

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TOM G. PALMER, et al.,)	Case No. 09-CV-1482-HHK
)	
Plaintiffs,)	DECLARATION OF
)	ALAN GOTTLIEB
v.)	
)	
DISTRICT OF COLUMBIA, et al.,)	
)	
Defendants.)	
_____)	

DECLARATION OF ALAN GOTTLIEB

I, Alan Gottlieb, am competent to state, and declare the following based on my personal knowledge:

1. I am the Executive Vice President of the Second Amendment Foundation, Inc. (SAF).
2. SAF is a non-profit membership organization incorporated under the laws of Washington with its principal place of business in Bellevue, Washington.
3. SAF has over 650,000 members and supporters nationwide, including the District of Columbia.
4. The purposes of SAF include education, research, publishing and legal action focusing on the Constitutional right to privately own and possess firearms, and the consequences of gun control.
5. SAF expends its resources encouraging the exercise of the right to bear arms, and advising and educating its members, supporters, and the general public about the law with respect to the public carrying of handguns Washington, D.C..

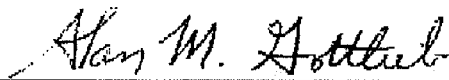
6. The issues raised by, and consequences of, Defendants' policies, are of great interest to SAF's constituency.

7. Defendants' policies regularly cause the expenditure of resources by SAF as people turn to this organization for advice and information about carrying handguns in the District of Columbia.

8. Defendants' policies bar SAF's members and supporters from obtaining permits to carry handguns.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 26th day of August, 2009.


Alan Gottlieb



Gun Control and Firearms Registration

300 Indiana Ave. N.W. Room 3189, Washington D.C., 20001 (202) 727-4275 FAX (202) 724-2410

May 12, 2009

Mr. Thomas Palmer

Dear Mr. Palmer

- This is to advise you that your application to register a **Glock, model 26, 9 mm caliber handgun, bearing serial # LHG208** has been disapproved for the following reason(s):
 - o **1. The Intended use of the firearm as stated on your firearms registration application, "I intend to carry this firearm loaded, in public, for self-defense, when not kept in my home" is unacceptable per the "Firearms Registration Emergency Amendment Act of 2008", which states that pistols may only be registered by D.C. residents for protection within the home.**

You have 15 days from the date this notice is received to appeal this decision. A copy of the regulations governing such appeals is attached for your information. Appeals should be sent to the Director, Identification and Records Division, Metropolitan Police Department, 300 Indiana Avenue, N.W., Washington, D.C. 20001.

If you do not file your appeal within the time allowed, you shall be deemed to have conceded the validity of the reason or reasons stated in this notice, and the (denial) (revocation) shall become final.

In the event you do not submit further evidence, you must do one of the following within 7 days after the decision becomes final: (1) peaceably surrender to the police the firearm for which registration was revoked or disapproved; (2) lawfully remove such firearm from the District of Columbia for so long as you have an interest in such firearm; or, (3) otherwise lawfully dispose of your interest in such firearm.

- Your application has not been acted upon within the 60 day period because

You will be notified as soon as the missing information is received and the application review process is completed.

FOR APPEALS INSTRUCTIONS SEE REVERSE SIDE

Page 1 of 2

REGULATIONS GOVERNING APPEALS

Denial and Revocation Procedures

- (a) Whenever the Firearms Registration Section has reason to believe that an applicant is not eligible to receive a certificate, or a holder has become ineligible to retain his certificate, the Supervisor shall issue a notice of proposed denial or revocation to the applicant or holder. The notice shall set forth the facts and law relied upon in determining that the application should be denied or revoked. The applicant or holder shall have 15 days from the date of receipt (excluding the date of receipt, Saturdays, Sundays and legal holidays), to submit further evidence in support of the application or his qualifications to retain his certificate. Such further evidence shall be submitted to the Director, and may include a request for a hearing. The reason why a hearing is necessary shall be stated in the request. If no further evidence is received by the Director within such time, the applicant or holder shall be deemed to have conceded the validity of the reason stated in the notice and the denial or revocation shall become final. A copy of the application or certificate, so marked, shall be returned to the applicant or holder.
- (b) If the applicant or holder shall make a submission within the time specified in paragraph (a), the Director shall within 10 days of its receipt (excluding the date of receipt, Saturdays, Sundays and legal holidays), issue a notice of his final decision. The Director's notice of final decision shall become effective immediately unless a stay is granted either by the Director or the District of Columbia Court of Appeals.
- (c) A request for a hearing shall be granted unless the request for a hearing tends to show that the only disputed matters concerns a question of policy. If a hearing is granted the Director shall notify the applicant or holder of the date, time, location, and the name of the person before whom the hearing will be held within the time limit established in paragraph (b). Such notification shall be made not less than 7 calendar days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant facts and circumstances presented in writing or orally, the Director shall render his decision affirming or reversing the denial of the application or revocation of the certificate. If the decision is that the denial or revocation should be affirmed, a copy of the Director's findings of fact and conclusions of law based on the evidence of record shall be sent to the applicant or holder within 10 days (excluding Saturdays, Sundays and legal holidays) of the conclusion of the hearing, together with a copy of the application or certificate marked "denied" or "revoked", as the case may be. If the decision is that the denial or revocation should be reversed, the Director shall issue a certificate to the applicant, or notify the holder of his decision within such time.
- (d) All hearings conducted under this section shall be recorded. The Director may designate someone other than himself to conduct the hearing provided for under this section provided such person took no part in the investigation and decision-making process prior to the issuance of the proposed notice to deny or revoke and is senior in rank or position to the Supervisor issuing such proposed notice.
- (e) Within 7 days (excluding Saturdays, Sundays and legal holidays), after an unfavorable decision becomes effective, an applicant or holder in possession of a firearm for which a certificate has been denied or revoked shall (A) surrender such weapon to the Firearms Registration Section; (B) lawfully remove such firearm from the District for so long as he has a legal interest in such firearm; or (C) lawfully dispose of such firearm. In the event option (B) or (C) is elected by the applicant or holder, he shall certify in writing, under oath, the action taken. A holder who has been revoked shall also surrender his certificate to the Firearms Registration Section within such time.

85-8790

METROPOLITAN POLICE DEPARTMENT WASHINGTON, D.C.

APPLICATION FOR FIREARMS REGISTRATION CERTIFICATE

\$10.00 FEE REQUIRED WITH THIS APPLICATION - PRINT ALL INFORMATION

This application for a Firearms Registration Certificate must be handcarried to the Metropolitan Police Department, Firearms Registration Section, 300 Indiana Avenue, N.W., Washington, D.C. 20001 by the purchaser. The purchaser MUST 1) be fingerprinted by the Metropolitan Police Department, however, if the purchaser has been fingerprinted by this department within five (5) years prior to submitting this application he need not be fingerprinted again if he offers other satisfactory proof of identity 2) submit with this application two full-face photographs of himself, 1 1/2 x 1-7/8 inches taken within 30 days of filing this application 3) have vision better than or equal to that required to obtain a valid driver's license in the District of Columbia (a current driver's license will be prima facie evidence that the applicant's vision sufficient) 4) demonstrate satisfactory knowledge of the laws in the District of Columbia pertaining to firearms and the safe and responsible use of same. No transfer of a firearm between the seller and the purchaser may be made until a reply from the Chief of Police has been received by both parties involved.

REGISTRATION NUMBER
 DATE REGISTERED

DEALER'S LICENSE NO.
 1-54-000-01
 95-39037

CS Exchange LTD
 1213 Bond Hope Rd SE 2nd Floor
 Washington, D.C. 20000

Thomas [unclear]
 PURCHASER/OWNER'S NAME
 1
 STN
 CITY

DESCRIPTION OF FIREARM				DESCRIPTION OF PURCHASER/OWNER			
<input checked="" type="checkbox"/> NEW <input type="checkbox"/> USED	MAKE OF WEAPON Block	DATE OF BIRTH 1	PLACE OF BIRTH [unclear]	OPERATOR'S PERMIT NUMBER	RACE	SEX	
MODEL 26	SERIAL NUMBER LHG208						
MFG. I.D. NUMBER	NO. OF SHOTS 10	CALIBER 9mm	OCCUPATION [unclear]	BUSINESS NAME [unclear]			
NO. OF BARRELS/LENGTH 1-3.46	FINISH Black	TYPE OF ACTION Semi Auto	BUSINESS ADDRESS [unclear]				
IDENTIFYING MARKS				HO			

PURCHASER/OWNER'S ADDRESSES FOR THE PAST FIVE (5) YEARS WITH DATES OF RESIDENCE
 1935 7th St NW Apt 2 Washington DC 20009

PURCHASER/OWNER'S OCCUPATION, BUSINESS NAME AND ADDRESSES FOR THE PAST FIVE (5) YEARS WITH DATES OF EMPLOYMENT
 [unclear]
 [unclear]
 [unclear]

HAVE YOU PREVIOUSLY BEEN DENIED IN THE DISTRICT OF COLUMBIA OR ELSEWHERE ANY PISTOL, RIFLE OR SHOTGUN LICENSE OR REGISTRATION CERTIFICATE? NO YES IF YES, EXPLAIN WHY AND BY WHOM

DISAPPROVED

HAVE YOU EVER BEEN INVOLVED IN ANY MISHAP INVOLVING A PISTOL, RIFLE OR SHOTGUN? INCLUDING DATES, PLACES, AND NAMES OF ANY PERSONS INJURED OR KILLED. NO YES IF YES, EXPLAIN CIRCUMSTANCES,

GIVE A BRIEF STATEMENT OF YOUR INTENDED USE OF THE FIREARM AND WHERE THE FIREARM WILL BE KEPT
 [unclear]

I HEREBY CERTIFY THAT I AM NOT PREVENTED BY EXISTING LAWS AND REGULATIONS FROM PURCHASING OR POSSESSING A FIREARM AND THAT THE INFORMATION GIVEN BY ME ON THIS APPLICATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND DOES NOT KNOWINGLY CONTAIN ANY MATERIAL MISREPRESENTATION OF FACT
 Charles W. Sykes Jr. 4-14-09
 SIGNATURE OF SELLER DATE SIGNATURE OF PURCHASER/OWNER DATE

The Seller and the Purchaser MUST SIGN IN THE PRESENCE OF EACH OTHER.

NOTICE

This application is VALID as a FIREARMS REGISTRATION CERTIFICATE only when stamped APPROVED by the Chief of Police and a REGISTRATION NUMBER is affixed thereto.

THIS IS NOT A LICENSE TO CARRY A CONCEALED FIREARM.



Gun Control and Firearms Registration

300 Indiana Ave. N.W. Room 3169, Washington D.C., 20001 (202) 727-4275 FAX (202) 724-2410

April 8, 2009

Mr. George Lyon

1
1

Dear Mr. Lyon,

- This is to advise you that your application to register a **Glock, model 31, .357 caliber handgun, bearing serial # C00045137** has been disapproved for the following reason(s):
 - **1. The Intended storage and use of the firearm as stated on your firearms registration application, "carrying personal protection, keep at home or office" is unacceptable per the "Firearms Registration Emergency Amendment Act of 2008", which states that pistols may only be registered by D.C. residents for protection within the home.**

You have 15 days from the date this notice is received to appeal this decision. A copy of the regulations governing such appeals is attached for your information. Appeals should be sent to the Director, Identification and Records Division, Metropolitan Police Department, 300 Indiana Avenue, N.W., Washington, D.C. 20001.

If you do not file your appeal within the time allowed, you shall be deemed to have conceded the validity of the reason or reasons stated in this notice, and the (denial) (revocation) shall become final.

In the event you do not submit further evidence, you must do one of the following within 7 days after the decision becomes final: (1) peaceably surrender to the police the firearm for which registration was revoked or disapproved; (2) lawfully remove such firearm from the District of Columbia for so long as you have an interest in such firearm; or, (3) otherwise lawfully dispose of your interest in such firearm.

- Your application has not been acted upon within the 60 day period because

You will be notified as soon as the missing information is received and the application review process is completed.

FOR APPEALS INSTRUCTIONS SEE REVERSE SIDE

REGULATIONS GOVERNING APPEALS

Denial and Revocation Procedures

- (a) Whenever the Firearms Registration Section has reason to believe that an applicant is not eligible to receive a certificate, or a holder has become ineligible to retain his certificate, the Supervisor shall issue a notice of proposed denial or revocation to the applicant or holder. The notice shall set forth the facts and law relied upon in determining that the application should be denied or revoked. The applicant or holder shall have 15 days from the date of receipt (excluding the date of receipt, Saturdays, Sundays and legal holidays), to submit further evidence in support of the application or his qualifications to retain his certificate. Such further evidence shall be submitted to the Director, and may include a request for a hearing. The reason why a hearing is necessary shall be stated in the request. If no further evidence is received by the Director within such time, the applicant or holder shall be deemed to have conceded the validity of the reason stated in the notice and the denial or revocation shall become final. A copy of the application or certificate, so marked, shall be returned to the applicant or holder.
- (b) If the applicant or holder shall make a submission within the time specified in paragraph (a), the Director shall within 10 days of its receipt (excluding the date of receipt, Saturdays, Sundays and legal holidays), issue a notice of his final decision. The Director's notice of final decision shall become effective immediately unless a stay is granted either by the Director or the District of Columbia Court of Appeals.
- (c) A request for a hearing shall be granted unless the request for a hearing tends to show that the only disputed matters concerns a question of policy. If a hearing is granted the Director shall notify the applicant or holder of the date, time, location, and the name of the person before whom the hearing will be held within the time limit established in paragraph (b). Such notification shall be made not less than 7 calendar days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant facts and circumstances presented in writing or orally, the Director shall render his decision affirming or reversing the denial of the application or revocation of the certificate. If the decision is that the denial or revocation should be affirmed, a copy of the Director's findings of fact and conclusions of law based on the evidence of record shall be sent to the applicant or holder within 10 days (excluding Saturdays, Sundays and legal holidays) of the conclusion of the hearing, together with a copy of the application or certificate marked "denied" or "revoked", as the case may be. If the decision is that the denial or revocation should be reversed, the Director shall issue a certificate to the applicant, or notify the holder of his decision within such time.
- (d) All hearings conducted under this section shall be recorded. The Director may designate someone other than himself to conduct the hearing provided for under this section provided such person took no part in the investigation and decision-making process prior to the issuance of the proposed notice to deny or revoke and is senior in rank or position to the Supervisor issuing such proposed notice.
- (e) Within 7 days (excluding Saturdays, Sundays and legal holidays), after an unfavorable decision becomes effective, an applicant or holder in possession of a firearm for which a certificate has been denied or revoked shall (A) surrender such weapon to the Firearms Registration Section; (B) lawfully remove such firearm from the District for so long as he has a legal interest in such firearm; or (C) lawfully dispose of such firearm. In the event option (B) or (C) is elected by the applicant or holder, he shall certify in writing, under oath, the action taken. A holder who has been revoked shall also surrender his certificate to the Firearms Registration Section within such time.



Gun Control and Firearms Registration

300 Indiana Ave. N.W. Room 3169, Washington D.C., 20001 (202) 727-4275 FAX (202) 724-2410

July 7, 2009

Ms. Amy McVey

Dear Ms. McVey,

- This is to advise you that your application to register a **Smith&Wesson, model M&P 40c, .40 caliber handgun, bearing serial # MCP1520** has been disapproved for the following reason(s):
 - o **I. The Intended storage and use of the firearm as stated on your firearms registration application, "I intend to carry the loaded firearm in public for self defense when not stored at my home." is unacceptable per the "Firearms Registration Emergency Amendment Act of 2008", which states that pistols may only be registered by D.C. residents for protection within the home.**

You have 15 days from the date this notice is received to appeal this decision. A copy of the regulations governing such appeals is attached for your information. Appeals should be sent to the Director, Identification and Records Division, Metropolitan Police Department, 300 Indiana Avenue, N.W., Washington, D.C. 20001.

If you do not file your appeal within the time allowed, you shall be deemed to have conceded the validity of the reason or reasons stated in this notice, and the (denial) (revocation) shall become final.

In the event you do not submit further evidence, you must do one of the following within 7 days after the decision becomes final: (1) peaceably surrender to the police the firearm for which registration was revoked or disapproved; (2) lawfully remove such firearm from the District of Columbia for so long as you have an interest in such firearm; or (3) otherwise lawfully dispose of your interest in such firearm.

- Your application has not been acted upon within the 60 day period because

You will be notified as soon as the missing information is received and the application review process is completed.

FOR APPEALS INSTRUCTIONS SEE REVERSE SIDE

APPLICATION FOR FIREARMS REGISTRATION CERTIFICATE

\$13 FEE REQUIRED WITH THIS APPLICATION. PLEASE PRINT ALL INFORMATION.

REGISTRATION NUMBER

DATE REGISTERED

This application for a Firearms Registration Certificate must be hand-carried to the Metropolitan Police Department, Firearms Registration Section, 300 Indiana Avenue, NW, Washington, D.C. 20001 by the purchaser. The purchaser **MUST**:

1. Be fingerprinted by the Metropolitan Police Department. However, if the purchaser has been fingerprinted by this department within five (5) years prior to submitting this application, he or she need not be fingerprinted again if he or she offers other satisfactory proof of identity.

2. Submit with this application two full-face photographs of himself/herself, 1 3/4 x 1 1/4 inches, taken within 30 days of filing this application.
3. Have vision better than or equal to that required to obtain a valid driver's license in the District of Columbia (a current driver's license will be prima facie evidence that the applicant's vision is sufficient).
4. Demonstrate satisfactory knowledge of the laws in the District of Columbia pertaining to firearms and the safe and responsible use of same.

DEALER'S LICENSE NO.

1-54-000-01
 95-39037

No transfer of a firearm between the seller and the purchaser may be made until a reply from the Chief of Police has been received by both parties involved.

SELLER'S NAME <i>C. J. Crawford LTD</i>		PURCHASER/OWNER'S NAME <i>Amir S. Malik</i>	
STREET ADDRESS <i>1111 Grand Hill Rd. SE Atlanta</i>	APT. NO.	STREET ADDRESS	APT. NO.
CITY <i>Atlanta Ga</i>	ZIP CODE <i>30320</i>	CITY	

DESCRIPTION OF FIREARM <input type="checkbox"/> NEW <input type="checkbox"/> USED		MAKE OF WEAPON <i>Smith & Wesson</i>	DESCRIPTION OF PURCHASER/OWNER	
MODEL <i>M&W</i>	SERIAL NUMBER <i>MC1520</i>	DATE OF BIRTH	PLACE OF BIRTH <i>DC</i>	
MANUFACTURER'S ID NO. <i>1199-2000</i>	NO. OF SHOTS <i>10</i>	CALIBER <i>40</i>	OPERATOR'S PERMIT NUMBER	RACE <i>Black</i> SEX <i>M</i>
NO. OF BARRELS/LENGTH <i>2 1/2</i>	FINISH <i>Blk</i>	TYPE OF ACTION <i>Sem Auto</i>	OCCUPATION <i>Police</i>	BUSINESS NAME
IDENTIFYING MARKS <i>20</i>		BUSINESS ADDRESS <i>1111 Grand Hill Rd SE Atlanta Ga 30320</i>		
		HOME		

PURCHASER/OWNER'S ADDRESSES FOR THE PAST FIVE (5) YEARS, WITH DATES OF RESIDENCE
None

PURCHASER/OWNER'S OCCUPATION, BUSINESS NAME AND ADDRESSES FOR THE PAST FIVE (5) YEARS, WITH DATES OF EMPLOYMENT
Police Officer - Metropolitan Police Department of DC

HAVE YOU PREVIOUSLY BEEN DENIED IN THE DISTRICT OF COLUMBIA OR ELSEWHERE ANY PISTOL, RIFLE, OR SHOTGUN LICENSE OR REGISTRATION CERTIFICATE? NO YES
 IF YES, PLEASE EXPLAIN WHY AND BY WHOM

DISAPPROVED

HAVE YOU EVER BEEN INVOLVED IN ANY MISHAP INVOLVING A PISTOL, RIFLE, OR SHOTGUN? NO YES
 IF YES, EXPLAIN CIRCUMSTANCES, INCLUDING DATES, PLACES, AND NAMES OF ANY PERSONS INJURED OR KILLED.

GIVE A BRIEF STATEMENT OF YOUR INTENDED USE OF THE FIREARM AND WHERE THE FIREARM WILL BE KEPT.
For personal protection and for my job. I will keep it in my home.

I HEREBY CERTIFY THAT I AM NOT FORBIDDEN BY EXISTING LAWS AND REGULATIONS FROM PURCHASING OR POSSESSING A FIREARM AND THAT THE INFORMATION GIVEN BY ME ON THIS APPLICATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND DOES NOT KNOWINGLY CONTAIN ANY MATERIAL MISREPRESENTATION OF FACT.

SIGNATURE OF SELLER: *Charles W. Jenkins Jr* DATE: *7-7-09*
 SIGNATURE OF PURCHASER/OWNER: *Amir S. Malik* DATE: *7.7.09*

The Seller and the Purchaser MUST SIGN IN THE PRESENCE OF EACH OTHER.

NOTICE

This application is VALID as a FIREARMS REGISTRATION CERTIFICATE only when stamped "APPROVED" by the Chief of Police and a REGISTRATION NUMBER is affixed thereto.

THIS IS NOT A LICENSE TO CARRY A CONCEALED FIREARM.

About the Firearms Control Regulations Act of 1975

The following is an excerpt from the "Firearms Control Regulations Act of 1975."

Title II — Firearms and Destructive Devices

Section 208 — Additional Duties of Registrants

Each person and organization holding a registration certificate, in addition to any other requirements imposed by this act, or the Acts of Congress, shall:

- (a) notify the Chief in writing of:
 - (1) the loss, theft, or destruction of the registration certificate or of a registered firearm (including the circumstances, if known) immediately upon discovery of such loss, theft, or destruction;
 - (2) a change in any of the information appearing on the registration certificate or required by Section 203 of this act;
 - (3) the sale, transfer, or other disposition of the firearm not less than forty-eight (48) hours prior to delivery, pursuant to such sale, transfer, or other disposition, including —
 - (A) identification of the registrant, the firearm, and the serial number of the registration certificate;
 - (B) the name, residence, and business address and date of birth of the person to whom the firearm has been sold or transferred; and
 - (C) whether the firearm was sold or how it was otherwise transferred or disposed of.
- (b) return to the Chief, the registration certificate for any firearm which is lost, stolen, destroyed, or otherwise transferred or disposed of, at the time he or she notified the Chief of such loss, theft, destruction, sale, transfer, or other disposition.
- (c) have in his or her possession, whenever in possession of a firearm, the registration certificate for such firearm, and exhibit the same upon the demand of a member of the Metropolitan Police Department, or other law enforcement officers.

Title VII — General Provisions

Section 702 — Except for law enforcement personnel described in Section 201 (b)(1), each registrant shall keep any firearm in his/her possession unloaded and disassembled or bound by a trigger lock or other similar device, unless such firearm is kept at his or her place of business, or while being used for lawful recreational purposes within the District of Columbia.

Learn More

For more information about the District's gun registration process, please call the Firearms Registration Hotline at (202) 727-9490 or call the Firearms Registration Section at (202) 727-4275 between 9 am and 5 pm Monday – Friday. Learn more at www.mpdc.dc.gov/gunregistration.

METROPOLITAN POLICE DEPARTMENT
RECORDS DEPARTMENT
RECEIVED DATE
7/27/09

DISAPPROVED

THE AMERICAN STUDENTS BLACKSTONE.

COMMENTARIES
ON
THE LAWS OF ENGLAND;
IN FOUR BOOKS,

BY
SIR WILLIAM BLACKSTONE, KNIGHT,
ONE OF THE JUSTICES OF THE COURT OF COMMON PLEAS.

SO ABRIDGED AS TO RETAIN ALL PORTIONS OF THE ORIGINAL WORK WHICH ARE OF HISTORICAL
OR PRACTICAL VALUE.

WITH NOTES, AND REFERENCES TO AMERICAN DECISIONS:
FOR THE USE OF AMERICAN STUDENTS.

BY
GEORGE CHASE, LL. B.,
PROFESSOR OF LAW IN THE LAW SCHOOL OF COLUMBIA COLLEGE

SECOND EDITION.

NEW YORK:
BANKS & BROTHERS, LAW PUBLISHERS,
141 NASSAU STREET.
ALBANY: 475 BROADWAY.

1884.

c

extorted without a real and voluntary consent, it was made an article in the petition of right 3 Car. I., that no man shall be compelled to yield any gift, loan, or benevolence, tax, or such like charge, without common consent by act of parliament. And, lastly, by the statute 1 W. and M. st. 2, c. 2, it is declared, that levying money for or to the use of the crown, by pretence of prerogative, without grant of parliament, or for longer time, or in other manner, than the same is or shall be granted, is illegal.

In the three preceding articles we have taken a short view of the principal absolute rights which appertain to every Englishman. But in vain would these rights be declared, ascertained, and protected by the dead letter of the laws, if the* [141] constitution had provided no other method to secure their actual enjoyment. It has therefore established certain other auxiliary subordinate rights of the subject, which serve principally as outworks or barriers to protect and maintain inviolate the three great and primary rights, of personal security, personal liberty, and private property. These are:

1. The constitution, powers, and privileges of parliament; of which I shall treat at large in the ensuing chapter.

2. The limitation of the king's prerogatives, by bounds so certain and notorious, that it is impossible he should either mistake or legally exceed them without the consent of the people. Of this, also, I shall treat in its proper place. The former of these keeps the legislative power in due health and vigor, so as to make it improbable that laws should be enacted destructive of general liberty: the latter is a guard upon the executive power by restraining it from acting either beyond or in contradiction to the laws, that are framed and established by the other.

3. A third subordinate right of every Englishman is that of applying to the courts of justice for redress of injuries. Since the law is in England the supreme arbiter of every man's life, liberty, and property, courts of justice must at all times be open to the subject, and the law be duly administered therein. The emphatical words of *magna charta*, spoken in the person of the king, who in judgment of law (says Sir Edward Coke), is ever present and repeating them in all his courts, are these; *nulli vendemus, nulli negabimus, aut differemus rectum vel justitiam*: "and therefore every subject," continues the same learned

author, "for injury done to him *in bonis, in terris, vel persona*, by any other subject, be he ecclesiastical or temporal, without any exception, may take his remedy by the course of the law, and have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay." It were endless to enumerate all the *affirmative* acts of [142* parliament, *wherein justice is directed to be done according to the law of the land; and what that law is every subject knows, or may know, if he pleases; for it depends not upon the arbitrary will of any judge, but is permanent, fixed, and unchangeable, unless by authority of parliament. I shall, however, just mention a few *negative* statutes, whereby abuses, perversions, or delays of justice, especially by the prerogative, are restrained. It is ordained by *magna charta* that no freeman shall be outlawed, that is, put out of the protection and benefit of the laws, but according to the law of the land. By 2 Edw. III. c. 8, and 11 Ric. II. c. 10, it is enacted, that no commands or letters shall be sent under the great seal, or the little seal, the signet, or privy seal, in disturbance of the law; or to disturb or delay common right; and, though such commandments should come, the judges shall not cease to do right; which is also made a part of their oath by statute 18 Edw. III. st. 4. And by 1 W. and M. st. 2, c. 2, it is declared that the pretended power of suspending, or dispensing with laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

Not only the substantial part, or judicial decisions, of the law, but also the formal part, or method of proceeding, cannot be altered but by parliament; for, if once those outworks were demolished, there would be an inlet to all manner of innovation in the body of the law itself. The king, it is true, may erect new courts of justice; but then they must proceed according to the old established forms of the common law. For which reason it is declared, in the statute 16 Car. I. c. 10, upon the dissolution of the court of starchamber, that neither his majesty, nor his privy counsel, have any jurisdiction, power or authority, by English bill petition, libel, (which were the course of proceeding in the starchamber, borrowed from the civil law,) or by any other arbitrary way whatsoever, to examine, or draw into question, determine, or dispose of the lands or goods of any subjects of this kingdom; but that the same ought to be tried and

determined in the ordinary courts of law.

4. * If there should happen any infringement of the rights before mentioned, the course of law is too defective to reach the subordinate right, appertaining to the right of petitioning the king, or to the redress of grievances.¹⁰ In the reign of czar Peter established a law, that no subject should sit on the throne till he had first petitioned for justice. In case he obtained justice from the prince, he need not offer a third petition to the prince; but if he be in the wrong: the consequence is, that he is obliged to offer a third petition; under the notice of the sovereign, to address them. The restrictions, for the sake of petitioning in England, are of great use; and while they promote the spirit of liberty. Care only to be taken, that the pretence of petitioning, the subject of tumult, as happened in the opening of 1640: and, to prevent this, it is enacted, by Car. II. st. 1, c. 5, that no petition shall be presented to parliament, for any alteration of laws, or of the government, signed by above twenty persons, unless it be proved by three justices of the peace, or by a grand jury in the country; and that no petition, or, aldermen and common council regulations, it is declared by the statute, that the subject hath a right to petition, and to prosecute for such

5. The fifth and last auxiliary right, which shall at present mention, is the right of petition, suitable to their condition.

¹⁰ "Congress shall make no law abridging the right of the people to assemble, and to petition the government, (U.S. Constitution, Am'ts, Art. I.) See also the State Constitutions. (See N. Y. Rev. Stat. 52 U. S. 542.)

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determined in the ordinary courts of justice, and by *course of law*.

4. * If there should happen any uncommon injury, or [*143 infringement of the rights before mentioned, which the ordinary course of law is too defective to reach, there still remains a fourth subordinate right, appertaining to every individual, namely, the right of petitioning the king, or either house of parliament, for the redress of grievances.¹¹ In Russia we are told that the czar Peter established a law, that no subject might petition the throne till he had first petitioned to different ministers of state. In case he obtained justice from neither, he might then present a third petition to the prince; but upon pain of death, if found to be in the wrong: the consequence of which was, that no one dared to offer such third petition; and grievances seldom falling under the notice of the sovereign, he had little opportunity to redress them. The restrictions, for some there are, which are laid upon petitioning in England, are of a nature extremely different; and, while they promote the spirit of peace, they are no check upon that of liberty. Care only must be taken, lest, under the pretence of petitioning, the subject be guilty of any riot or tumult, as happened in the opening of the memorable parliament of 1640: and, to prevent this, it is provided by the statute 13 Car. II. st. 1, c. 5, that no petition to the king, or either house of parliament, for any alteration in church or state, shall be signed by above twenty persons, unless the matter thereof be approved by three justices of the peace, or the major part of the grand jury in the country; and in London by the lord mayor, aldermen and common council: nor shall any petition be presented by more than ten persons at a time. But, under these regulations, it is declared by the statute 1 W. and M. st. 2, c. 2, that the subject hath a right to petition; and that all commitments and prosecutions for such petitioning are illegal.

5. The fifth and last auxiliary right of the subject, that I shall at present mention, is that of having arms for their defence, suitable to their condition and degree, and such as are

¹¹ "Congress shall make no law abridging the right of the people, peaceably to assemble, and to petition the government for a redress of grievances." (U.S. Constitution, Am'ts. Art. 1.) Similar provisions are contained in the State Constitutions. (See N. Y. Rev. Statutes, i. p. 85; *U. S. v. Cruikshank*, 92 U. S. 542.)

144*] allowed by law.¹¹ Which is also declared by the same statute, I W. and M. st. 2, c. 2, and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.

In these several articles consist the rights, or, as they are frequently termed, the liberties of Englishmen: liberties more generally talked of, than thoroughly understood; and yet highly necessary to be perfectly known and considered by every man of rank and property, lest his ignorance of the points whereon they are founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation, it is necessary that the constitution of parliament be supported in its full vigor; and limits, certainly known, be set to the royal prerogative. And, lastly, to vindicate these rights, when actually violated or attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning the king and parliament for redress of grievances; and, lastly, to the right of having and using arms for self-preservation and defence. And all these rights and liberties it is our birthright to enjoy entire; unless where the laws of our country have laid them under necessary restraints; restraints in themselves so gentle and moderate, as will appear, upon farther inquiry, that no man of

¹¹ It is declared in the U. S. Constitution that, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." (Am'ts, Art. 2.) Similar provisions are contained in the constitutions of a number of the States. But it is generally held that statutes prohibiting the carrying of *concealed* weapons are not in conflict with these constitutional provisions, since they merely forbid the carrying of arms in a particular manner, which is likely to lead to breaches of the peace and provoke to the commission of crime, rather than contribute to public or personal defence. In some States, however, a contrary doctrine is maintained.

sense or probity would wish to see us have it in our choice to do even desire to do; and are restrained pernicious either to ourselves or review * of our situation may full of a learned French author, who and wrote in the spirit of genuine scrupled to profess, even in the v that the English is the only nat and civil liberty is the direct eng, therefore, to the student of curate search into this extensive my remarks upon it with the exp Paul to his country, "ESTO PER

CHAPTER

[BL. COMM.—BC

Of Subordina

In a former chapter of these magistrates into two kinds: sup foreign power of the state resid act in an inferior secondary sph the former kind only; namely, parliament, and the supreme ex and are now to proceed to inq the principal subordinate magis

And herein we are not to in his majesty's great officers of s berlain, the principal secretari know that they are in that cap the objects of our laws, or ha

(a) Montesquieu, Spirit of Laws, 1

* The chapters upon these topics refer to the English system of government, and are of less importance to the American student.

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sense or probity would wish to see them slackened. For all of us have it in our choice to do every thing that a good man would desire to do; and are restrained from nothing but what would be pernicious either to ourselves or our fellow-citizens. So that this review * of our situation may fully justify the observation [* 145 of a learned French author, who indeed generally both thought and wrote in the spirit of genuine freedom (a), and who hath not scrupled to profess, even in the very bosom of his native country, that the English is the only nation in the world where political and civil liberty is the direct end of its constitution. Recommending, therefore, to the student of our laws a farther and more accurate search into this extensive and important title, I shall close my remarks upon it with the expiring wish of the famous Father Paul to his country, "ESTO PERPETUA."

CHAPTER II.

[BL. COMM.—BOOK I. CHAP. IX.]

Of Subordinate Magistrates.

In a former chapter of these Commentaries we distinguished magistrates into two kinds: supreme, or those in whom the sovereign power of the state resides; and subordinate, or those who act in an inferior secondary sphere. We have hitherto considered the former kind only; namely, the supreme legislative power or parliament, and the supreme executive power, which is the king: and are now to proceed to inquire into the rights and duties of the principal subordinate magistrates.

And herein we are not to investigate the powers and duties of his majesty's great officers of state, the lord treasurer, lord chamberlain, the principal secretaries, or the like; because I do not know that they are in that capacity in any considerable degree the objects of our laws, or have any very important share of

(a) Montesquieu, Spirit of Laws, xi. 5.

* The chapters upon these topics have been omitted, as relating exclusively to the English system of government, and therefore not practically important to the American student.