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Description

Written back in the 1700’s to protect the weak from exploitation by the powerful, the self-incrimination clause set forth in the Fifth Amendment says, "No one shall be compelled in any criminal case to be a witness against himself." The Supreme Court expanded the right to cover civil proceedings and even legislative hearings.

Keywords

Fifth Amendment, 5th Amendment, Constitution, Bill of Rights, Pleading the Fifth, Plead the Fifth, Self Incrimination, Guilt, Innocence, British Common Law, Jury, Testimony, Court, Prosecutor, Defense, Evidence, Judiciary, Witness, Gennaro Mancuso, Mafia, Oliver North, Roy Williams, Michael Jackson, Ruby Ridge, Idaho, OJ Simpson, Mark Fuhrman, R.B. Bernstein, Parliament, Akhil Reed Amar, Supreme Court, Congress
Citation

MLA

APA

CHICAGO MANUAL OF STYLE

Transcript

History of the Fifth Amendment
GISELLE FERNANDEZ, anchor:
IN FOCUS this evening – guilt, innocence, and the Fifth Amendment. It was written back in the 1700s to protect the weak from exploitation by the powerful. In modern America, that part of the Bill of Rights is causing controversies the founders never imagined. NBC’s Rehema Ellis explains.

REHEMA ELLIS reporting:
It is the right many feel is wrong, and it has produced some comic moments.
(Beginning of file footage)
Off-Screen Voice: ...any occupation?
Mr. GERANO MANCUSO (Accused Gangster): I refuse to answer on the grounds that the answer may tend to incriminate me.
Off-Screen Voice: You in any kind of business?
Mr. MANCUSO: I refuse to answer on--on the grounds that the answer may tend to incriminate me.
Off-Screen Voice: Did you ever do a day's work?
Mr. MANCUSO: I refuse to answer on the grounds that the...
(End of footage)
REHEMA ELLIS reporting:
It's the self-incrimination clause set forth in the Fifth Amendment to the U.S. Constitution, part of the Bill of Rights approved in 1791. It says, "No one shall be compelled in any criminal case to be a witness against himself." The Supreme Court expanded the right to cover civil proceedings and even legislative hearings--by corrupt union leaders...
Mr. ROY WILLIAMS (Later Convicted): (From file footage) I rely on my Fifth Amendment privilege.
ELLIS: ...Iran Contra scandal figures.
Lieutenant Colonel OLIVER NORTH (Conviction Overturned): (From file footage) Mr. Hamilton, on the
advice of counsel, I respectfully and regretfully decline to answer the question based on my constitutional
rights.
ELLIS: Michael Jackson took the Fifth when bodyguards he fired made allegations involving child
molestation. The case was dismissed. Five FBI agents took the Fifth this month during Senate hearings on
the shootings at Ruby Ridge, Idaho. They are concerned about criminal charges. And a retired LA
policeman used it during the trial of the century.
Mr. GERALD UELMEN: Detective Fuhrman, was the testimony that you gave at the preliminary hearing
in this case completely truthful?
Mr. MARK FUHRMAN (Retired Detective): I wish to assert my Fifth Amendment privilege.
Mr. UELMEN: Have you ever falsified a police report?
Mr. FUHRMAN: I wish to assert my Fifth Amendment privilege.
ELLIS: No announcement yet on whether Fuhrman will actually face perjury charges. The Supreme Court
says that taking the Fifth should not be interpreted as an indication of guilt, but...
Mr. R.B. BERNSTEIN (Constitutional Historian): Most people think that if you have something to hide
you reach for the Fifth Amendment to hide it. Only guilty people, they think, use the Fifth Amendment.
Leaving aside that that's just not true, most Americans really do not fully understand what the Bill of
Rights is for.
ELLIS: The Fifth Amendment traces its roots to British common law, which actually provides less
protection, and even that was further weakened by Parliament. Now, if British defendants refuse to testify,
jurors are instructed to hold it against them. Nothing that drastic is likely in this country. Congress has no
plans to amend the Constitution, and even if they wanted to weaken the self-incrimination clause, the
Supreme Court justices would need a test case to open the door. Earlier this year in the Michigan Law
Review, a Yale law professor called the Fifth Amendment `...an unsolved riddle of vast proportions' and
proposed that the 200-year-old rules be reinterpreted.
To the founders, the priority was protecting the innocent. The top priority today is convicting the guilty,
and the challenge is to do both. Rehema Ellis, NBC News, New York.