

RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS

SIXTH AMENDMENT

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

CRIMINAL PROSECUTIONS

Coverage

Like with other provisions of the Bill of Rights, the application of the Sixth Amendment evolved. In considering a bill of rights in August 1789, the House of Representatives adopted a proposal to guarantee a right to a jury trial in state prosecutions,¹ but the Senate rejected the proposal, and the 1869 case of *Twitchell v. Commonwealth* ended any doubt that the states were beyond the direct reach of the Sixth Amendment.² The reach of the Amendment thus being then confined to federal courts, questions arose as to its application in federally established courts not located within a state. The Court found that criminal prosecutions in the District of Columbia³ and in incorporated territories⁴ must conform to the Amendment, but those in the unincorporated territories need not.⁵ Under the *Consular* cases, of which the leading case is *In re Ross*, the Court at one time held that the Sixth Amendment reached only citizens and others within the United States or brought to the United States

¹ 1 ANNALS OF CONGRESS 755 (August 17, 1789).

² 74 U.S. (7 Wall.) 321, 325–27 (1869).

³ *Callan v. Wilson*, 127 U.S. 540 (1888).

⁴ *Reynolds v. United States*, 98 U.S. (8 Otto) 145 (1879). *See also* *Lovato v. New Mexico*, 242 U.S. 199 (1916).

⁵ *Balzac v. Porto Rico*, 258 U.S. 298, 304–05 (1922); *Dorr v. United States*, 195 U.S. 138 (1904). These holdings are, of course, merely one element of the doctrine of the *Insular Cases*, *De Lima v. Bidwell*, 182 U.S. 1 (1901); and *Downes v. Bidwell*, 182 U.S. 244 (1901), concerned with the “Constitution and the Advance of the Flag,” *supra*. *Cf. Rassmussen v. United States*, 197 U.S. 516 (1905).