

VIII. THE 7TH AMENDMENT - RIGHT TO JURY IN CIVIL CASES

A. Civil Case - A noncriminal lawsuit, usually involving private property rights.

1. For example: lawsuits involving breach of contract, probation, divorce, negligence, and copyright violations.

2. The right to a jury trial shall be preserved in common-law cases.

**B. THE RE-EXAMINATION CLAUSE-
PROHIBITS COURTS FROM REEXAMINING
ANY FACT TRIED BY A JURY IN ANY MANNER
OTHER THAN ACCORDING TO THE COMMON
LAW.**

I. Under common law, appellate courts could review judgments only on writ of error.

a. Appellate jurisdiction - power of a higher court to review decisions and change outcomes of lower courts.

b. Writ of error - A written document from an appellate court, demanding that the record be reviewed by a higher court for alleged errors of law committed during a judicial proceeding.

Trial Court

Federal trial courts are called district courts.

Cases are heard for the first time in a trial court.

Cases only affect the people involved with the case.

The two sides present evidence and witnesses, and either a judge or a jury makes a decision based on the evidence presented.

Appellate Court

Federal appellate courts are called courts of appeals. Cases can be further appealed to the U.S. Supreme Court.

If either party disagrees with the decision in the trial court, they can appeal, asking a higher court to review the decision.

The outcome of appeals cases have the potential to affect large numbers of people, because these decisions are binding on district courts within the circuit.

No new evidence is presented, the judge(s) simply review the materials from the original trial and determine whether the lower court made the correct legal decision.

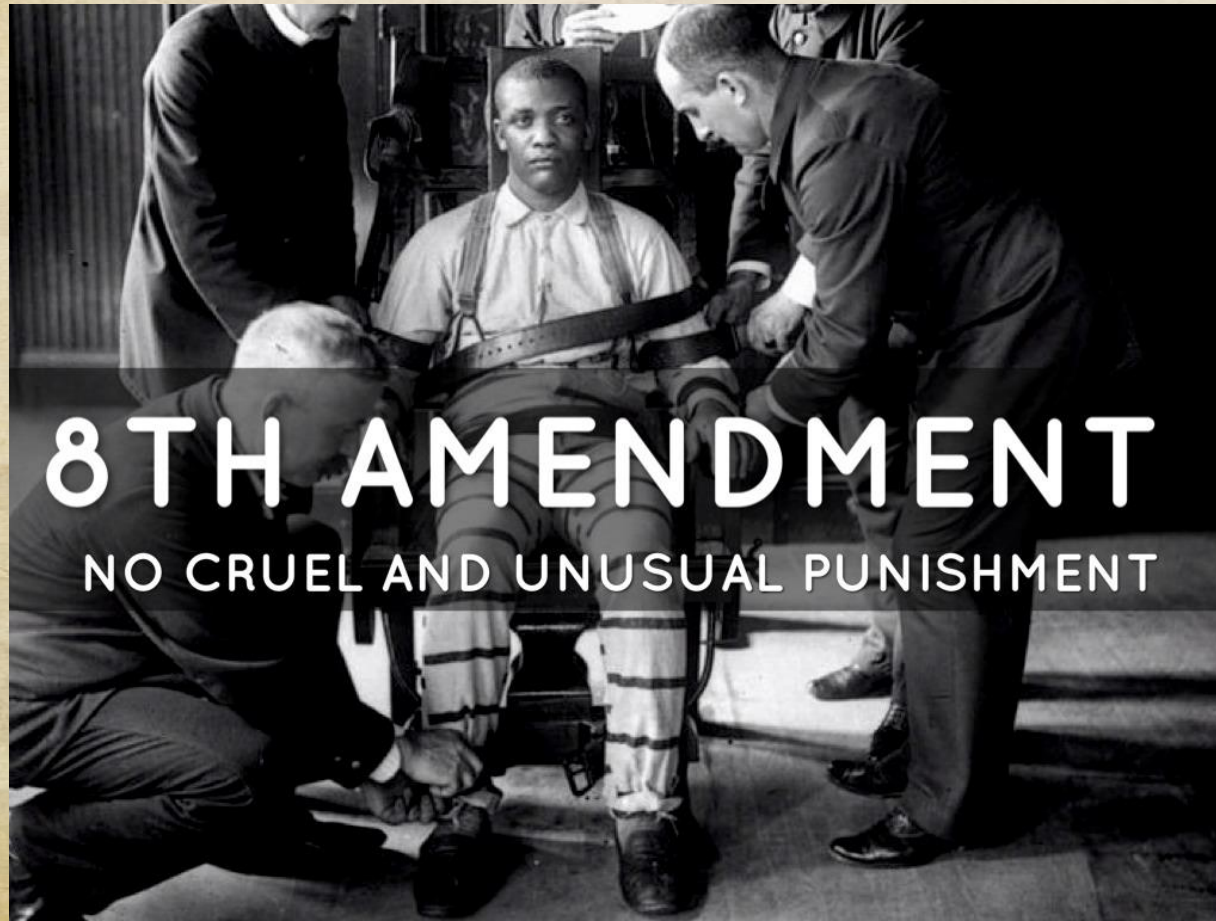
2. The purpose of the Reexamination Clause was to insulate jury findings from judicial reexamination.

a. Questions of law - interpreting what the law means: For instance, what kinds of behavior are considered legally negligent?

b. Questions of fact - determining what actually happened: For example, exactly when did a plaintiff arrive



**IX. 8TH AMENDMENT - EXCESSIVE BAIL
SHALL NOT BE REQUIRED, NOR EXCESSIVE
FINES IMPOSED, NOR CRUEL AND UNUSUAL
PUNISHMENTS INFLICTED.**



8TH AMENDMENT
NO CRUEL AND UNUSUAL PUNISHMENT

A. THE LEVEL OF BAIL IS DETERMINED ON A CASE-BY-CASE BASIS TO ENSURE THE DEFENDANT'S PRESENCE AT TRIAL.

The court often takes into account 3 things to determine bail:

1. The character of the charged offender.
2. The previous behavior of the defendant.
3. The severity of the offense.

**B. IN SOME INSTANCES, BAIL
CAN BE DENIED IF THE
CRIMINAL IS DETRIMENTAL TO
SOCIETY**



X. 9TH AMENDMENT - RIGHTS RETAINED BY THE PEOPLE



Amendment IX.

The enumeration in the Constitution,
of certain rights, shall not be construed to deny
or disparage others retained by the people.

A. THE 9TH AMENDMENT WAS WRITTEN TO ACCOMPLISH 3 THINGS

1. To prevent the idea that the inclusion of one thing necessarily excludes all others.
2. To affirm the argument the Federalists had made against the necessity of a bill of rights.
3. To confirm the republican principles that the people retain their communal right of self-governance.

B. THE FEDERALISTS FEARED THAT THE LISTING OF SOME RIGHTS, WOULD IMPLY A FREEDOM TO UNLIMITED RIGHTS

The Bill of Rights

9TH AMENDMENT

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the War, where no Grand Jury can be convened, and in which the crime shall be committed on board a ship or vessel, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

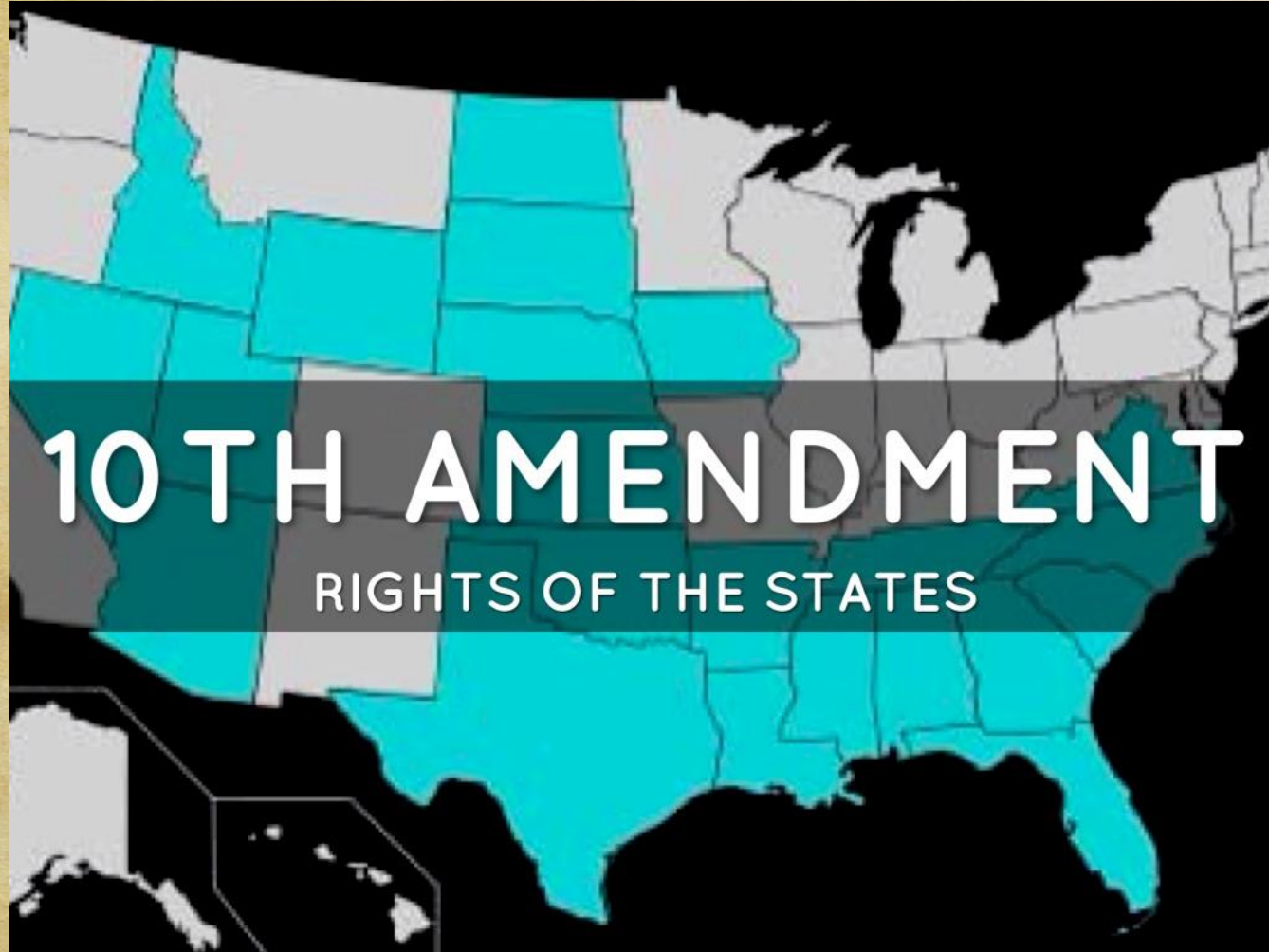
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

JUDICIAL CONFERENCE OF THE UNITED STATES
COMMITTEE ON THE BICENTENNIAL OF THE CONSTITUTION

Judge Damon J. Keith
Chairman

December 15, 1991

XI. THE 10TH AMENDMENT - RESERVED POWERS OF STATE



I. Powers not granted to the United States as a whole, were reserved to the individual States or the people.



DONT TREAD ON ME

2. The founding fathers penned this amendment to cover the issue of power.

a. They knew that there was potential for a power struggle in the years to come.

b. They deeply distrusted government power and wanted to prevent forming a government like that of the British.



B. IT WAS WRITTEN TO EMPHASIZE THE LIMITED NATURE OF THE POWERS DELEGATED TO THE FEDERAL GOVERNMENT, STATES, AND PEOPLE.

1. America remains a government of limited and enumerated powers.
2. The first question involving an exercise of federal power is whether it exceeds the national government's power.

C. IN THE UNITED STATES, SOME POWERS BELONG TO STATE GOVERNMENTS AND OTHER POWERS BELONG TO THE FEDERAL GOVERNMENT.

D. We call this Federal Government.

1. Which powers belong to who?
2. Anything that was not given to the federal government, and not banned by the Constitution is a power of the state.

Federalism

National

- Declare war
- Maintain armed forces
- Regulate interstate and foreign trade
- Admit new states
- Establish post offices
- Set standard weights and measures
- Coin money
- Establish foreign policy
- Make all laws necessary and proper for carrying out delegated powers

Shared

- Maintain law and order
- Levy taxes
- Borrow money
- Charter banks
- Establish courts
- Provide for public welfare

State

- Establish and maintain schools
- Establish local governments
- Regulate business within the state
- Make marriage laws
- Provide for public safety
- Assume other powers not delegated to the national government or prohibited to the states