

Just like any other part of the Constitution we must know the history and intent behind the drafting of 4<sup>th</sup> Amendment to properly understand it.

**“I HAVE BUT ONE LAMP BY WHICH MY FEET ARE GUIDED; AND THAT IS THE LAMP OF EXPERIENCE. I KNOW OF NO WAY OF JUDGING OF THE FUTURE BUT BY THE PAST.” ~ PATRICK HENRY MARCH 23, 1775**



The purpose of the Constitution and the Bill of Rights is to secure the Blessings of liberty for present and future generations.

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*“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.”*

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- The principles of the 4<sup>th</sup> Amendment were codified in British Liberty charters beginning with the Magna Carta of 1215.
- Systematically developed and further solidified for over 500 years.

The abuse by British agents came to a head in the American Colonies.

Navigation Act of 1760 mandated that the American colonists purchase only certain goods approved by the British government and supplied by British ships.

Parliament began assessing consumption taxes on these mandated purchases.

Resistance was not simply about money and taxes

**The Stamp Act** violated every Right to property that exists by natural law and every right to defend that property pursuant to natural law through their government’s unlawful seizing of their property. Samuel Adams wrote in 1772 about the Natural Rights of the Colonists:



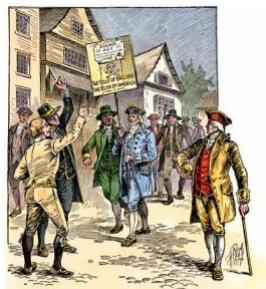
“AMONG THE NATURAL RIGHTS OF THE COLONISTS ARE THESE: FIRST, A RIGHT TO LIFE; SECONDLY, TO LIBERTY; THIRDLY, TO PROPERTY; TOGETHER WITH THE RIGHT TO SUPPORT AND DEFEND THEM IN THE BEST MANNER THEY CAN. THESE ARE EVIDENT BRANCHES OF, RATHER THAN DEDUCTIONS FROM, THE DUTY OF SELF-PRESERVATION, COMMONLY CALLED THE FIRST LAW OF NATURE.”

The American British Colonists were raised with the understanding that ownership and defense of their property was a natural right, **not one bestowed upon them by king or parliament.**

The struggle was further enflamed by Parliament’s passing of the **Writs of Assistance** law in 1760.

The colonists’ boycotts and defiance of parliament’s laws prompted the Writs of Assistance (hand-written or warrantless searches.)

Parliament claimed that the dissenters refusing to purchase the mandated items were committing acts of treason, and were a threat to the well being of the kingdom. It was therefore necessary, parliament asserted, to temporarily set aside certain restrictions on government power, in order to enforce the law and stop the criminals and it was claimed that if “you weren’t a criminal, then you should not be concerned.”





James Otis, Jr. was a top attorney in Boston 1760. Having graduated Harvard he became Advocate General of the Admiralty Court. Despite his struggles with mental health issues, Otis quickly became a “whistleblower” in defending colonial merchants against the writs of assistance and writing pamphlets to inform the colonists of government abuse. Declaring that:

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*“The colonists are by the law of nature freeborn, as indeed all men are, white or black.”— James Otis, Rights of the British Colonies, 1764*

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Otis argued 5 hours in the Massachusetts State House against the Writs. John Adams described the scene years later:

**“BUT OTIS WAS A FLAME OF FIRE! WITH A PROMPTITUDE OF CLASSICAL ALLUSIONS, A DEPTH OF RESEARCH, A RAPID SUMMARY OF HISTORICAL EVENTS AND DATES, A PROFESSION OF LEGAL AUTHORITIES, A PROPHETIC GLARE OF HIS EYES INTO THE FUTURE, AND A RAPID TORRENT OF IMPETUOUS ELOQUENCE, HE HURRIED AWAY ALL BEFORE HIM.**

**AMERICAN INDEPENDENCE WAS THEN AND THERE BORN. THE SEEDS OF PATRIOTS AND HEROES – TO DEFEND THE VIGOROUS YOUTH- WERE THEN AND THERE SOWN. EVERY MAN OF AN [IMMENSE] CROWDED AUDIENCE APPEARED TO ME TO GO AWAY, AS I DID, READY TO TAKE UP ARMS AGAINST WRITTS OF ASSISTANTS. THEN AND THERE WAS THE FIRST SCENE OF THE FIRST ACT OF OPPOSITION TO THE ARBITRARY CLAIMS OF GREAT BRITAIN – THEN ARE THERE THE CHILD OF INDEPENDENCE WAS BORN.**

**IN FIFTEEN YEARS, NAMELY IN 1776, THAT CHILD GREW UP TO MANHOOD AND DECLARED HIMSELF FREE.”**

Because of these events, James Otis was called the midwife to Liberty.

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*“I HAVE BEEN YOUNG AND NOW I AM OLD, AND I SOLEMNLY SAY I HAVE NEVER KNOWN A MAN WHOSE LOVE OF COUNTRY WAS MORE ARDENT OR SINCERE, NEVER ONE WHO SUFFERED SO MUCH, NEVER ONE WHOSE SERVICE FOR ANY 10 YEARS OF HIS LIFE WERE SO IMPORTANT AND ESSENTIAL TO THE CAUSE OF HIS COUNTRY AS THOSE OF MR. OTIS FROM 1760 TO 1770.” – JOHN ADAMS*

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*“That is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty, is violated by arbitrary seizures of one class of citizens for the service of the rest. A magistrate issuing his warrants to a press gang, would be in his proper functions in Turkey or Indostan, under appellations proverbial of the most complete despotism.”*

*“Government is instituted to protect property of every sort; as well that which lies in the various rights of individuals, as that which the term particularly expresses. This being the end of government, that alone is a just government, which impartially secures to every man, whatever is his own.”- James Madison*

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Otis made this point when he wrote:

**“THE END OF GOVERNMENT BEING THE GOOD OF MANKIND, POINTS OUT ITS GREAT DUTIES: IT IS ABOVE ALL THINGS TO PROVIDE FOR THE SECURITY, THE QUIET, AND HAPPY ENJOYMENT OF LIFE, LIBERTY, AND PROPERTY.”**

For the designers of our Constitutional Republic, the right to be secure in the possession and defense of their property is a natural right, one that does not come from the government, but comes from the nature of our existence, our creation. Remember what Samuel Adams wrote in 1772:

**“AMONG THE NATURAL RIGHTS OF THE COLONISTS ARE THESE: FIRST: A RIGHT TO LIFE; SECONDLY, TO LIBERTY; THIRDLY, TO PROPERTY; TOGETHER WITH THE RIGHT TO SUPPORT AND DEFEND THEM IN THE BEST MANNER THEY CAN. THESE ARE EVIDENT BRANCHES OF, RATHER THAN DEDUCTIONS FROM, THE DUTY OF SELF-PRESERVATION, COMMONLY CALLED THE FIRST LAW OF NATURE.”**

That third right, the right to property, is no less an inherent right than the right to life, liberty, and defense. All these rights stem from the first law of nature, the duty of self-preservation. Our founders knew all too well, that the greatest threat to liberty was not the rogue bandit or a gang of thieves, but those to whom the people voluntarily give power only to see them abuse that trust to the violation of the rights of the people. This is the situation they found themselves in with the Writts of 1760. A government whose sole purpose was to defend the liberties of the people had turned on that purpose and had become the enemy of Liberty.

The Stamp Act became the symbol of the violation of the property rights of all British citizens. The colonists knew the agents enforcing those laws were in violation of their duty to secure the Rights of the people.

On February 27, 1776, Richard Henry Lee published the Westmoreland Resolves, a resolution of the people of Westmoreland and Leedstown regarding the violation of the people's rights by the enforcement of the Stamp Act.

**“AS WE KNOW IT TO BE THE BIRTHRIGHT PRIVILEGE OF EVERY BRITISH SUBJECT (AND OF THE PEOPLE OF VIRGINIA AS BEING SUCH) FOUNDED ON REASON, LAW, AND COMPACT; THAT HE CANNOT BE LEGALLY TRIED, BUT BY HIS PEERS; THAT HE CANNOT BE TAXED, BUT BY CONSENT OF A PARLIAMENT, IN WHICH HE IS REPRESENTED BY PERSONS CHOSEN BY THE PEOPLE, AND WHO THEMSELVES PAY A PART OF THE TAX THEY IMPOSE ON OTHERS.”**

Lee continues:

**“AS THE STAMP ACT DOES ABSOLUTELY DIRECT THE PROPERTY OF THE PEOPLE TO BE TAKEN FROM THEM WITHOUT THEIR CONSENT EXPRESSED BY THEIR REPRESENTATIVES AND AS IN MANY CASES IT DEPRIVES THE BRITISH AMERICAN SUBJECT OF HIS RIGHT TO TRIAL BY JURY;”**

Every British citizen was guaranteed a security of their property and the requirement of the government to follow the proper laws of due process before they had the legal authority to take personal property.

Enforcement of these laws of taxation and the collection of these unlawful taxes was seen as criminal theft of property by the government.

**“...WE DO DETERMINE, AT EVERY HAZARD, AND PAYING NO REGARD TO DANGER OR TO DEATH, WE WILL EXERT EVERY FACULTY, TO PREVENT THE EXECUTION OF THE SAID STAMP ACT IN ANY INSTANCE WHATSOEVER WITHIN THIS COLONY. AND EVERY ABANDONED WRETCH, WHO SHALL BE SO LOST TO VIRTUE AND PUBLIC GOOD, AS WICKEDLY TO CONTRIBUTE TO THE INTRODUCTION OR FIXTURE OF THE STAMP ACT IN THIS COLONY, BY USING STAMPT PAPER, OR BY ANY OTHER MEANS, WE WILL, WITH THE UTMOST EXPEDITION, CONVINCED ALL SUCH PROFLIGATES THAT IMMEDIATE DANGER AND DISGRACE SHALL ATTEND THEIR PROSTITUTE PURPOSES.”**

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*“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.”*

*“This term in its particular application means “that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual. In its larger and juster meaning, it embraces everything to which a man may attach a value and have a right...In the former sense, a man's land, or merchandize, or money is called his property. In the latter sense, a man has a property in his opinions and the free communication of them. He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them. He has a property very dear to him in the safety and liberty of his person. He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.” -1792, James Madison essay entitled Property*

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The reasonableness standard, as the courts have defined, is what “a reasonable person would find reasonable under reasonable circumstances.”

The 4<sup>th</sup> Amendment establishes the precise criteria of an unreasonable search a seizure. The reasonable search and seizure is one where there is a Warrant based upon probable cause, supported by Oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized.” Every other search and seizure is an unreasonable search and seizure!

All 5 elements must be present at the same time for the search and seizure to be reasonable.



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“Exceptions” that strip any of the requirements of the 4<sup>th</sup> amendment are clearly unconstitutional.

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*For any part or branch of the government to set aside portions of the 4<sup>th</sup> amendment is for that part of government to set itself above the Constitution which defines it and sets it boundaries.*

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Portions of the Patriot Act and the NDAA are **gross constitutional assaults** in their setting aside of 4<sup>th</sup> amendment protections.

The same is true of :

- the government reading our emails, text messages,
- listening to our phone conversations
- Cameras on the roads documenting our passengers and our travel without due process.
- Civil asset forfeiture, which confiscates property without due process.
- Constitution free zones on our borders
- Free Speech Zones
- Stop and Frisk

**ALL OF THESE THINGS remove or bypass a citizen's right to due process.**

Exigent circumstances, roadside check points, national security, officer safety, are EXPANSIONS of government power; written by government paid lawyers, allowed by government paid judges, and used by government paid agents, all justified by safety, security, law enforcement, or the war on drugs.

Trading Liberty to keep us safe is the primary role of government.

**The primary role of government is NOT national security**, it is, as the Constitution clearly mandates, **Liberty Security**, as in to “Preserve the Blessings of Liberty to ourselves and our Posterity.”

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*“Necessity is the plea for every infringement of freedom. It is the argument of tyrants. It is the creed of slaves.”*

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