

# Unique State Rights

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- Privacy
- Free speech
- Crime victims' rights
- Right to hunt and fish
- Natural or inalienable rights

# *Right to Hunt and Fish*

# Cabot v. Thomas

514 A.2d 1034 (Vt. 1986)

“The inhabitants of this State shall have liberty in seasonable times, to hunt and fowl on the lands they hold, and on other lands not enclosed, and in like manner to fish in all boatable and other waters (not private property) under proper regulations, to be made and provided by the General Assembly.” Ch. II, § 39, Vermont Const.

# Modern Right to Hunt Amendments

“Section 36.02 Sportsperson”s Bill of Rights.

(a) The people have a right to hunt, fish, and harvest wildlife, including by the use of traditional methods, subject to reasonable regulations, to promote wildlife conservation and management, and to preserve the future of hunting and fishing. Hunting by the public and fishing by the public shall be the preferred means of managing and controlling wildlife. This amendment shall not be construed to modify any provision of law relating to eminent domain, trespass, or property rights.

(b) This amendment shall be known as the “Sportsperson”s Bill of Rights.” -  
Alabama Const. § 36.02

# Final Exam

Four hours

Open book (only printed materials allowed)

# Justiciability in State Courts

- Standing
- Advisory Opinions

# *Standing*

**Gregory v. Shurtleff**

299 P.3d 1098 (Utah 2013)

# Public-interest standing

Appropriate party questions:

- Does party have interest necessary to assist court in reviewing legal and factual questions?
- Are the issues unlikely to be raised if party is denied standing?
- Is the issue better resolved by other political branches?

“The judicial power of the state shall be vested in a Supreme Court, in a trial court of general jurisdiction known as the district court, and in such other courts as the Legislature by statute may establish.”  
Utah Const. Art. VIII, § 1 [Judicial powers -- Courts.]

# *Advisory Opinions*

**State of Kansas ex rel. Morrison v. Sebelius**  
179 P.3d 366 (Kan. 2008)

**Request for an Opinion of the Justices**  
274 A.3d 269 (Del. 2022)

What if Kansas legislature then passed a law criminalizing protesting at funerals in violation of time-place-manner restrictions and then ordered the Attorney General to prosecute all violators and support all appeals up to the Kansas Supreme Court to determine the constitutionality of the law?

# Questions for Delaware Supreme Court

1. May “reasonable cause” include an indictment?
2. Does the authority to remove a public official implicitly include the authority to take a lesser action, such as suspension of that public official? If so, must the General Assembly address the Governor on the lesser action?
3. Does the process require a hearing prior to a vote?
4. Does the 10-day notice requirements apply for only the first House or are separate notices required for each House? May those notices be issued concurrently?
5. Is there a mechanism for an appeal?

# *Environmental Rights*

# Example Provision

“The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment.”

# Robinson Township, Washington County v. Commonwealth

83 A.3d 901 (Pa. 2013)

“The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.” Penn. Const. Art. I, § 27.

# Penn. Env. Def. Found. v. Commonwealth

161 A.3d 911 (Pa. 2017)

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