

Behind
the
Bill of Rights

TIMELESS PRINCIPLES THAT MAKE IT TICK

BY BILL NORTON AND JEREMY NELSON

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Introduction

Behind the Bill of Rights was written to present the principles upon which the Bill of Rights was created. Principles are set forth to give guidance. Understanding the fundamental principles behind the Bill of Rights will give the reader a profound appreciation for the first ten amendments to the Constitution and a greater ability to protect their own rights.

During the founding era, Americans sought to evolve a better society based on the principles of natural law and thereby establish good government. Natural law is the natural consequence of action—e.g., what goes up must come down, for every action there is an equal and opposite reaction, etc. There are natural laws for science, mathematics, good government, human relations, and more. The Founders sought to discover natural law principles for an advanced society. Their attempts were declared in the Declaration of Independence and codified in the national and state constitutions.

Before we get into what natural law is in relation to the Bill of Rights, we will clarify what it is not. There is a relatively modern alternate definition that natural law is a moral or religious code. Based on that definition, natural law is subject to opinion, not reason, and may or may not be observable and measurable. This modern definition is not the definition used by the Founders and is therefore not relevant to this discussion of the Bill of Rights.

Natural law and morality may overlap from time to time because many ideas of morality are based on natural law, but natural law is not based on morality. Natural law is based on reason. It applies to everything and is unchanging.

Natural law can be cruel and brutal. It is natural for the lion to kill the lamb. It is natural for the strong to devour the weak. It is natural for the conqueror to enslave the conquered. It is natural for rulers to oppress the ruled. All these natural law principles make for a primitive society.

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In 1776, Americans set out to establish a society in which the lamb could lie down with the lion. They wanted to discover and establish sophisticated rather than primitive natural laws. The Bill of Rights was a triumphant accomplishment in their endeavor.

Behind the Bill of Rights dives into the sophisticated natural law principles that are behind the first ten amendments to the U.S. Constitution. They are the principles that make each amendment tick. Natural law principles are what give the Bill of Rights authority above any ruler, government official, law, constitution, or even the Bill of Rights itself. They existed before human laws. These foundational laws of nature make writing our laws possible in the first place. The inherent authority of natural law principles provides the power to make, execute, and adjudicate laws, so long as they are in agreement with those natural law principles.

Primitive natural law is rarely good policy for human relations. The primitive natural law of survival of the fittest will always result in a bloody relationship between the lion and the lamb. It is because the law says the “fittest” is superior over all others. Once the ideas are introduced that all are created equal, all have equal rights, and all are protected by the law, the relationship changes. The lion and the lamb are equal. Enemies can find common ground in the law. In doing so, they can become friends and pursue a nobler course.

When a society is established based on sophisticated natural law, it is the right of that society to preserve itself. It is that people’s right to defend themselves against those who would return them to primitive natural law. This is done through criminal codes to ward off the criminal; an army, including the militia, to ward off the conqueror; and a well-defined, limited government to ward off the tyrant.

As a citizen in a sophisticated natural-law society, self-preservation is not only a right, but a duty as well. If the citizen expects to retain their rights in that society, they have a duty to protect those same rights for others. They have a duty to prevent that society from devolving to primitive natural law.

The Bill of Rights is sophisticated natural law in written form. It provides a societal foundation that protects its citizens from those who would revert our society to primitive natural law—especially the tyrant. Government is a necessary evil to ward off the criminal and the conqueror, but if left unchecked, it too will revert a society to primitive natural law.

The doctrines of the divine right of kings, collectivism, anarchy, Plato’s “ideal society,” totalitarianism, aristocracy, democracy, socialism, communism, and many other forms of government are based on primitive natural law. They do little to protect the rights of individuals. In fact, they have a history of abusing unalienable rights far more than protecting them.

The Constitution of the United States established a mixed form of government. It mixes many of these primitive forms of government in an effort to keep the good and remove the bad. The Bill of Rights supports that effort by defining the foundation upon which the Constitution rests. *Behind the Bill of Rights* dissects that foundation to determine what principles give it its strength.

This book is not intended to provide legal advice in regard to your rights in the Bill of Rights. Many of our modern laws have strayed from the original intent and meaning behind the Bill of Rights. Some points made herein may not be applicable to current judicial interpretations of your rights.

The book is also not intended to be a comprehensive commentary on the modern application of the various provisions in the Bill of Rights. Like the wandering legal interpretations, modern opinions about individual rights vary dramatically. The Bill of Rights is all too often looked at through a modern lens. That lens sometimes presents the Bill of Rights as a nonsensical kaleidoscope of contrasting colorful opinions that prevent the viewer from seeing true principles beyond its hypnotic effects.

A few modern and legal examples are used from time to time to illustrate a point. For the most part, this book is intended to reveal the most fundamental underlying natural law principles upon which

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each provision in the Bill of Rights rests. As such, the ideas presented are the ideal application of each principle, which, unfortunately, is not always the reality of how each amendment is interpreted and applied in modern society—which is why this book is needed in the first place.