

for trial, and not to citizens residing or temporarily sojourning abroad.<sup>6</sup> *Reid v. Covert* made this holding inapplicable to proceedings abroad by United States authorities against American civilians.<sup>7</sup> Further, though not applicable to the states by the Amendment's terms, the Court has come to protect all the rights guaranteed in the Sixth Amendment against state abridgment through the Due Process Clause of the Fourteenth Amendment.<sup>8</sup>

The Sixth Amendment applies in criminal prosecutions. Only those acts that Congress has forbidden, with penalties for disobedience of its command, are crimes.<sup>9</sup> Actions to recover penalties imposed by act of Congress generally but not invariably have been held not to be criminal prosecutions,<sup>10</sup> nor are deportation proceedings,<sup>11</sup> nor appeals or post-conviction applications for collateral relief,<sup>12</sup> but contempt proceedings, which at one time were not considered criminal prosecutions, are now considered to be criminal prosecutions for purposes of the Amendment.<sup>13</sup>

## RIGHT TO A SPEEDY AND PUBLIC TRIAL

### Speedy Trial

**Source and Rationale.**—The Magna Carta declared “[w]ee shall not . . . deny or delay Justice and right, neither the end, which is

<sup>6</sup> *In re Ross*, 140 U.S. 453 (1891) (holding that a United States citizen has no right to a jury in a trial before a United States consul abroad for a crime committed within a foreign nation).

<sup>7</sup> 354 U.S. 1 (1957) (holding that civilian dependents of members of the Armed Forces overseas could not constitutionally be tried by court-martial in time of peace for capital offenses committed abroad). Four Justices, Black, Douglas, Brennan, and Chief Justice Warren, disapproved *Ross* as “resting . . . on a fundamental misconception” that the Constitution did not limit the actions of the United States Government against United States citizens abroad, *id.* at 5–6, 10–12, and evinced some doubt with regard to the *Insular Cases* as well. *Id.* at 12–14. Justices Frankfurter and Harlan, concurring, would not accept these strictures, but were content to limit *Ross* to its particular factual situation and to distinguish the *Insular Cases*. *Id.* at 41, 65. *Cf. Middendorf v. Henry*, 425 U.S. 25, 33–42 (1976) (declining to decide whether there is a right to counsel in a court-martial, but ruling that the summary court-martial involved in the case was not a “criminal prosecution” within the meaning of the Amendment).

<sup>8</sup> Citation is made in the sections dealing with each provision.

<sup>9</sup> *United States v. Hudson & Goodwin*, 11 U.S. (7 Cr.) 32 (1812); *United States v. Coolidge*, 14 U.S. (1 Wheat.) 415 (1816); *United States v. Britton*, 108 U.S. 199, 206 (1883); *United States v. Eaton*, 144 U.S. 677, 687 (1892).

<sup>10</sup> *Oceanic Navigation Co. v. Stranahan*, 214 U.S. 320 (1909); *Hepner v. United States*, 213 U.S. 103 (1909); *United States v. Regan*, 232 U.S. 37 (1914).

<sup>11</sup> *United States ex rel. Turner v. Williams*, 194 U.S. 279, 289 (1904); *Zakonaite v. Wolf*, 226 U.S. 272 (1912).

<sup>12</sup> *Cf. Evitts v. Lucey*, 469 U.S. 387 (1985) (right to counsel on criminal appeal a matter determined under due process analysis).

<sup>13</sup> *Compare In re Debs*, 158 U.S. 564 (1895), with *Bloom v. Illinois*, 391 U.S. 194 (1968).