

# Our Oath of Office A Solemn Promise

By JONATHAN L. RUDD, J.D.

**E**arly in the morning, on their first full day at the FBI Academy, 50 new-agent trainees, dressed in conservative suits and more than a little anxious about their new careers, stand as instructed by the assistant director of the FBI and raise their right hands. In unison, the trainees repeat the following words as they are sworn in as employees of the federal government:

I [name] do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

At the end of their academy training, and as part of the official graduation ceremony,

these same new-agent trainees once again will stand, raise their right hands, and repeat the same oath. This time, however, the oath will be administered by the director of the FBI, and the trainees will be sworn in as special agents of the Federal Bureau of Investigation.<sup>1</sup> Similar types of ceremonies are conducted in every state, by every law enforcement agency, for every officer across the country. And, each officer promises to do one fundamentally important thing—support and defend the Constitution of the United States.

All too often in our culture, we participate in ceremonies

and follow instructions without taking the time to contemplate and understand the meaning and significance of our actions. This article attempts to shed some light on the purpose and history of the oath and to further enhance our understanding of the Constitution that we as law enforcement officers solemnly swear to uphold.

## Origins of the Oath

The idea of taking an oath in support of a government, ruler, or cause was not new to the founding fathers. The practice stems from ancient times and was common in England and in the American colonies.



“During the American Revolution, General George Washington required all officers to subscribe to an oath renouncing any allegiance to King George III and pledging their fidelity to the United States.”<sup>2</sup>

When asked where the requirement that all law enforcement officers take an oath to support and defend the Constitution comes from, some have speculated that it is linked to the presidential oath found in the Constitution.<sup>3</sup> They reason that because the president is the chief executive and law enforcement officers are generally seen as members of the executive branch of government, the requirement to take an oath is inferred from Article II of the Constitution. Others assume that it comes from statutes enacted by Congress and the various state legislatures. Most

are surprised to learn that the requirement to take an oath is found in the Constitution itself. Article VI mandates that both federal and state officers of all three branches of government (legislative, executive, and judicial) take an oath to support the Constitution of the United States.

The Senators and Representatives [...], and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution[...].<sup>4</sup>

### Wording of the Oath

Unlike the presidential oath, the particular wording of this oath is not delineated in the Constitution, merely the

requirement that an oath be taken. As suspected, the wording of the oath has been formulated by the federal and state legislatures.

The significance the founding generation placed on the requirement to take an oath as mandated in Article VI is highlighted by the fact that the very first act of the first Congress of the United States was to establish a simple 14-word oath: “I do solemnly swear (or affirm) that I will support the Constitution of the United States.”<sup>5</sup>

From the founding of our new government until the Civil War era, this simple oath adequately served its intended purpose. However, in April 1861, in light of the conflicts surrounding the Civil War, President Abraham Lincoln demanded that all federal, executive branch employees take an expanded oath in support of the Union. Shortly thereafter, at an emergency session of Congress, legislation was enacted requiring all employees to take the expanded oath. By the end of the year, Congress had revised the expanded oath and added a new section, creating what came to be known as the Ironclad Test Oath or Test Oath.<sup>6</sup> “The war-inspired Test Oath, signed into law on July 2, 1862, required ‘every person elected or appointed to any office...under the Government of the United



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States...excepting the President of the United States' to swear or affirm that they had never previously engaged in criminal or disloyal conduct.”<sup>7</sup>

As early as 1868, Congress created an alternative oath for individuals unable to take the Test Oath “on account of their participation in the late rebellion.”<sup>8</sup> Nearly two decades later, Congress repealed the Test Oath and mandated the federal oath of office we have today.<sup>9</sup> This oath, taken by most federal employees, can be found in Title 5, U.S. Code, Section 3331.<sup>10</sup>

State officers, on the other hand, are required by federal statute to take the original oath first promulgated in 1789.<sup>11</sup> In addition to this requirement, state constitutions and legislatures have generally added words and sentiments appropriate to their respective states. One obvious addition is the dual requirement to support and defend not only the federal Constitution but also the constitution and laws of the individual state.<sup>12</sup>

### Meaning of the Oath

At the core of each of these oaths, whether the federal oath in its current form or the various state oaths with their additional obligations, lies the simple language put forth by our first Congress: “I do solemnly swear that I will support and defend

the Constitution of the United States.”

A brief analysis of these words and their meanings may help to solidify their significance. “I...”—an individual, person, citizen, one member of the whole, officer; “do”—perform, accomplish, act, carry out, complete, achieve, execute; “solemnly”—somerly, gravely, seriously, earnestly, sincerely, firmly, fervently, with thought

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and ceremony; “swear (or affirm)<sup>13</sup>”—vow, pledge, promise, guarantee; “that I will”—a positive phrase confirming present and future action, momentum, determination, resolve, responsibility, willpower, and intention; “support”—uphold, bear, carry, sustain, maintain; “and defend”—protect, guard, preserve, secure, shield, look after; “the Constitution of the United States.”

### The Constitution of the United States

It is significant that we take an oath to support and defend the Constitution and not an individual leader, ruler, office, or entity. This is true for the simple reason that the Constitution is based on lasting principles of sound government that provide balance, stability, and consistency through time. A government based on individuals—who are inconsistent, fallible, and often prone to error—too easily leads to tyranny on the one extreme or anarchy on the other. The founding fathers sought to avoid these extremes and create a balanced government based on constitutional principles.

The American colonists were all too familiar with the harmful effects of unbalanced government and oaths to individual rulers. For example, the English were required to swear loyalty to the crown, and many of the early colonial documents commanded oaths of allegiance to the king.<sup>14</sup> The founding fathers saw that such a system was detrimental to the continued liberties of a free people. A study of both ancient and modern history illustrates this point. One fairly recent example can be seen in the oaths of Nazi Germany. On August 19, 1934, 90 percent of Germany voted for Hitler to assume complete power. The very next day, Hitler’s cabinet decreed the Law

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On the Allegiance of Civil Servants and Soldiers of the Armed Forces. This law abolished all former oaths and required that all soldiers and public servants declare an oath of unquestioned obedience to “Adolf Hitler, Fuhrer of the German Reich and people.”<sup>15</sup> Although many of the officers in Hitler’s regime came to realize the error of his plans, they were reluctant to stop him because of the oath of loyalty they had taken to the Fuhrer.<sup>16</sup>

The founding fathers diligently sought to avoid the mistakes of other nations and, for the first time in history, form a balanced government where freedom could reign. To appreciate this ideal, we first must acknowledge what some have called the preface or architectural blueprint to the Constitution—the Declaration of Independence.<sup>17</sup> “While the Declaration of Independence, as promulgated on July 4, 1776, did not bring this nation into existence or establish the government of the United States of America, it magnificently enunciated the fundamental principles of republican or constitutional government—principals that are not stated explicitly in the Constitution itself.”<sup>18</sup> The essence of these fundamental principles were memorialized when Thomas Jefferson penned the famous words

We hold these truths to be self-evident, that all men are created equal, that they are

endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed....<sup>19</sup>

**“  
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Once the colonists declared their independence from Great Britain, they knew they needed a form of government that would keep the 13 colonies united. However, many were skeptical of creating a central government that would destroy their independence as separate and sovereign states. The result was the creation of the Articles of Confederation and Perpetual Union, which lasted only 7 years. This document provided for a weak legislative body and no judicial or executive branch.

Although some have referred to the Articles of

Confederation as America’s first constitution, it never was given that status by the colonists. American colonists were familiar with, and placed great emphasis on, the supremacy of written constitutions. Immediately following the Declaration of Independence, in addition to creating the Articles of Confederation, 11 of the 13 colonies drafted and ratified state constitutions. The inferiority of the Articles of Confederation can be seen by the fact that “[m]ost of the new state constitutions included elaborate oaths that tied allegiance to and provided a summary of the basic constitutional principles animating American constitutionalism. There was no oath in the Articles of Confederation.”<sup>20</sup>

The Articles of Confederation provided the Federal Government with too little authority to maintain law, order and equality among the new states. So America’s best minds came together once again in Philadelphia, where they had declared their independence from Britain 11 years before, and hammered together a far better government for themselves, creating a Constitution that has served Americans well for more than 200 years now.<sup>21</sup>

The Constitution was not miraculously formulated by ideas invented by the founding fathers during the Constitutional



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Convention. To the contrary, in the years preceding the “Miracle at Philadelphia,” Thomas Jefferson, James Madison, Benjamin Franklin, Samuel Adams, John Adams, John Jay, Alexander Hamilton, George Wythe, James Wilson, and others made every effort to study and comprehend the nature and politics of truly free government.<sup>22</sup> During the Revolutionary War, John Adams wrote the following to his wife:

The science of government is my duty to study, more than all other sciences; the arts of legislation and administration and negotiation ought to take [the] place of, indeed to exclude, in manner, all other arts. I must study politics and war, that my sons may have liberty to study mathematics and philosophy. My sons ought to study mathematics and philosophy, geography, natural history and naval architecture, navigation, commerce, and agriculture, in order to give their children the right to study painting, poetry, music, architecture, statuary, tapestry, and porcelain.<sup>23</sup>

Based on these studies and the collective wisdom of these men, the Constitution our founding fathers created was an amazingly concise, yet comprehensive, document. Comprising a mere seven articles, it embodies the fundamental principles of popular

sovereignty, separation of powers, and federalism, allows for a process of amendment, and provides a system of checks and balances. A closer look at these principles and how they apply to law enforcement today may be instructive.



### **The Preamble and Popular Sovereignty**

It has been said that the Preamble sets forth the goals or purposes of the Constitution.<sup>24</sup> When read from the perspective of a law enforcement officer, the purposes described therein could be seen as a mission statement for today’s law enforcement community.

... in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity....

The opening and closing words of the Preamble—“We the people of the United States

[...] do ordain and establish this Constitution for the United States of America”—embrace the idea of “popular sovereignty,” a government ordained and established by the consent of the people. From the outset, then, we see that this new government was to be different from any government then in existence. It was not a monarchy where the rule of one could easily lead to tyranny; it was not an aristocracy where the rule of a privileged few could descend into oligarchy, nor was it even to be a pure democracy where mob rule could slip into anarchy.<sup>25</sup> The American dream was to be founded on a constitutional republic where elected representatives swear to uphold the Constitution as they serve at the will and by the consent of the people. This was something “[s]o rare that some historians maintain it has been accomplished only three times during all of human history: Old Testament Israel, the Golden Age of Greece, and the era of emergence of the United States of America.”<sup>26</sup>

### **Separation of Powers and Federalism**

The structure of the Constitution itself emphasizes the principle of separation of powers. Article I established the legislative branch with the power to make laws; Article II, the executive branch with the authority to enforce the laws;

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and Article III, the judicial branch with jurisdiction over legal disputes. “It is important to note that the Constitution in no way granted the federal courts the power of judicial review, or an ultimate interpretive power over the constitutional issues. Modern federal courts possess this huge power thanks to a long series of precedents beginning with the 1803 case of *Marbury v. Madison*.”<sup>27</sup> Under the doctrine of separation of powers, each branch of government specializes in its particular area of expertise with no one branch having ultimate power over the whole.

Another aspect of the separation of powers, which is of significance to law enforcement today, is the principle of federalism. Federalism is a legal and political system where the national or federal government shares power with the state governments while each maintains some degree of sovereignty.<sup>28</sup> The Constitution helps to delineate the roles of the federal government by spelling out, to some degree, its limited powers, which are outlined in the first three Articles. Section 10 of Article I also places specific, limited restrictions on the states; however, these restrictions actually serve to emphasize the powers reserved exclusively to the federal government (e.g., the power to make treaties with other nations). Article IV delineates a few fundamental

requirements incumbent upon state governments, as well as guaranteeing to each state a republican form of government. Other than the limited guidance given to the states, the Constitution does not direct the states on the establishment and functions of state governments. The idea is that there are certain limited activities the federal government is best situated to handle; there are other activities that are best left to the states; and still others best dealt with by counties, cities, families, and individuals.

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Under this system of government, the founding fathers realized that conflicts between state and federal jurisdiction would arise. Accordingly, in Article VI of the Constitution, they designated the Constitution itself and other federal laws as “the supreme Law of the Land.”<sup>29</sup> This clause (known as the supremacy clause) serves as a “conflict-of-laws rule

specifying that certain national acts take priority over any state acts that conflict with national law.”<sup>30</sup>

### **The Bill of Rights and the Fourteenth Amendment**

Although the federal government was intended to be a government of limited powers, there were many who feared the inevitable expansion of those powers, particularly in light of the supremacy clause. Without the promise of a Bill of Rights limiting the power of the federal government, the Constitution never would have been ratified. Accordingly, “a total of 189 suggested amendments were submitted to [the first] Congress. James Madison boiled these down to 17, but the Congress approved only 12 of them.”<sup>31</sup> The states ended up ratifying 10 as amendments to the Constitution, which became known as the Bill of Rights.

Included within the Bill of Rights are a number of provisions that have had a great impact on criminal law enforcement. In particular, the First Amendment freedoms of religion, speech, press, and assembly; the Fourth Amendment restrictions on unreasonable searches and seizures; the Fifth Amendment protection against compelled self-incrimination; and the Sixth Amendment guarantee of the right to counsel in all criminal prosecutions. The Bill of Rights, however, initially

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served only as a limitation on the federal government and did not apply to the states. While states had their own state constitutions with their own bills of rights, individual state officers were not bound to provide the protections afforded the people under the federal Constitution. This changed, however, with the adoption of the Fourteenth Amendment in 1868, just 3 years after the end of the Civil War.<sup>32</sup>

Over time, via the Fourteenth Amendment's due process clause, the Supreme Court has selectively incorporated most of the provisions of the Bill of Rights and applied them to the states, thereby unifying fundamental criminal procedure law throughout the United States.

Today, every law enforcement academy in America provides training in constitutional law, because virtually every aspect of an officer's job touches that area where the authority of government and the liberty of the individual meet. Arrests, searches and seizures, investigative detentions, eyewitness identification, interrogations—all of these everyday law enforcement tasks, and more, are governed by the Federal Constitution. Under their own constitutions, the States may provide greater protections to their people; but by virtue

of the Due Process Clause of the 14<sup>th</sup> amendment, they cannot provide less.<sup>33</sup>

Due, in part, to major paradigm shifts regarding the rights and freedoms of individuals, which gained momentum during the Civil War, the enactment of the Fourteenth Amendment and the Supreme Court's interpretation of its due process clause, and the many advances in the area of technology, communication, and transportation,



the federalism that prevailed in the first half of our country's existence is very different from the federalism of today. "Since the New Deal of the 1930s, more and more areas of American law, government, and life have crossed an invisible line from state responsibility into the federal domain."<sup>34</sup> While some lament the far-reaching power of today's federal government, in the area of law enforcement, most of these changes have been welcome, particularly when they have allowed local, state, and federal

law enforcement agencies to pool their resources and fight crime, which itself continues to defy jurisdictional boundaries.

### Checks and Balances

Finally, the founding fathers built a system of checks and balances into the Constitution, whereby the executive, legislative, and judiciary would check and balance each other and state governments would balance the federal while it, in turn, would maintain a check on the states.<sup>35</sup>

When considering our system of checks and balances, obvious examples surface, such as when the president (executive) nominates judges to serve on the Supreme Court (judicial) with the advice and consent of the Senate (legislative). However, nowhere is the use and effect of checks and balances more poignantly illustrated than in the everyday lives of today's law enforcement officers. For example, when officers determine that they have enough probable cause to search a home or make an arrest, barring special limited circumstances, they do not execute the search or arrest of their own accord and based on their singular authority as members of the executive branch. To the contrary, they seek the review and approval of a neutral and detached magistrate—a member of the judicial branch. Even though they may not realize it, every time officers prepare an affidavit and request approval

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of a warrant, they are engaging in the process of checks and balances so painstakingly advanced by our founding fathers over two centuries ago.

While debates were raging among colonists over whether or not to ratify the Constitution, which had recently been adopted by the Constitutional Convention, the father of the Constitution, James Madison, wrote the following insightful words:

Ambition must be made to counteract ambition.

The interest of the man must be connected with the constitutional rights of the place.... If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.<sup>36</sup>

The most fundamental of the many checks and balances in our system of government is the power to control oneself. At no time is a commitment to this principle more eloquently expressed than when individual officers raise their hands and solemnly swear to support and defend the Constitution of the

United States. May all of us do so with a firm understanding of the principles we have determined to defend and a clear recognition of the people we promise to protect.

### Conclusion

We owe an incomparable debt of gratitude to the men and women who fought to bring us the Constitution, and those who have fought to preserve it to this day. In memory of the federal, state, and local law enforcement

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officers who have made the ultimate sacrifice in the service of this country, may we read the words of President Lincoln anew and rededicate our lives to the privilege of protecting and defending the Constitution of the United States.

Four score and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But in a larger sense, we cannot dedicate—we cannot consecrate—we cannot hallow—this ground. The brave men, living and dead, who struggled here have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced.

It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this nation, under



God, shall have a new birth of freedom; and that government of the people, by the people, for the people shall not perish from the earth.<sup>37</sup> ♦

#### Endnotes

<sup>1</sup> 5 U.S.C. § 3331, *infra* at endnote 10. See also 5 U.S.C. § 2905(a) which leaves the decision of whether or not to renew the oath due to a change in status to the discretion of the head of the executive agency.

<sup>2</sup> Edwin Meese III et al. eds., 2005, THE HERITAGE GUIDE TO THE CONSTITUTION, Article VI, Oaths Clause by Matthew Spalding, 294-295.

<sup>3</sup> U.S. CONST., art. II, § 1, cl. 8, which states

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

(For insight regarding whether or not George Washington added the words *so help me God* to the end of the oath of office he took in 1789, see Forrester Church, SO HELP ME GOD: THE FOUNDING FATHERS AND THE FIRST GREAT BATTLE OVER CHURCH AND STATE, 2007, 445.).

<sup>4</sup> U.S. CONST., art. VI, cl. 3.

<sup>5</sup> UNITED STATES STATUTES AT LARGE, Vol. I, Statute I, Chapter I, §§ 1-5, June 1, 1789, which, in pertinent part reads

#### STATUTE I.

Chapter I.—*An Act to regulate the Time and Manner of administering certain Oaths.*

Sec. 1. *Be it enacted by the Senate and [House of] Representatives of the United States of America in Congress assembled*, That the oath or affirmation required by the sixth article of the Constitution of the United States, shall be administered in the form following, to wit: "I, A.B. do

solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." [...]

Sec. 3. *And be it further enacted*, That the members of the several State legislatures[...], and all executive and judicial officers of the several States, who have been heretofore chosen or appointed, or who shall be chosen or appointed [...] shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation[...].

Sec. 4. *And be it further enacted*, That all officers appointed, or hereafter to be appointed under the authority of the United States, shall, before they act in their respective offices, take the same oath or affirmation[...].

<sup>6</sup> REVISED STATUTES OF THE UNITED STATES: FIRST SESSION OF THE 43RD CONGRESS, 1873-74, Part I, 1st Edition, 1875, Title XIX, Section 1756, which states the July 2, 1862, statute as follows:

Every person elected or appointed to any office of honor or profit, either in the civil, military, or naval service, excepting the President [...], shall, before entering upon the duties of such office, and before being entitled to any part of the salary or other emoluments thereof, take and subscribe the following oath: "I, AB, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and

defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

<sup>7</sup> U.S. Senate: Oath of Office ([http://www.senate.gov/artandhistory/history/common/briefing/Oath\\_Office.htm](http://www.senate.gov/artandhistory/history/common/briefing/Oath_Office.htm)).

<sup>8</sup> REVISED STATUTES OF THE UNITED STATES: FIRST SESSION OF THE 43RD CONGRESS, 1873-74, Part I, 1st Edition, 1875, Title XIX, Section 1757, which states the July 11, 1868, statute as

Whenever any person who is not rendered ineligible to office by the provisions of the Fourteenth Amendment to the Constitution is elected or appointed to any office of honor or trust under the Government of the United States, and is not able, on account of his participation in the late rebellion, to take the oath prescribed in the preceding section, he shall, before entering upon the duties of his office, take and subscribe in lieu of that oath the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

<sup>9</sup> UNITED STATES STATUTES AT LARGE, Vol. 23, p. 22, Chapter 46, Sec. 2 (May 13, 1884).

<sup>10</sup> 5 U.S.C. § 3331, which states

*An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support*

and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.” This section does not affect other oaths required by law.

<sup>11</sup> 4 U.S.C. § 101 (July 30, 1947), which states

Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: “I, AB, do solemnly swear that I will support the Constitution of the United States.”

<sup>12</sup> For example, see CONSTITUTION OF KENTUCKY §228 Oath of Officers [...] as ratified and revised 1891

Members of the General Assembly and all officers, before they enter upon the execution of the duties of their respective offices [...], shall take the following oath or affirmation: I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of \_\_\_\_\_ according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted a person thus offending, so help me God.

<sup>13</sup> The delegates to the first Congress allowed for the word *affirm* to be used instead of *swear* to appease those whose religious beliefs forbid them from taking oaths. See HERITAGE GUIDE, 295.

<sup>14</sup> HERITAGE GUIDE, 294.

<sup>15</sup> William Shirer, *THE RISE AND FALL OF THE THIRD REICH*. New York, NY: Simon & Schuster, 1990, 226-230.

Service oath for soldiers of the armed forces: “I swear by God this sacred oath that I shall render unconditional obedience to Adolf Hitler, the Fuhrer of the German Reich and people, supreme commander of the armed forces, and that I shall at all times be ready, as a brave soldier, to give my life for this oath.”

Service oath for public servants: “I swear: I will be faithful and obedient to Adolf Hitler, Fuhrer of the German Reich and people, to observe the law, and to conscientiously fulfil my official duties, so help me God.”

<sup>16</sup> *Id.*

<sup>17</sup> Mortimer J. Adler, *WE HOLD THESE TRUTHS: UNDERSTANDING THE IDEAS AND IDEALS OF THE CONSTITUTION*, Collier Books, Macmillan Publishing Company (1987).

<sup>18</sup> *Id.* at 7.

<sup>19</sup> *THE DECLARATION OF INDEPENDENCE* (July 4, 1776).

<sup>20</sup> HERITAGE GUIDE, 295.

<sup>21</sup> *THE MAKING OF AMERICA: LIFE, LIBERTY AND THE PURSUIT OF A NATION*, by the Editors of Time, vi.

<sup>22</sup> W. Cleon Skousen, *THE MAKING OF AMERICA: THE SUBSTANCE AND MEANING OF THE CONSTITUTION*, The National Center For Constitutional Studies (1986), 41.

<sup>23</sup> W. Cleon Skousen, *THE FIVE THOUSAND YEAR LEAP: 28 GREAT IDEAS THAT CHANGED THE WORLD* (1981, 2009), p. 146, quoting from Adrienne Koch, ed., *THE AMERICAN ENLIGHTENMENT*, George Braziller, New York, 1965, 163.

<sup>24</sup> “The Preamble was placed in the Constitution more or less as an after-thought. It was not proposed or discussed on the floor of the Constitution. Rather, Gouverneur Morris, a delegate from Pennsylvania who as a member of the

Committee of Style actually drafted the near-final text of the Constitution, composed it at the last moment. It was Morris who gave the considered purposes of the Constitution coherent shape, and the Preamble was the capstone of his expository gift. The Preamble did not, in itself, have any substantive legal meaning.” HERITAGE GUIDE, 43.

<sup>25</sup> Referencing the teachings of the Greek Historian Polybius who lived from 204 to 122 B.C. as quoted in Skousen, *THE FIVE THOUSAND YEAR LEAP*, 142.

<sup>26</sup> Floyd G. Cullop, *THE CONSTITUTION OF THE UNITED STATES: AN INTRODUCTION*, Mentor (1999), preface to the third edition. (The United States is the oldest continuous government based on a written constitution in the world.)

<sup>27</sup> Larry Schweikart and Michael Allen, *A PATRIOT’S HISTORY OF THE UNITED STATES: FROM COLUMBUS’S GREAT DISCOVERY TO THE WAR ON TERROR*, Sentinel, Penguin Group (2004), 117.

<sup>28</sup> Lawrence M. Friedman, *AMERICAN LAW: AN INTRODUCTION*, Second Edition, W. W. Norton & Company (1998), 146.

<sup>29</sup> U.S. CONST., art. VI, cl. 2.

<sup>30</sup> HERITAGE GUIDE, 291.

<sup>31</sup> Skousen, *THE MAKING OF AMERICA*, 673.

<sup>32</sup> John C. Hall, “The Constitution and Criminal Procedure,” *FBI Law Enforcement Bulletin*, September 1986, 24-30.

<sup>33</sup> *Id.* at 30.

<sup>34</sup> Friedman, *AMERICAN LAW*, 160.

<sup>35</sup> *Id.* at 161.

<sup>36</sup> Charles R. Kesler ed., *THE FEDERALIST PAPERS*, No. 51: The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments (Madison).

<sup>37</sup> *THE GETTYSBURG ADDRESS*, by President Abraham Lincoln, November 19, 1863.

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*Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.*

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