

# **STRAY PHEASANT FEATHERS PROVIDE GROUNDS FOR AUTOMOBILE SEARCH**

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This is the fourth in a series on the Bill of Rights. In the first, I focused on how they are interpreted and viewed in divergent ways. They are constantly being probed and tested with Articles II, IV, and V receiving the most scrutiny and X the most ambiguous.

Series two and three looked at Article V, which guarantees, among other things, our oldest of civil rights – private property rights. They pointed out how government trammels those rights with virtual impunity.

This missive presents a cursory view of how Articles II, IV, and X are viewed. Article II specifically guarantees Americans the right to bear arms. None of the other nine articles has generated the fervor the above proposition has.

Author Tom Clancy gave an interesting and thought provoking juxtaposition on the subject for the *Washington Post*.

Where he lives in Chesapeake Bay area there is a high ratio of gun ownership per resident. The area also boasts of a relatively low rate in gun-related crime. In nearby Washington, DC, with some of the most stringent gun laws in the country, you also have one of the highest rates of gun-related crimes.

He makes another point, stating that in Switzerland every male between 18 and 60 is required to keep an assault rifle and several rounds of ammunition in his home. The rate of gun-related crime in Switzerland is one of the lowest in the world. This suggests that people and the judicial system have more to do with gun-related crimes than guns alone.

The situation in Kosovo highlights the consequences where only the government is allowed to have firearms. I well remember the brave account the Jews gave of themselves with the limited arms they had in the Battle of Warsaw.

I also recall the appeals to U.S. sportsmen to donate sporting arms to the English home guard in the late 30's when they were preparing for an impending Nazi invasion.

Every human being has a basic, fundamental right to self-defense. The right to bear arms gives them the means.

Article IV deals with a person's right "to be secure in their persons, houses, papers and effects against unreasonable searches and seizures."

This article was reinforced by the landmark Miranda decision. In short, it proclaimed that evidence obtained in violation of the amendment could not be presented against you in a court of law. It still elicits unending tests to determine the validity of evidence used to determine innocence or guilt.

For years, New York Conservation Law had its own unique understanding of this article. The public was coerced into believing their persons, autos, and outbuildings were subject to search without a warrant. The opportunity to search was at times enhanced by finding a few convenient deer hairs or pheasant feathers on or near the object to be searched.

The strict extension of this article has made it extremely difficult to obtain convictions in many instances. It is explained away in law enforcement seminars as making better police officers and insuring more solid court cases.

Article X "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." The many U. S. Cabinets that have been formed over the years are questionable under this article. One may reasonably question if they have not usurped those powers that were specifically reserved to the states. The powers acceded to many of those Cabinets have eroded over rights under the rest of the Bill of Rights.