

## **This Day In Legal History: Of Governments And Hammers**

Article By:

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Tomorrow is September 25. So what, you ask?

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Only three more months to finish that Christmas shopping and get all the holiday cards addressed and signed.

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Actually, September 25 provides a more interesting confluence of events.

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On that date 221 years ago, the First Congress of the United States of America proposed a series of amendments to the Constitution. Uncharacteristically for Congress, the legislative product got shorter as it went along.

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Seventeen amendments were trimmed to 12 in the Senate, of which 10 were ratified by three quarters of the states.

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Yes--those 10. [The Bill of Rights](#)--a document originally intended to create a "fed free" zone of liberty with words like, "Congress shall make no law . . . ."

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*(\*\*An 11th, now known as the 27th Amendment prohibiting a Congress from raising its own pay, was finally ratified in 1992--hat tip to [Judge Brister](#)\*\*)*

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Astounding by modern standards that Congress would ever draft a sentence beginning with the words, "Congress shall make no law." But they did, because folks believed that the new federal government was a potential threat to liberty if its power were not expressly limited.

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But there's some irony here too because sometimes a strong federal government is the only effective guarantor of liberty. On this **same date** 53 years ago, federal power [enabled the Little Rock Nine to finally enter Central High School](#).

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Interesting that the local public schools in Little Rock developed **their own** desegregation plan even before *Brown v. Board of Education*--liberty not being the sole province of the federal government. Yet, the local government did not have the horsepower to carry it out all by itself.

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Before the Little Rock Nine could finally start school, it took the orders of [Federal District Judge Ronald Davies](#) enforcing the plan. It also took President Eisenhower nationalizing the Arkansas National Guard--a body which had been used only days earlier by Arkansas' governor to frustrate desegregation.

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So, maybe government, especially a powerful, central government is bad.

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Except when it is good.

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Or perhaps its not as simple as a stump speech. Maybe government is like a hammer, a tool which is equally capable of smashing windows or sculpting marble, depending upon who holds it and how it is handled.

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