on some of the old grounds of opposition to the treaty, which I endeavoured to check, because, as this treaty has been ratified agreeably to the express provisions of the constitution, and is therein declared to be the supreme law of the land, and I am religiously and solemnly bound by the oath I have taken to administer justice according to the constitution and laws, it is not in my power, nor is it my inclination, ever to deviate therefrom. If we attend to the constitution, and the amendments which are now part of it, we shall find, that all the provisions there made respecting criminal prosecutions, and trials for crimes by a jury, are expressly limited to crimes committed within a state or district of the United States. Indeed, reason and common sense point out that it should be so: It must be remembered, also, that in the 27th article of the amendments, where it is provided that no person shall be held to answer for a capital offence, unless on a presentment by a grand jury, an exception is made to cases arising in the land or sea service, or even in the militia when in actual service, in time of war or public danger. This shows unequivocally, that trials by jury may be dispensed with, even for crimes committed within the United States; and those observations are at once an answer to all the arguments founded on the right to trials by jury, they being expressly limited to crimes committed within the United States, and even then with some exceptions. It is remarkable, that in the midst of all the warmth against the treaty, at its first publication, the 27th article was one of the few that was never excepted to; and I believe this is the first instance in which it had been held up as dangerous to liberty. The crime of murder is justly reprobated in all countries; and in commercial ones the crime of forgery is so dangerous to trade and commerce, that provision has been made in various treaties for delivering up fugitives from justice for these offences; and many instances may be produced of criminals sent back to be tried where the fact was perpetrated. What says the 27th article of the treaty now under consideration? In the first place it is founded on reciprocity: It is for the furtherance of justice, because the culprits would otherwise escape punishment; no prosecution would lie against them in a foreign country; and if it did, it would be difficult to procure evidence to convict or acquit. This clause is founded on the same principle with that part of the constitution which declares, that the trial for a crime shall be held in the state where it shall be committed; and the act of congress to prevent fugitives from justice escaping punishment, declares, that they shall be delivered up when demanded, to be tried where they committed the offence, either on a bill found, or an affidavit charging them with the offence. The principle, then, being the same, and the one being expressly founded on the constitution and laws of the United States, no solid objection can lie against this clause of the treaty. Nor does it make any difference, whether the offence is committed by a citizen, or another person. This will obviate the objection made by the counsel on that head. And I cannot but take this occasion to observe, that the two papers produced by the prisoner, are

only affidavits of his own, or a certificate founded on an affidavit, which are not evidence; and if they were, prove little or nothing. It is somewhat remarkable, that a man of the name of Jonathan Robbins, with the paper produced in his possession, should continue on board a British frigate for a length of time, under another name, and acting as a warrant officer, which impressed men are not likely to be entrusted with, and that he should afterwards take the name of Nathan Robbins, and lay in jail here five or six months, without the circumstance being made known until now. All the arguments against delivering up the prisoner seem to imply that he was to be punished without a trial; the contrary of which is the fact: If he is innocent, he will be acquitted: This would be the case here, under similar circumstances. The objection most relied on against this motion, is to the word jurisdiction, in the 27th article of the treaty, and that the crime being committed on the high seas, the courts of the United States have a concurrent jurisdiction. There is no doubt that the circuit courts of the United States have a concurrent jurisdiction, and this arises under the general law of nations; and if the 27th clause of the treaty in question had not expressly declared the right to demand, and the obligation to deliver over, the prisoner must have been tried here. With respect to the meaning of the word "jurisdiction," I think the case quoted from Vatt. When application was first made, I thought this a matter for the executive interference, because the act of congress respecting fugitives from justice, from one state to another, refers it altogether to the executive of the states; but as the law and the treaty are silent upon the subject, recurrence must be had to the general powers vested in the judiciary by law and the constitution, the 3d article of which declares the judicial power shall extend to treaties, by express words. The judiciary have in two instances in this state, where no provisions were expressly stipulated, granted injunctions to suspend the sale of prizes under existing treaties. If it were otherwise, there would be a failure of justice. I have carefully reviewed the arguments advanced by the counsel for the prisoner. I have looked into the constitution, the treaty, the laws, and the cases quoted: And I do therefore order and command the marshal, in whose custody the prisoner now is, to deliver the body of the said Nathan Robbins, alias Thomas Nash, to the British consul, or such person or persons as he shall appoint to receive him. Contemporary Comments [John Marshall] "I observe in a late paper of the Examiner, several strictures on the case of Robbins, who was delivered to the British consul at Charleston, under the 27th article of the treaty of amity and commerce between Great Britain and America, censuring the measure in general, but reprobating the conduct of the president in a particular manner. These strictures, calculated to exasperate the public mind, would probably lose their effect upon a fair explanation of the nature of the business, and therefore I have thought it worth while, for the sake of removing unjust impressions, and satisfying the minds of those who really wish for information relative to the necessary mode of proceeding in cases of that kind, to endeavour to make a just representation of the matter, as far as I am able to understand the case from the mutilated publications which we have seen of it. As to the opinion of the learned judge upon the case, I shall not enter into any arguments in support of it, because they would be useless and unnecessary, as the reasoning contained in his own excellent speech upon the subject is perfectly correct, and must be convincing to every unprejudiced mind. The case, from the publication which I have seen, I suppose to be this. The British government, having discovered that Robbins was in Charleston, applied to the judge for a warrant to secure him until application could be made to government for him. The warrant was granted, and an application, with the evidences of the charge, were laid before the president, who, being satisfied that it was a case within the treaty, directed the judge, as he was arrested under his warrant, to deliver him up, and the single question is, whether this proceeding in the present case was regular. By the treaty of amity made when the two nations neither did nor could contemplate this, or the case of any other individual, it is mutually stipulated that fugitives from justice who have been guilty of murder or forgery in one of the nations, and have taken shelter in the territories of the other, shall be delivered up to the injured government. Those stipulations are reciprocal, and America, whenever a case shall happen, will have the same right to demand a fugitive of Great Britain that the latter had to demand Robbins of the United States. Nor can either nation refuse, for the words are positive. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive. It is, therefore, a certain fact, that Great

Britain, by the express words of the treaty, had a right to demand Robbins in the present case, who was accused of murder, one of the enumerated offences for which fugitives were to be delivered up. There must, therefore, have been some mode of carrying the provision of the treaty in this respect into execution, or else the articles would be nugatory; and it would be absurd to suppose the parties meant to stipulate for a thing which could not be performed. The question then is, what mode should be pursued when a requisition of this kind is made, and what proceedings should take place in order to comply with it. The treaty has not pointed out any mode, and therefore we must recur to principles and the nature of things in order to discover it. As nations do not communicate with each other but through the channel of their government, the natural, the obvious, and the proper mode, is an application on the part of the government requiring the fugitive to the executive of the nation to which he has fled, to secure and cause him to be delivered up. For as the governments have respectively undertaken to do the thing which is required, the injured nation is not concerned any further with the business than merely to exhibit the proofs and call on the other for the performance of the treaty; and the nation called on must attend to the details and internal regulations themselves. For it would be an irresistible argument to such a complaint, that no application was ever made to the government itself. Nor would it strengthen the complaint, that an application was made to some inferior authority; because an application to subordinate officers who do not represent the general national concerns, would not only be improper on account of the inconvenient practices it might introduce for by that means a man might be carried off without government having an opportunity of protecting him , but, in case the requisition were not complied with, could not be a just ground of reproach to the government itself, which was never informed of the application. For it is a mere question of state, and all questions relative to the affairs of the nation emphatically belong to the government to decide upon. Therefore, in case of a requisition for a fugitive by the United States from Great Britain, the application would be to the executive, and not to the judiciary, or any other inferior department of the government. It follows, therefore, that an application to the government itself is essential; and accordingly, in the case under consideration, such an application was actually made. But surely the business was not to rest there. Some further steps were necessary, or else the application would have been to no purpose. For, having been informed that the man was under confinement, upon the charge on which the application was made, until the determination of government upon the subject could be known, he was bound to give some directions in the business, so that the prisoner might either be liberated or delivered up, and those directions could only be given in writing. If the president had said to the British ambassador: If I apply to your judge, I shall certainly be told again as I was told before, that he cannot interfere in a business of state without the knowledge of government; and it will be in vain for me to tell him that I have your instructions upon the subject, unless I am able to produce some evidence of them. If I am right in my position that the application, in all such cases, should be made to the executive, and that the executive has a right to decide whether the requisition should be complied with or not; it follows necessarily, that when information was given to the judge that application had been made, it ought to have been accompanied with some expression of the will of government upon the subject. For it would have been ridiculous in the president to have ordered a letter to be written to the judge, informing him that an application had been made, without informing him also what government had resolved to do in the business; because that would have left the judge exactly where he was; and he would have been at liberty to have considered it as a mere private letter from one gentleman to another, and not as an official document, on which he was bound to act. So that, if under that impression he had resolved to have taken no steps in the business, he not only would have stood excused himself, but the British government would have had just cause to complain that our conduct was illusory, and that the stipulations of that treaty were evaded. But, if it be admitted that any declaration of the president was necessary upon the subject, more eligible terms than those used by the secretary of state, even according to the garbled publication which we have of them, could not have been chosen. For they are the usual phrases all over the United States, from the governor down to the county court magistrate. Let me now, then, ask any candid man, if the inference drawn by the Examiner from this letter, namely, that the president

had endeavoured to influence the opinion of a judge, in a matter depending before him, be a correct one? On the contrary, it is manifest from what has been said, that the matter never was, nor could be regularly before the judge, until he had received this letter, which was the ground and foundation on which he was to proceed. Until then he had no authority to act definitely upon the question; and so the judge evidently appears to have considered it himself. For it was handed to the counsel on both sides, plainly as the authority on which he proceeded. Otherwise, he would not have shown it at all, or else he would have done it in a very different manner. It was, therefore, a mere official paper, and not a letter which was intended to be intruded upon the judge, in order to influence his determination in a matter depending before him. It was itself the very process, if I may use the expression, which brought the case before the judge. But this is a part of the opinion of the judge which seems liable to be questioned; and I strongly suspect it is not truly stated in the public prints, or else it comes to this, that the judge was of opinion that everything relative to treaties was to be transacted by the judges and not by the executive; a position which he certainly did not mean to maintain, and, therefore, the passage alluded to ought to be understood with some qualification. The judge probably meant to say, that he once thought it a question which exclusively belonged to the executive, and therefore, that he, as a judge, could not in any manner be required to aid in the execution of the treaty. But finding, by recurrence to the constitution, that the judicial power extended to treaties, he was then satisfied that the judges might be called on, where circumstances rendered it proper, to take the necessary steps, in order to have the treaty carried into effect, as by issuing a warrant to secure the fugitive, until the determination of government could be known, and after that was promulgated, giving the necessary orders for carrying the determination into effect. With this qualification, the opinion of the judge was correct, and I therefore incline to think that he ought to be so understood in the passage under consideration. Upon the whole, the president appears to have done no more than his duty. For suppose it had been said that the British government had applied to the president for a fugitive from justice under the treaty, and that the latter, instead of ordering him to be delivered up, had refused or neglected to do it, without assigning any reason for it. How could the president have justified his conduct in that case? And might it not then have been said with propriety, that he had neglected his duty and omitted to execute one of the supreme laws of the land, which he was bound to observe and have carried into effect? As congress must by law provide, at their next session, for any similar cases which may occur under the British treaty, and as it is of general importance to the citizens of the United States, the following examination of the case of Jonathan Robbins, lately decided in the district court of South Carolina, is with deference submitted to their consideration: Fellow Citizens--As I believe you have not been much troubled with my remarks on any subject, I hope you will more readily excuse the favour I now ask, in requesting your attention to the present. I am induced to make them, because the question is of very great public consequence, and involves the dearest and most valuable rights of every man in the United States. It reaches all situations, as well the elevated and opulent as the most indigent. It affects the knowledge and independence of our judicials in the most important manner; and as I know it has excited the sensibility of the people, and must be so far made the subject of inquiry in congress as to enable them to provide for similar cases; I have supposed some examination of it may be necessary, in that spirit of deference and delicacy in which all such inquiries should be conducted. I shall not go into a definition of the principles of a free government, and the blessings its citizens ought to expect; because few of our own, even amongst the most illiterate, are ignorant of the nature of a representative government, the right of suffrage, and the inestimable privilege of the trial by jury, in all cases in which their characters, lives or property are concerned. To a people so informed, it is scarcely necessary to remark, that to men of feeling the value of character, of honorable fame, is dearer than life or property, or even the most tender connections: Hence it follows, that those privileges which guard the character and lives of our citizens are viewed with a more jealous eye, and will be asserted with more firmness and promptitude, than even those which protect their properties, vigilant as they are with respect to these. A number of our citizens, therefore, believing that the inestimable privileges secured to them by the constitution and laws of the United States, have been affected in the case of Jonathan Robbins, that it is one which may if

established as a precedent, reach some valuable inhabitants of this country, and to the intent that these privileges should be more carefully guarded by a positive law in future, the following remarks are submitted, with a view to bring this business more fully before the public than it has hitherto been. The following is the statement of the case, with the accompanying affidavits: It appears, however, by the result, that these affidavits, and the question whether the prisoner was an American, and an impressed seaman or not, were, in the opinion of the court, altogether immaterial: It will not depend upon him to say he is not a mariner, or to show proofs or certificates to the contrary. It will depend upon the force with which he is attacked, and the temper or violence of the officer who directs it. Instances, it is said, have lately occurred where not only the seamen but the passengers have been impressed, who, although declaring they were not seamen, were still impressed as such, and obliged to perform their duties. No production of papers, no entreaties availed them: Had these men been enterprising, or an opportunity offered, and they had possessed themselves of their oppressors, and brought them into port: However superior in these, in political privileges they were only equal to the unknown and friendless Robbins.

AN ESSAY ON THE RIGHTS AND DUTIES OF NATIONS, RELATIVE TO FUGITIVES FROM JUSTICE pdf

9: Vattel: The Law of Nations: Contents

The Free Trade Area of the Americas (FTAA) was an attempt to create a multilateral institution with the objective of reducing and eliminating the many trade barriers that existed between all American countries.

Additional Information In lieu of an abstract, here is a brief excerpt of the content: Stylistically the book is inappropriate. Sentences are too lengthy and replete with distractive relative clauses and parentheses. Also, the earlier historical chapters repeatedly use technical terminology without any clarification. This manner vitiates their value for students. The editors seem sensitive to these stylistic points, for they promise an abridged edition for use as a student textbook p. Krapiec reminds us all of what we should be striving to accomplish: Garrone, On the Study of Philosophy in Seminaries. For this example we should be deeply grateful. Essays on Justification and Application. Some issues are never settled. One such issue is whether there are or are not universal moral norms. Gewirth seeks to prove that, because all people are agents who act to bring about or attain certain goods, they are all, regardless of cultural or historical circumstances , logically constrained to say that everyone has certain basic rights. He seeks to accomplish his end by considering all agents apart from any particularizing characteristics they might have. His work is a major achievement and must be taken account of, particularly by anyone interested in natural law theory. It concerns moral agents as such and so stands in interesting contrast to the position of Michael Walzer in his recent book Spheres of Justice. Gewirth takes an opposite tack. Of particular interest are the final eight essays in which the PGC is applied to certain basic moral issues. The essays, among other things, discuss health care, starvation, military obligation, civil disobedience , and civil liberties. The basic objection to his position is this. It is one thing to say that one needs or wants or will be benefited by something and quite another to say that one has a right to that thing. See Alasdair Macintyre, After Virtue, p. You are not currently authenticated. View freely available titles:

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