

EXHIBITED

Proposal For Issuance of A WRIT As Deemed Necessary, Applicable and Authoritative

The Ninth Amendment TEST; The First Generation TEST

**INCORPORATED INTO THE
MAIN PLEADING,
WITH DEMAND TO TAKE JUDICIAL
NOTICE, INCORPORATED HEREWITH**

The Ninth Amendment TEST; The First Generation TEST.

1. In reviewing the proposed Constitution for the purpose of determining the legality of its condition to be imposed as law upon the people of the Several States, the famous 1850's attorney, Lysander Spooner, pointed out, correctly in part, that a contract cannot be written as binding beyond the lives of the people for whom it was established.
2. Recognizing that a contract, ordinarily, cannot be written to be binding upon a generation beyond that generation for whom it was First Written, just as Spooner stated, it constitutes a serious challenge to the question of jurisdiction in every form in which jurisdiction is alleged to exist to determine whether or not such binding-limiting power of non-applicability does exist so far as the proposed Constitution for the proposed United States-nation is concerned.
3. While Lysander Spooner was doubtless correct about the fact that a contract cannot, ordinarily, be written to be binding beyond the generation for whom it was written, the remaining part of the matter that Lysander Spooner did not perceive in his studies is the fact that one form of contract *can* be written to bind beyond the life or lives of the person(s) for whom it was written. *That* contract is known as a will.
4. The Ninth Amendment, by its carefully constructed wording, holds within its meaning, a contract, as a will, that makes those things which were retained by the First Generation, inherited, not inheritable, by all successive generations.
5. The term and principle of the "First Generation" is hereafter recognized and legally revealed to the world and to these courts as being that generation, commencing at about their first year, who were born at the time when the Ninth Amendment was ratified, December 15, 1791. The period of time which history indicates by its public records that such Acting First Generation survived to, as an objectively functioning generation, would be not greater than 60 active years, placing the end of

the functioning First Generation not later than 1851. Some views have put it to 65 years, or 1856, but none have surfaced that have put the end of the First Generation beyond that.

6. Actuality. The First Generation is that actual generation that is embodied within the Ninth Amendment of the Constitution, as expressed by the words, “retained by the people.”

7. Retained. When a person “retains” the services of a professional, whatever the occupation of that professional may be, it exists as a clear right that the act of retaining such services carries with it the connection to such minimum list of rights as may have existed for the benefit of the person so retaining the said professional at that particular time. Nor can it be denied that specific rights do exist, and extend to the person or persons doing the retaining, as those rights extended on the part of the said professional to hold them out for any use, and cannot be done away with or altered, except by the will and consent of those persons so retaining the said professional’s services, except they be defrauded of those rights retained and transacted for by the very act of changing, lessening, or denying, without agreed to consent, those same rights that existed in Time particularly from the moment of Retaining onward.

8. Therefore, it is beyond the question that particular rights do come with the moment in time, forward, when a particular thing has been retained, and it is no less conclusive that those same rights, by the act of such retaining, must be retained by someone, someone in particular, else there could be no such act of retaining anything, no matter what might be stated to the contrary at any other moment in Time after the proposed Time for retaining.

9. Commencing with the Rights as Retained by the First Generation that did so Retain particular Rights, the prohibition of diminishing Rights from one generation to the next generation, down to one year, following the next year, and the next year after that, was established to prevent the

governments propensity to bring about “diminishing Rights” under an UnLawful authority of any of them.

10. The Ninth Amendment expressly written as follows: “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.”

11. We may be lead to believe, at first, that we understand its simple wording fully, because we understand that “enumeration” means “the numbering process,” and we understand the word “deny,” no doubt. Retained by the people raises questions, such as “what people,” but it is the word “disparage that we find the richness that has been hidden away from our understanding all too long.

12. Bear in mind that the words are not “deny and disparage,” but rather “deny or disparage, meaning that neither of these may be done, if one is not an issue, then the other one is.

13. And it is the breaking down of the word “disparage” that we begin to find that, contrary to the statement by Chief Justice Earl Warren of the United States supreme Court, 1959, where he stated that the Constitution “isn’t frozen in 18th century fairness,” the Ninth Amendment’s “disparage” term says it is.

14. Here is the Ninth Amendment with the word “disparage” now substituted with the many rich other words and their meanings, that locks the rights of those people for who it was written, the First Generation, in tightly for all future generations to follow, right down to the present generation, and hereafter. This is how it would read:

15. “The enumeration of certain rights shall not be construed to (deny) •declare untrue; to prevent from receiving or obtaining that which might have been received or obtained by right; to disallow a thing from being realized which would otherwise be received” OR (disparage) “lower in standing or position of authority; or degrade; or reduce or diminish; or

lessen; or depreciate; or do away with altogether or to any degree whatsoever - directly or indirectly” (others) “the other rights not specifically referred to herein, but still considered to be unalienable or else held on to, in addition to or also including the (enumerated) numbered and established rights herein,• RETAINED by THE people.”

16. The word “disparage” compacts quite a power of legal discernment as we begin to get deeper into it. And so we begin to understand that so many things that our governments have done today, or done away with, were never supposed to have been done or done away with, but were done so anyway, because the People were Denied Their Right to study and determine the meaning of the Constitution, at the local (or Republican) jury and grand jury level, Denied, UnLawfully, by Chief Justice John Marshall in the 1833 case of Barron v. Baltimore. This denial of the rights under the Ninth Amendment, the Right to the Same Rights that the people of that First Generation enjoyed, and “retained,” Did Not, irrespective of Barron v. Baltimore, by way of any Constitutional Amendment to the Constitution, Do Away With - by the end of that First Generation – Those Same Rights First and Last Retained Rights, which Retained Rights still exist as Retained for the People, and for the governments of the Several States, to this current date.

17. In understanding that, this must be also understood as to the concept of the First Generation’s retaining of those rights, that it did not disparage or deny to successive generations a Right to a change of Rights by way of Amendment Due Process; but only applies to such issues that were not thereafter changed by way of an Amendment, lawfully ratified. So, for example, the original lack of the women’s right to vote, amended by the Nineteenth Amendment, is not a “continued right retained” under the Ninth Amendment, because it had an Amendment established under Article V of the proposed Constitution that incorporated its legal purpose into the proposed Constitution along with the rest of the other Amendments contained in the proposed Constitution.

18. However, this also means that everything else, by way of practices or customs that came under common law, and nationally accepted mores (pronounced more-rays), and unchallenged social rights, or social rights that were not moved against as a matter of Constitution[al] law, along with the practice of moral law incorporated as a part of the common law, were those rights that were retained by that said First Generation, and were, and are, by way of the Ninth Amendment's non "disparaging" force of unalienable right, the same rights that we, all, should still have to this very day.

19. The Ninth Amendment, through its specific and carefully defined wording constitutes a legal will and therefore an Inheritance Factor that the entire Constitution be binding as a matter of legal and unalienable rights unto and upon all successive generations, and carries with it all of the unalienable rights and powers that were retained as established by The First Generation. All of the rights and powers of The First Generation belong to each of us, without diminishment or right to be tainted by government.

20. On an unalienable rights basis, it is correct to say, Nothing Has Changed. That is, all of the rights of George Washington, Thomas Jefferson, James Madison, Benjamin Franklin, Sir Patrick Henry, John Hancock, Nathan Hale, Paul Revere, Alexander Hamilton, and so forth, still reside in us, in spirit at the least, today. Except for the Amendments that have been lawfully passed since that time, we, the people, in or out of the courts, still have in us all, each of us, those same rights to the same great spirit that made us what we became as a great nation thereafter. **The Ninth Amendment has preserved all that we ever were unto each of us in these current days.** Each, a Jefferson, Madison, a Washington, a Franklin, and so on.

22. All rights that were retained in law, in religious rights, in moral rights, in freedom rights, in common rights, in common law rights, and social standards rights, by that First Generation, the people of the United States and of the Several States thereof have the same inherited right to,

to this very day, and will continue to do so until or unless the Ninth Amendment is repealed, if ever.

23. Stated correctly, with only a particular variance thereto, by 1850's attorney Lysander Spooner, that a contract cannot be written and made binding beyond the generation for whom such a contract might be written, we are compelled to know and realize that the Ninth Amendment's Power of Retaining went to *that* First Generation for whom it was prescribed.

24. Existing as the Power of Preservation of the Original "Status Quo," or the Rights of the People to not be diminished, denied, altered, modified, changed, lessened, degraded, reduced, or depreciated, either directly or indirectly, without an Amendment to the Constitution itself for doing so, based upon what the First Generation for whom the Constitution's Bill of Rights, along with the Constitution itself, was first written, we find that it has specific applicability for the Power to correct what has gone astray in government, both State and United States, else such greater Powers as belong solely to the People be disturbed, and such legal processes as are necessary for the correction of such offenses, if any, be made an exigent power upon which the People's juries, as triers of fact, be made to depend for such appropriate cases as might be brought before them.

25. By example as to the manner in which the Ninth Amendment's Power for Constraint for Depreciation or Alteration or Denial of Rights works, we examine three conditions that were and are preserved, and restored by right, under it.

- 1) [1] Where any Case shall proceed as directly under the Constitution itself as to any Constitution[al] question or concern for error, as provided for in Article III, Section 2, Clause 1, Phrase 1 (Extended Power 1) thereof, **denying altogether any use** of the unConstitution[al] "Civil Rights Act of 1866," as

codified as Title 42, U.S. Code, Section 1983, or any other similar U.S. Code procedure so provided for;

[2] While not waiving any actual right against the same condition that came to exist, 1871 and thereafter, recognizing that the International Bar Association existent in the United States in the year of 1791 having been displaced, for whatever reason, from out of the United States by about 1825 and thereafter;

[3] And there being no other Bar association in the United States until after 1871, beyond the time of the lives of the First Generation itself, the Ninth Amendment Power and subsequent Right to the same Preserved Conditions for Rights as were enjoyed by the People of the several States of the Union of the United States, from 1865 back to 1791, and before, Supercedes All Claims To alleged Rights for any existence whatsoever of any Bar association, or its members, in any Case brought before a court under the utilization of a Pre-1866 Case Procedure;

[4] Such Procedure having the Right for the Ninth Amendment's Power to Restore and Enforce It, there being no other power in the Constitution that opposes it. This shall not be construed to deny any attorney or lawyer to appear on behalf of his or her client who shall affirm before the court that said attorney or lawyer represents no Bar association anywhere as a member thereof, but represents that said attorney or lawyer has had sufficient formal training in the knowledge of law to be held out to his/her client as attorney or lawyer at law.

- 2) [1] The People's Rights as to where they did and did not live as was in fact the case in the year of 1944, and back to 1791, being prior to the date of January 1, 1945 when the UnLawful Act by Congress during 1944 became officially codified and applicable as alleged law, the People's Rights to not be construed by the

United States central government was changed, now being subject to the laws of the Congress directly, having both their freedoms and the right not to be imprisoned for any alleged violation of the Congress' pass laws proposed as extending out into the States, such Rights being lessened, depreciated, and altered, both directly and indirectly;

[2] In violation of the Ninth Amendment's Rights that the First Generation who made the Ninth Amendment itself, by the end thereof, had Retained for all of their subsequent generations, to live firmly in their true locations in cities and/or counties, in States, and not elsewhere, and not to have themselves superimposed into living as though existing in Dual Locations for such vile purposes as the United States Congress, the President, the supreme Court itself, and other equally vile world politicians and powers might conjure up against the common People of this Land, treasured as a great Land before all the world.

- 3) It is the point of change of Rights of the People in Common that were held before (**as for example, on December 31, 1944**), even to the slightest degree, where and when the violation of the Ninth Amendment occurs. It has been said of this point, that the Will and Spirit and Power of each and every one of the Founding Fathers and Mothers for Freedom live in each and every one of us because of the Ninth Amendment's Power in the Retainment of All Rights that were held as common and understood among them, forward, except that there be or have been an Amendment to the Constitution only, duly established, that determined that they not be.
- 4) The Fourteenth Amendment did not, in truthful fact, Amend the Bill of Rights as stated in the U.S. supreme Court's 1937 Palko v. Connecticut case (see The Bill of Rights TEST), in order to overcome the unlawful United States supreme Court "ruling" in

Barron v. Baltimore, 1833 (see The Bill of Rights TEST).
Setting aside the indisputable Violation of the Constitution in the 1833 case, the said supreme Court NOT being “the People,” and therefore and thereby Not having a right at all to change anything Not changed by the People themselves – as was their Rights under a Republican Form of Government – the Ninth Amendment’s Power to Retain Original Rights therefore *becomes* the Power to Restore those Same Rights.

- 5) Having the Power to Restore Rights that were never changed or denied by the People, not the courts, themselves, the Ninth Amendment’s Rights of the First Generation as Retained by the end of the same becomes Paramount in Power for preserving, as with the Inherent Right of Contempt of Constitution belonging to the People and not the courts or other branches of government, themselves.

26. Since the principle of either someone or a thing being Retained must always exist in time, the **Power of the Ninth Amendment** must go to things, persons, places, in time, fact, and law, which law includes the Law of the Constitution itself.

27. As the most Powerful of all of the Amendments, since it represents the Will and Intents of the proposed Constitution’s Framers unto all generations, the Ninth Amendment takes the entire Constitution, both before the passage of the Bill of Rights, and to all times thereafter, and binds it to every other generation that might come to exist at any time thereafter, providing **all** other generations those same Rights that the People within their respective societies and governments preserved by retaining them, existing within that First Generation, by the end time, as a recognizable generation, thereof.

28. Only a lawfully established Amendment to the Constitution may change the conditions as were Retained for the people of all subsequent generations by the First Generation itself. This means that if it were at

any time determined that an Amendment to the Constitution was found to be not lawfully ratified but was still included therein, or else an Amendment lawfully ratified was not, for any reason, included as it should have been, then it is by the **Power of the Ninth Amendment** itself that such errors for Amendment be corrected, and the will of the People of the First Generation be restored.

29. This further means that the conditions that existed as to rights of any person, whether or not recognized as any attorney at law or lawyer, or else as counsel being neither of the two, was not changed, in any right for detail, by any act, whether or not by the Congress or any State or local government itself, commencing in the year of 1871, or thereafter, and no claim for any Bar association, whether or not as an alleged “American” edition or as any State local association or chapter, is to be lawfully or legally sustained by the Power of the Ninth Amendment itself, but is to be denied all existence, and so particular is existent as a demand for Direct Remedy against the people so defrauded by the same, as within, without exception, this Pre-1866 Case Arising Under the Constitution for the United States, and under the direct jurisdiction thereunder, and not otherwise, accordingly.

The Day Before TEST, ALSO Being:

The Day Before – Not To Be Disparaged TEST, ALSO Being;
The Day Before – Not To Be Diminished TEST.

30. The underlined terms above being essentially interchangeable, this, The Ninth Amendment TEST incorporates The Day Before TEST, which is based upon the due process application of The Ninth Amendment TEST itself.

31. The Ninth Amendment TEST refutes that claim by Warren, Mr. C. J., of the United States supreme Court stated in 1959 about the Constitution not being, as stated at the time, “Frozen” in 18th century

fairness, for as we look through such an idea through the lens of The Ninth Amendment TEST with its The Day Before TEST, we readily discern the error of such a conclusion as that, for The Ninth Amendment TEST, straightforward, Constrains Absolutely any claim for an alleged right to disparage, or diminish, the rights of the people – at all, or whatsoever, to even the least degree, from one day to the next day – that were “retained” for them, common people, by that First Generation to whom the proposed Constitution itself was first written for.

32. Consequently, where we find such an Act as was codified under Title 28, U.S.C., Sections 81 – 131, to have extended any claim at all as its being made applicable to the people of the Several States, then we ask the Question, “What *were* the Rights of the People on December 31, 1944? Was there to be *any* discernable difference in their existing Rights on that particular date from those Rights that would start to exist, to any degree whatever, on January 1, 1945?” And if we find that the Answer to such question is “yes,” for even the smallest of reasons, showing a change of “retained” Right(s) from the one day to the next, even if the “next day’s changes was not to be immediately discernable as to its eventual diminishment of rights, effectuated without an Amendment to the proposed Constitution to that end, then we are to discern that the Ninth Amendment has been **VIOLATED** Entirely by such alleged law (it is alleged law if such law is determined to be in violation of the actual or expressed wording of the proposed Constitution itself).

33. The Ninth Amendment, as The Ninth Amendment TEST reveals, was to have been rendered to all generations, successive to one another, a real stability in law, not just a “sense” of one, maintaining a level society in which people could grow up and raise their own children under like stable conditions – in the law – as they themselves were able to rely upon (not to be confused with the matter of scientific and literary progress moving forever forward, nor a “Guaranteed Republican Form of Government which, given time and opportunity, would have done away with a number of society’s most decadent social ills), and all legal theories that conflict with The Ninth Amendment’s Doctrine of the First

Generation requiring that which was “retained” by that same Generation for whom the proposed Constitution was actually, or indisputably, directly, Written, be passed, without change or diminishment, on to each subsequent generation, thereby “freezing” or extending that Same Fairness to all of them, no matter the generation, whether to the 2000’s or the 3000’s or the 4000s or the 5000’s, and so on and so forth, for as long as the nation might duly survive thereunto.

34. Viewing The Ninth Amendment through the lens of The Ninth Amendment TEST, we come to realize that there have been numerous mistakes made, but not so numerous that they can’t all, one day be fixed, for it requires only the desire and efforts to do them; the matter of time, given such desire and efforts to make those exigently needed Restorations of Rights, long overdue, to the People, will take care of itself.

The Ninth Amendment TEST; The First Generation TEST

I. NO Law, whether of any State of the Several States or of the proposed United States central government, shall be considered a law of legitimate authority and power under the Power of the Ninth Amendment, what the same shall propose to invoke a different effect of rights from one day to the next that are different as to the rights of the citizens that were First Retained, EXCEPT there first be found an Amendment ordained and duly passed by and from within the Several States, Granting Expressly any such change proposed or engaged in from that one day on which the people enjoyed those certain retained rights to the next day on which they no longer enjoyed those certain retained rights, any claim by any legislature or any court, no matter the court, NotWithStanding.

II. There can be no compromise on this point, and it matters not how long the UnLawful condition that has existed and persisted has been “gotten away with;” the Time Has Come To Begin To Reverse The Ill and Illegal Effects of those Misunderstanding Judges and Legislators Who Have, In Effect, Denied The Ninth Amendment Its TRUE Power

and Authority OVER Them, and To Restore To The People THAT Which Was Taken From Them by Either Bad or Errant Acting Members of Government, UNTIL All That Was Done Shall Be UNDONE Forevermore.

Cease To Ignore The LAW; DISOBEY The Frauds, And CEASE The Impostering, No Matter The Time Elapsed From The Beginning Of Its Being Done So.

DULY SUBMITTED AND INCORPORATED;

This TEST and Exhibit Is SEALED, And INCORPORATED, Against That Which Is Found To Be Untrue In The Constitution For The United States, And For That Which Is True In The Said Same Constitution, Into This Case, Now *ARISING*, Before The Lawful Courts of the Several States of the Union of “them,” And Not Lawfully Concurrently Elsewhere.