Petition for Rehearing (Dec. 22, 1981)

No. 81-427

IN THE SUPREME COURT of the UNITED STATES OCTOBER TERM, 1981

GARRY DAVIS Petitioner

v.

DISTRICT DIRECTOR Respondent
IMMIGRATION AND NATURALIZATION
SERVICE

On Petition for Writ of Certiorari to the
United States Court of Appeals for the
District of Columbia

PETITION FOR REHEARING

Garry Davis

Petitioner

Pro Se

Address of Petitioner:
Ordway Street, N.W.
Washington, D.C. 20016

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GROUNDS FOR PETITION FOR REHEARING:

This petition for rehearing is intended to clarify arguments advanced in original petition for certiorari. Hickman v. Taylor, 327 U.S. 808, 328 U.S. 876, 329 U.S. 495;Brinkerhoff-Faris Trust Co. v. Hill, 280 U.S. 604, 550, 281.

1 The underlying issue herein under review is that of ultimate sovereignty which the nation claims but which claim, in terms of world war, is both anachronistic and suicidal versus the sovereignty of an individual world citizen exercising inalienable human rights, representative of and speaking for all humankind.

2 Petitioner respectfully submits that the instant case offers unique features permitting the Court to affirm its historic mandate, "Equal Justice Under Law", as well as its given constitutional prerogative as envisioned by the framer when confronted with an executive impotent to make peace by sanctioning once again the inalienable rights of the people, justly and democratically. exercised by your petitioner.

3 The concept of expatriation when linked to statelessness as argued in the previous petition (p. ___) exposes a basic dichotomy in national law revealed by petitioner's alleged renunciation of nationality. That dichotomy posits the inalienable sovereignty of the individual, the primary source of national " as well as local and state " law itself against the national sovereignty as an exclusive political fiction.

4 The instant case dramatically focuses juridical attention on this dichotomy in a novel interpretation of the Ninth Amendment and is germane to the issue of war itself which petitioner seeks to clarify below.
It would be absurd to argue that the exclusive character of the nation was absolute and eternal. Such an argument

would be a denial of the evolution of law itself from which resulted the United States Constitution " as all national constitutions " in the first place.

5 The absence of a world government to which the petitioner could refer his prime civic commitment as a countervailing force to world war obliged him to divest himself of the national exclusive character which per se violated the principle of a planetary citizenship alone capable of coping with the global problems facing him.

6 Petitioner suggests that the implicit and historic advantage of the United States Constitution is contained in its provision for acts of individual sovereignty via the 9th and 10th amendments in situations arising from circumstances distinct from those which resulted in the constitution originally.

7 Not to recognize this constitutional advantage would be to deny the essential universality of the constitution itself as well as the innate and inalienable sovereignty of the people. ("The theory of our political system is that the ultimate sovereignty is in the people from whom springs all legitimate authority." McLean, J. in Spooner v. McConnell, 1. McLean, 347.)
With respect to the framer's commitment to the amendment of "enumerated rights," (9th), petitioner respectfully suggests that the Court address the question: As citizenship itself is defined within the parameters of a civic code, are not the rights "retained by the people"

natural or human rights existing outside the purview of that code, in this case the U.S. Constitution itself? (Vanhorne v. Dorrance, 1795, CC Pa., 2 Dall 304, 310 1 L Ed 391, 394, F Cas No. 16857: "The Supreme Court in 1793 said there were "natural, inherent and inalienable rights of man..."").

Pertinent to this question, would not this reasoning be supported by the framers themselves who, bound civically by their separate state constitutions, nevertheless exercised sovereign rights outside those then exclusive legal frameworks in order to formulate, then codify in a document a new sovereignty which was innate and inalienable in the people themselves, distinct from that of the several states,that of the United States of America?

8 Pursuing this strictly constructionist line of argument, petitioner further inquires of the Court by what right this new and inclusive government was founded if civic rights were circumscribed on by the existing state codes? Is not the answer self-evident " affirmed by the 9th and 10th amendments " that the people retained rights not codified and indeed uncodifiable by such codes, the major one being the right to choose a new political identity for the protection of those very rights?
This Court, of course, cannot determine further that the

founding fathers, in maintaining the sovereignty of the people via both the 9th and the 10th amendments, were condoning anarchy in recognizing rights beyond the Constitution's limits. For it would then be denying due process per se. Yet when the violations of human rights are perpetrated by the national government itself " as in the instant case and in myriad others throughout the world " as a person with legal standing before this High Court, petitioner has the right and duty to inquire by what legal process can such inalienable rights be protected? The question is not only germane to his personal situation, as described in the petition for certiorari, but to a host of global issues of which war " legitimized by the very nation-state system " is the central one.

9 The paradox seems insoluble unless we admit to higher laws therefore uncodified by the nation, to which the people could refer. In their judicial recognition of the limitations of the Constitution and retained powers of the people, the courts have referred obliquely to these laws:

> The powers the people have given to the general government are named in the Constitution, and all not there named, either expressly or by implication are reserved to the people and can be exercised only by them, or upon further grant from them. (Emphasis added). U.S. v. Williams, N.Y. 1904,2 S.C. 119, 194 U.S. 295, 48 L Ed. 979.

Such common laws, protecting fundamental human rights, existing outside and independent of national constitutional law, could only be worldly in character. They need not however be inconsistent with national or local law. The relationship of the several states to the federal union is not irrelevant here:

> The general government and the states, although both exist within the same territorial limits, are separate and distinct sovereignties, acting separately and independently of each other, within their respective spheres. Buffington v. Day, Mass. 1871,78 U.S. 124, 11 Wall. 124, 20 L Ed. 122.

This Court cannot but determine that these natural/human rights require legal protection since it itself is the juridical inheritor of the very constitutive

process by which such protection was, until the advent of total war, afforded. But, in that petitioner's natural/human rights are not only not protected by the United States sovereignty but indeed menaced by it " in the sense that the U.S. government has no legislative or judicial control over the actions of any other sovereign state, its so-called foreign policy therefore being essentially reactive, i.e. defensive " petitioner's right to life, liberty and the pursuit of happiness, to name those inalienable rights enshrined in the Declaration of Independence, are unsecured.

This Court's grant of certiorari will not only confirm

the mandate of the 9th and 10th amendments but will, at last, uphold the very constitutive process as the sine qua non of world peace.
In other words, a world citizenship unprohibited and undenied by the U.S. constitution " as the state constitutions neither prohibited nor denied a national constitution " both recognizing and protecting inalienable human rights could be confirmed by this Court as not only the rightful political expression of popular sovereignty implied in both the 9th and 10th amendments, but the direct and substantive challenge to war-making itself at a moment when such judicial insight is desperately needed by a world of ready-to-explode nation-states. Today's very headlines starkly underline this imperative need. Contrarily, a denial of certiorari may be interpreted as confirming the infamous and contemptible dictum inter armes silent leges which has dominated the Court's history from its inception.

10 To illustrate this charge, petitioner cites Justice Marshall's observation in 1803 th at
By the constitution of the United States the President is vested with certain important political powers in the exercise of which he is to use his own discretion...and whatever opinion may be entertained at the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion.

11 How may the citizen view this "monarchical" power in view of Justice Samuel Miller's opinion in the U.S. v. Lee, 106 U.S. 196, 220, 1882, that no man is so high that he is above the law.
All...officers are creatures of the law and are bound to it?

It is clear that the Constitution both defines the parameters of legitimacy while yet conferring on the President arbitrary powers in his capacity as Head of State " totally vitiating the concept and exercise of civic rights " placing him thereby "outside" those parameters.
"In times of declared war," according to Arthur S. Miller, (Presidential Power In A Nutshell, p. 19), "particularly in the 20th century when wars have become planetary in extent, the President acts as a "constitutional dictator". There is a tacit understanding that nothing " literally nothing " will be permitted to block winning the war. What is necessary, as determined by the executive, is done. Legal niceties are given little attention. National survival is the ultimate issue." (Emphasis added.)
In short, "Judicial control of presidential action is next to nonexistent." (Ibid., p. 30)
Yet, war to be legitimate, must be winnable.
The war powers of Congress and the President are only those to be derived from the Constitution...the primary application of a war power is that it shall be an effective

power to wage war successfully. (Emphasis added.) Lichter v. U.S., 334 U.S. 742, 782, 1948 per Burton, J. Also, the war-making power must be accompanied by its opposite: peace-making power:

The authority to make war of necessity implied the power to make peace, or the war must be perpetual... Ware v. Hylton, 3 Dall, 231 per Chase, J. (See also Penhallow v. Doane's Adm'r., 3 Dall 91, remarks of Tredell,J.)

Yet the U.S. President declared on October 21, 1981:

In a nuclear war, all mankind would lose.(New York Times, Oct. 22, 1981)

This statement only confirms overwhelming evidence since 1945 of the totality of modern war, both conventional and nuclear.

If indeed war is no longer winnable and its "end" is total annihilation, it can no longer be considered legitimate.

The history of the discretionary powers of the U.S. President as Head of State is, of course, not at issue in the instant case. Nonetheless, in his claim to recognition by this court as a world citizen following Judge Thomas Flannery's oblique recognition (See Memorandum and Opinion, District Court, p. 11), petitioner cannot but challenge incidentally such arbitrary power as a fundamental contradiction of the constitutional process itself. As Arthur Miller rightly contends, "...the United States has one Constitution for peacetime and another for wartime." (Presidential Power In A Nutshell, p. 184.) (See Prize Cases, 67 U.S. 635, 1863, Grier, J.; also Martin v. Mott,12 Wheat.(25 U.S.) p.19)

As determined by the lower courts' decisions in agreement with the INS's determinations as to the petitioner's status plus this Court's denial to date of certiorari, he is likewise "outside" those parameters as is the U.S. President. For as a person enjoying natural/human rights, does he not also enjoy "discretionary power" to represent his own sovereignty along with that of humankind per se? And is not this Court's denial of certiorari tacit confirmation of that "discretionary power" which cannot but be inherent in the exercise of inalienable rights?

It goes without saying that, in the event of a nuclear war, when the nation is destroyed, as the U.S. President has advised us, this court will likewise cease to exist. In the face of this ultimate threat to the nation, does not this Court have an imperative judicial obligation to utilize whatever powers it possesses constitutionally to avert such a catastrophe? Or else the aspirations and sacrifices of the original framers and their descendants would have been in vain.

Your petitioner, in standing before the bar of world public opinion for over thirty years as a world citizen, is

evidently not alone in his quest for a peaceful world through just law. No less distinguished a jurist than former Chief Justice Earl Warren stated in 1954:

In these trouble times, the hope for a peaceful world is of a world based on law as distinct from a world based on authority...

Then former Justice William O. Douglas reminded us in 1958:

More and more people are coming to realize that peace is the product of law and order; that law is essential if the force of arms is not to rule the world.
The present Chief Justice, in greeting the assembled jurists from over 100 nations at the 1975 World Peace Through Law Conference in Washington, stated in part:
We agree that man was meant to be free and that a state should be the agent and servant of its people, not the master...We agree that the proceedings of justice and the search for peace are among the highest aspirations of human beings...We know that justice is indivisible; it recognizes no boundaries; it is not confined in concepts of geography or jurisdiction; it is not limited in terms of language, creed, or political doctrines. It belongs to all who are now alive and to all those unborn who will follow us.
(See Appendix for additional statements from Heads of State)

CONCLUSIONS

Wherefore, in this universal spirit of "Equal Justice Under Law", which is a global rallying-cry for beleaguered humanity itself, Petitioner respectfully requests that this Court grant this Petition for Rehearing.

Respectfully submitted,

/s/Garry Davis
Petitioner Pro Se

3606 Ordway Street, N.W.
Washington, D.C. 2016

December 22, 1981

CERTIFICATE OF GOOD FAITH

Petitioner hereby certifies that the foregoing Petition for Rehearing, was submitted in good faith and not for purpose of delay.

/s/ Garry Davis
Petitioner-Pro Se
3606 Ordway St.,
N.W.
Washington, D.C.
20016

Subscribed and sworn to before me

this __22nd__ day of December, 1981

at Washington, D.C.

(signature ?)
Notary Public

My Commission Expires February 14, 1985

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that three copies of the foregoing Petition for Rehearing were mailed by regular mail or delivered to JAMES P. MORRIS, Attorney, General Litigation and Legal Advice Section, Criminal Division, and ERIC A. FISHER, Attorney, Department of Justice, Criminal Division, Washington, D.C. 20530.

/s/ Garry Davis
Petitioner-Pro Se

3606 Ordway Street, N.W.
Washington, D.C. 20016

December, 1981

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

January 25, 1982

Mr. Garry Davis
3606 Ordway Street, N.W.
Washington, DC 20016

Re: Garry Davis
v. District Director, Immigration and
Naturalization Service

No. 81-427

Dear Mr. Davis:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Very truly yours,

/s/Alexander L. Stevas,Clerk

NEWS RELEASE February 1, 1982

SUPREME COURT REFUSAL TO CONSIDER WORLD CITIZEN GARRY DAVIS' CASE VS. THE I.N.S. POSES PROBLEM FOR U.S. GOVERNMENT: DEPORT HIM, DETAIN HIM OR FORGET HIM?

WASHINGTON, D.C.ÑThe case of Garry Davis, which began actually when he stepped off the Pan Am plane at Dulles Airport on May 13, 1977, versus the U.S. Immigration and Naturalization Service is seemingly closed. Or is it? Legally, Davis is still stepping off that plane. On January 22, 1982, the Supreme Court denied Davis' last appeal for a hearing after having refused to grant him certiorari on October 9, 1981 to review lower court rulings. The Court's decision in effect confirms these rulings that the 60-year-old American-born Davis is an "excludable alien" as well as a "stateless person." Now the INS has to legitimately exclude him.But to where? Unlike the Cubans, Haitians, Iranians, Ethiopians, Mexicans, Russians and numerous other nationalities now living legally or illegally in the United States, Davis, a U.S. bomber pilot in World War II, has no other country to which he can be "returned."

In his petition for certiorari, he challenged both the law allowing expatriation and the law excluding him from his native land. He claimed as well that the ninth amendment of the U.S. Constitution protected his inalienable rights to claim a new political identity in the face of an imminent world war between nation-states.

Then, in his Petition for Rehearing, Davis challenged the U.S. president's discretionary powers which, he claims, can lead to world war, positing the discretionary powers of the citizen to "make peace" by raising the level of civic commitment to the global level.

Ironically, he heads a District of Columbia-based corporation, the World Service Authority, which issues the very passport the INS refuses to recognize to individuals

throughout the world who either have no national documents and cannot obtain them or whose national papers are invalid and cannot be renewed.
The WSA was founded in 1954 as the administration agency of the world government declared by Davis on September 4, 1953 from Ellsworth, Maine. To date, over 250,000 WSA documents have been issued, mostly to refugees and stateless persons. They have been recognized on a case-by-case basis by over 60 nations according to WSA records. These include, incredibly enough, the United States.

"I have claimed for over thirty years," Davis said, "that the nation-state system was incapable of solving global problems. President Reagan, in his State of the Union message, clearly confirmed this position. He had no plan for world peace claiming only that military strength insures peace, a total denial of his own role as chief executor of the national law. He even referred to George Washington who, as the nation's first president, symbolized the triumph of law over anarchy. Then Reagan's so-called new federalism is a backward step without a new federalism extending to the world community itself. National dictators fear above all the loss of their power-base, the nation-state.

"In 1787, the founding fathers also proposed a "new federalism" of which President Reagan is the latest presidential inheritor. But, ironically, Reagan has no plans for a world federation to protect the several nations and the world's people. We, the world's people, must therefore take our destiny in our own hands."

The World Government of World Citizens has registered over 100,000 citizens and has issued the world passport to Afghanistan refugees in Pakistan, Iran, Turkey, and elsewhere, Eritreans in Saudi Arabia, Burmese, Vienamese and other southeast Asian refugees in Thailand, Malaysia and Indonesia, African refugees in the Sudan, Somalia, Botswana, Kenya, Nigeria, Ghana, etc., seamen with invalid national passports, and the tens of thousands of others who, for one reason or another, have problems with national travel documents.
Since Davis has no other country to which he can be deported, the INS must either detain him permanently or...do nothing. In that case, Davis will have in effect won his right to remain in the United States indefinitely. The only question remains, what is his status?
According to the law, he is not yet legally admitted. Therefore, he is not legally here. Now the Supreme Court, which permitted him to petition it, therefore, obviously considered him a person before the law, has contrarily denied him a legal status in the United States. Or, indeed, is its decision a tacit confirmation that Davis' "inalienable rights" can only be exercised by him as he claims and will neither be prohibited nor denied by the high court?
The second question concerns his right to travel. The

INS will obviously not deny his right to leave the United States. But what happens when he returns? He still will be deportable according to the law. Will the INS then detain him permanently or, as it has done since May 17, 1977, will it consider him a "free agent" continually getting off the plane but physically able to come and go as he pleases? If so, the World Citizen will have proved his case.

V
The U.S. Supreme Court and World Citizenship
A Postscript

The U.S. Supreme Court, on October 19, 1981 and January 25, 1982 respectively, denied both my petition for certiorari and Petition for Rehearing to be considered a legal world citizen in the United States.
The decision has proved my thesis that my right to identify myself as a world citizen is indeed legal.
How do I arrive at that seemingly extraordinary conclusion? First of all, since January 25, 1982, when the final court decision was published, the lower courts' decision " that I am an "excludable alien" as well as "stateless" " prevail according to U.S. law. This in turn obliges the Immigration and Naturalization Service to "exclude" me from U.S. soil.

In that the same INS contends that I am "stateless" and therefore unexcludable, it has failed to obey that U.S. law at this present writing. (Other "excludable aliens", Haitians, Afghans, etc. remain in U.S. jails.)
This conclusion, that the U.S. code was inoperable in my case, was part of my argument to the Supreme court.
What then is my legal status in the United States? In default of U.S. law assigning me a legitimate one, it can only be that which I myself claim.
Secondly, in both petitions, I claimed that the Ninth Amendment " "The rights enumerated in the Constitution do not deny or disparage other rights retained by the people" " sanctions the exercise of the inalienable right to claim a new and higher political allegiance along with the existing ones.
That is precisely what the founding Fathers did. Why "founding"? Why "fathers"? The very two words connote a newly created entity.
In denying my petitions, the high court in effect denied its jurisdiction in determining the nature of those rights "retained by the people" in that such rights, being inalienable, are thus anterior to the formulation of the Constitution itself and the founding of the Court.

Thirdly, the Supreme Court upheld the long-standing principle that expatriation is a human right regardless of the consequences of statelessness.
That means, incidentally, that any Haitian, Ethiopian, Eritrean, Iraqian, Iranian, Mexican, Ghanaian, Nigerian, Russian, Israeli, Burmese, Vietnamese, etc. who arrives on U.S. shores by whatever route or means can unilaterally

renounce his or her nationality " a registered letter is sufficient " return all state documents and the U.S. law must in turn respect that human right.

In fact, this right is actually spelled out in the Universal Declaration of Human Rights, Art. 15(2):

"Everyone has the right to a nationality and everyone has the right to change his nationality."
If we have the right to "change" our nationality, obviously we have the right to choose our own government.

That is one of the inalienable rights implied in the Ninth Amendment. The 1981 Human Rights Report of the U.S. State Department, confirms this revolutionary notion categorically: "Individuals do not owe their humanity to the community, as earlier philosophies often argued; the community owes its whole legitimacy to the individuals whose existence is prior to it."
(Emphasis added)(p. 3, col. 2)

Now comes the political bombshell. If the expatriate " or the national citizen " willfully chooses World Government as the object of his/her sovereign global allegiance as many are today doing in lieu of any other government to represent them at this highest and newest civic level, they have thus legalized themselves in a revolutionary yet non-violent and democratic way and in perfect conformity with both U.S. historical precedent and constitutional law! Now is the time once again to test my theory in the field of world action.

1/"Any constitutional society commits itself to certain values, and the United States by the original Constitution and the Bill of Rights is consciously dedicated to individual liberty, integrity, and equality, an open society, and the rule of law. Of these values the Supreme Court is the ultimate guardian and trustee.
Modern Constitutional Law, Chester J. Antieau, Vol. 1 V
(1969) The Lawyer Co- Operative Publishing Co.

2/"...a reverence for our great Creator, principles of humanity, and the dictates of conscience, must convince all those who reflect upon the subject that government was instituted to promote the welfare of mankind and ought to be administered for the attainment of that end."

Thomas Jefferson, Declaration of the Causes and Necessity of Taking Up Arms, Continental Congress, 1775.

"...the very essence of the charter (Charter of the Tribunal, Nuremberg) is that individuals have international duties which transcend the national obligations of obedience imposed by the individual state. He who violates the laws of war can not obtain immunity while acting in pursuance of the authority of the state if the state in authorizing action moves outside its competence under

international law."

The Charter and Judgment of the Nuremberg Tribunal, 1949 (See Office of United States Chief of Counsel of Prosecution of Axis Criminality, Nazi Conspiracy and Aggression, Opinion and Judgment, Government Printing Office, 1947)

"Any method of maintaining international peace today must eventually fail if it is not grounded on Justice under Law and the protection of the Individual under due process of law."
World Habeas Corpus, Luis Kutner, 1968, p. 73

3/"Let it be stated again that the generation that gave us the Articles of Confederation and the Constitution believed solidly in the doctrine of natural rights. They understood that the purpose of government was to protect men in their basic, natural rights, and they were sure that they could hold their own state governments to this end."

Modern Constitutional Law, Chester J. Antieau, p. 676

"International Law is more than a scholarly collection of abstract and immutable principles. It is an outgrowth of treaties and agreements between nations of accepted customs. Yet every custom has its origin in some single act, and every agreement has to be initiated by the action of some state. Unless we are prepared to abandon every principle of growth for international law, we cannot deny that our own day has the right to initiate customs and to conclude agreements that will themselves become sources of a newer and strengthened international law..."
Mr. Justice Robert H. Jackson, Chief Prosecutor at the Nuremberg war crime trials, 1945; J.S.C.

4/ "Since under the express terms of the constitution, there is no one political sovereign Ñ other than the ill-formed notion of "popular sovereignty", which are taken seriously only as slogans but not as descriptions of reality Ñ the theoretical problem of sovereignty in the United States has not yet been fully resolved."
Presidential Power In A Nutshell, Arthur S. Miller, West Publishing Co., 1977

5/"A Constitution designed to endure for the ages to come must perforce bend with the winds of social change."

Ibid. p. 67
"Each generation writes its own constitution, just as each generation writes its own history."

Ibid. p. 67
"Constitutional law in essence is politics writ large; and government is always relative to circumstances."

Ibid. p. 67
The only intention of the Founding Fathers worth serious attention today is that they left the tasks of governance to the good sense and wisdom of succeeding generations of Americans."

Ibid. p. 66
"Government can be safely acknowledged a temporal blessing because, in terms of the power it wields, there is nothing inherent in it. Government is not an end in itself but a means to an end. Its authority is the free and revocable grant of the men who have promised conditionally to submit to it. Its organs, however ancient and august, are instruments that free men have built and free men can alter or even abolish."
Earl Warren, C.J., S.C.

6/ The United Nations Secretary-General, in his supplementary Report to the General Assembly of 24 October 1946 stated that "In the interests of peace, and in order to protect mankind against future wars, it will be of decisive significance to have the principles which were implied in the Nuremberg trials (II. Jurisdiction and General Principles, Article 6(a)(b) and (c) which defines "crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility"), and according to which the German war criminals were sentenced, made a permanent part of the body of international laws as quickly as possible. From now on the instigators of new wars must know that there exists both law and punishment for their crimes. Here we have a high inspiration to go forward and begin the task of working toward a revitalized system of international law."
On 15 November 1946, the U.S. delegation introduced a proposal to the U.N. "...to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification..." and reaffirmed "...the principle of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the tribunal."
U.N. General Assembly Resolution 488 48(v) 1950,"Nuremberg Trials", entered the priniples to international law.
The right to assume individual civic responsibility in a given community is the essence of course of the democratic principle and the true meaning of sovereignty. This has been subseuently confirmed byArt.1,2,3,6,7,15(2),18,19 and 29 of the Universal Declaration of Human Rights.

7/ "The Government of the United States can claim no powers which are not granted it by the constitution; and the powers actually granted must be such as are expressly given or given by necessary implication."Per Marshall, C.J., Martin v. Hunter's Lesse, 1 Wheat. 326,(from Virginia Ct.) (1816)
"Mr. Justice Douglas' use of the ninth amendment carries a greater potential. Under his theory, the ninth amendment might be utilized to expand the concept of privacy or, perhaps, to guarantee other basic rights." (Emerson)
Nine Justices In Search of a Doctrine, 64 Mich. L. Rev. 219, 227 (1965) (See Palmer v. Thompson, 403 U.S. 217, 233-39 (1971) (Douglas, J. dissenting). (See B. Patterson, The Forgotten Ninth Amendment, (1955); Dunbar, James Madison and the Ninth Amendment, 42 Va. L. Rev. 627 (1956); Kelley, The Uncertain Renaissance of the Ninth Amendment, 33 U. Chi. L. Rev. 814 (1966); Kelsey, The Ninth Amendment of the Federal Constitution, 11 Ind. L.J. 309 (1936); Kutner, The Neglected Ninth Amendment: The "Other Rights" Retained by the People, 51 Marq. L. Rev. 121 (1967); Paust, Human Rights and the Ninth Amendment: A New Form of

Guarantee, 60 Cornell L. Rev. 231 (1975); Ringold,The History of the Enactment of the Ninth Amendment and Its Recent Development, 8 Tulsa L.J. 1 (1972); Rogge, Unenumerated Rights, 47 Calif. L. Rev. 787 (1959)

8/ "At the time the Articles of Confederation were adopted the overwhelming majority of Americans accepted the doctrine of natural rights. all men possessed certain basic, fundamental rights which government could not deny. Government was organized to protect and safeguard these rights. It was the unspoken assumption in the Continental Congress that no state could ever justifiably deny to its own citizens their natural rights. It was unthinkable that the possessors of political power needed he protection of the Articles of Confederation against their temporary trustees of governance..." (Emphasis added.)
Modern Constitutional Law, Chester J. Antieau, Vol. 1, v. (1969) p. 673

9/ "Material progress in total destructive explosive weapons has yielded the conclusion that the right to individual security is the pre-requisite of all other human rights and freedoms. collective individual security can be protected only under the Rule of Law and in the mainstream of Due Process of law.
World Habeas Corpus< Luis Kutner, 1962, p. 71
"As long as there are sovereign nations possessing great power, war is inevitable. There is no salvation for civilization, or even the human race, other hand the creation f a world government."
Albert Einstein, Letter to World Federalists, Stockholm Congress, 1949.

10/ "The judicial attitude is more than abstention; it verges at times upon courts being an arm of the executive when violence, foreign or domestic, erupts."
Presidential Power In A Nutshell, Arthur S. Miller, p. 163,
(See also A Mason, Harlan Fiske Stone,
Pillar of the Law, 1958)

11/ "It requires no special prescience to forecast that should a thermonuclear war erupt the Present and his subordinates will do whatever they think is necessary to maximum the national interest, without regard to the Constitution, the Congress or the Courts."
Cf. El Corwin, Total War and the Constitution, 1946; C. Rossiter, Constitutional Dictatorship, 1948.