The Anti-Government Movement Guidebook

The National Center for State Courts

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Preface

There is a movement afoot in this country today that is made up of disaffected and often dispossessed Americans who are seeking a better way through a wholesale return to their view of the past. This movement has been called many things: the antigovernment movement, the sovereignty movement, and the common law courts movement. Regardless of the name attached to the beliefs and the people who follow them, one common denominator exists: a feeling of despair, rooted in personal and pecuniary loss, and manifested in a new, defiant mistrust and spite for the ways of the current government. This guide focuses on the ways in which followers of these movements impact the operation of our state court systems.

While the commentators have discussed these movements from all angles - ranging from ridicule to outrage to fear - most of the mainstream pundits discount the powerful emotion that drives individuals from the fold of our everyday society and into the ranks of the modem patriots. This guide asks that our state courts not take these individuals and their problems and concerns so lightly. In 1928, Justice Brandeis said:

> "Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."[1]

The people who make up the movements that we are concerned with consistently speak out to say that our government today does not listen, it no longer serves the American people, it exists to serve its own ends. The merits of that argument are not within the purview of this guide. Rather, the authors wish to urge Justice Brandeis's warning upon those who administer our state courts. That is, while we do not advocate an ultra-sympathetic response at the expense of safety and the efficient operation of the courts, we do implore those charged with running our court system to do two things: learn the history behind the beliefs we are seeing spread across our land, and understand

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[1] *Olmstead v. United States*, --- U.S. 438 (1928) (Brandeis, J., dissenting).

that these are not militia members or "Patriots" or "ultra-conservatives," but rather citizens who come before you seeking the same fair treatment that those without any label attached receive.

To that end, this guide is organized in the following manner. Part I includes an essay that provides a historic overview of the "common law courts" movement. This essay was written by Dr. Mark Pitcavage, a widely traveled lecturer on the "militia movement" and operator of the Militia Watchdog website.

Parts II through IV include a discussion of many of the common tactics used by members of these groups - both in and against the courts - as well as typical responses to each tactic. Part V is a brief introduction to and discussion of the relationship between potential responses to the tactics and the Trial Court Performance Standards ("TCPS"). While not all courts have adopted or use the TCPS, they provide a good framework for making a broader assessment of the relative value of each potential response - because the TCPS value less tangible things as "access to justice" and "equality, fairness and integrity."

The final part of this guide contains three appendices. The first two of those, Appendix A and Appendix **B,** are general resource guides. These include sample state legislative responses, and links to Patriot, militia, common law courts and other antigovernment websites. Appendix C is a sampling of various "movement documents" - pleadings, essays and articles written by followers of the various movements. These stand less as a comprehensive compilation and more as a general overview - enough to introduce those who have not yet experienced dealings with the movement to the general tone and approach used.

Finally, the authors again ask the reader to consider Justice Brandeis's warning and remember that, when dealing with followers of the various movements, you are, foremost, representatives of the government they see as corrupt and they are, foremost, American citizens. The fairness and dignity with which you treat them from the outset will go a long way toward determining how they respond to you and your court.

Acknowledgements

The *Anti-Government Movement Guidebook* coalesced out of a grant from the State Justice Institute for the Institute for Court Management course, "The Rise of Common Law Courts in the United States: An Examination of the Movement, The Potential Impact on the Judiciary, and How the State Could Respond" (Dealing with Common Law Courts). On February 5-7, 1997, twenty-seven judges, court clerks, court administrators, and prosecutors met in Scottsdale, Arizona to learn about the so-called Common Law Court Movement (CLC), to develop responses the courts can take to deal with the CLC, and to make recommendations for establishing a curriculum for judicial educators to train judges and court officials on how to deal with CLC activities in their own jurisdictions. The course was very much a working group and sought to bring together individuals who have first-hand experience with CLC activists and who could use their experiences and insights to develop possible responses to the CLC.

Over the course of two and one half days, the participants heard a presentation on the history of the CLC, shared first-hand experiences in dealing with CLC activists, examined how the CLC disseminates its materials and ideology, heard from an investigative reporter who described his experiences attending CLC proceedings, and broke out into work groups to examine CLC - related issues and craft proposals for responding to CLC actions.

The work product of the groups was a set of recommendations and responses the courts might use to handle situations and inconveniences brought on by **CLC** activists better. These responses and the experience of conducting the course in Scottsdale formed the basis for the **NCSC** publication. *Dealing with Common Law Courts: A Model Curriculum/or Judges and Court Staff: Instructor's Manual* a precursor to this latest **NCSC** publication. *The Anti-Government Guidebook.*

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Williamsburg, Virginia, 1999

Part I

Common Law and Uncommon Courts: An Overview of the Common Law Court Movement [2]

The verdict of the county court was predictable. Caught driving without a license or proof of insurance. Sherry Scotka received a $350 fine from the Ken County, Texas, court for each offense. But Scotka, during the stultifying summer of 1993, was anything but predictable. Acting as her own lawyer, she appealed the county court's decision, requesting that the Texas Appeals Court transfer her case to the "Common Law Court of the United States of America." Her argument? That as a "sovereign citizen" she was outside the jurisdiction of Texas law or Texas courts.

The appeals court did not look upon her request with favor, noting that she could not even show that the "Common Law Court of the United States of America" existed.[3] This was not the first time that the Court of Appeals had faced this sort of peculiar argument. From the Texas hill country had come a rash of such claims in the past several years, all from strangely similar cases: traffic violations, foreclosures, frivolous suits. Brought to court, the defendants, usually operating *pro se* - that is, defending themselves would demand that the case in question be removed to the "Common Law Court for the Republic of Texas." Finally, in 1992, the Appeals Court noted officially that there was no such thing. "We hold," said the court, "that the Common Law Court for the Republic of Texas, if it ever existed, has ceased to exist since February 16, 1846 " - in other words, when Texas state government was organized. It was then that the defendant changed the transfer reference in her pleading to the "Common Law Court of the United States of America," although interestingly the address on the legal documents remained the same.[4] Transfer reference in her

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[2] By Dr. Mark Pitcavage. Dr. Pitcavage maintains a very comprehensive website dedicated to tracking and discussing the militia movement in America. His site, the "Militia Watchdog" can be found at: www.militia-watchdog.org The authors sincerely thank Dr. Pitcavage for his generous permission to use this essay.

[3] Texas Lawyer, June 14, 1993

pleading to the "Common Law Court of the United States of America," although interestingly the address on the legal documents remained the same.[4] What the Texas appeals court was just beginning to perceive were the beginnings of a movement created by recalcitrant self proclaimed "sovereign citizens" determined to wrest control of their lives back from all forms of government or authority. Appearing first in isolated spots in Texas and Florida, the notion of "common law courts" soon spread to Kansas and other farm states, then quickly across the nation. The "common law court movement," as it has somewhat clumsily come to be called, now exists in some form in every state in the country. In some states, activity is minimal; in others common law courts are a serious nuisance; in some, they are a plague on the judicial system.

Although featured on television shows like "20/20," common law courts did not really breach the public consciousness until the spring of 1996, when FBI agents surrounded a frigid eastern Montana farm to wait out two dozen recalcitrant tax protesters that locals dubbed "freemen." In reality, however, common law adherents had been active for years in different areas across the country. Frustrated county clerks knew of the strange filings made in their offices; puzzled policemen encountered confrontational motorists pulled over for homemade license plates; irritated lawyers discovered that bogus liens had been placed on their property by court opponents. But there was little public awareness or understanding of the movement. The media reported that Oklahoma City bombing suspect Terry Nichols had declared himself a "sovereign citizen," but treated it as a random, bizarre act by a right-wing extremist, not as an action by someone consciously part of an ideological movement.

Few people knew then that these activities were not just isolated phenomena. Fewer still, even today, understand that they are not just part of some movement, but that this movement has a much longer and more active history than most people ever suspected. The "common law court," so called, can be traced back nearly two decades as a form of right-wing social protest, with roots stretching back still farther. What common law court activists do and say today often seems strange and incomprehensible to the average person, but their deeds and words possess a coherent internal logic and are part of a very conscious overall ideology.

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[4] Use Bailey, "Meanwhile, Back at the Ranch," 25 Texas Prosecutor 1, 8-14.

Understanding the origins of common law courts and why their members act the way they do will increase our understanding of them and assist in developing strategies to combat them effectively. That is the purpose of this overview.

The Posse Comitatus

The common law courts and sovereign citizens are the direct ideological descendants of the Posse Comitatus; any attempt to understand the common law courts must start with the this group. The Posse, though, is not necessarily an easy entity to understand. On one level, the Posse was a right-wing extremist organization with a more or less definable beginning. In 1969 a retired dry cleaner named Henry "Mike" Beach (a former member of the 1930s pro-Nazi group, the Silver Shirts) formed a group called the Sheriffs Posse Comitatus. In California, William Potter Gale started a similar organization, the United States Christian Posse Association, around the same time. From these beginnings, branches formed in other areas of the country, numbering around 80 or so by the mid-1970s. The farm crisis of the early 1980s, for reasons that will be explained below, caused membership to rise greatly, particularly in the plains states.

From the start, the Posse caused problems for local, state and federal authorities. As early as 1974, Thomas Stockheimer, head of the Posse in Wisconsin, was convicted on charges of assaulting an Internal Revenue Service agent. Indeed, the normally placid state of Wisconsin became a hotbed of Posse activity, due to leaders Stockheimer, James Wickstrom and Donald Minniecheskie. In northeastern Wisconsin, Wickstrom - who styled himself the "national director of counterinsurgency" of the Posse and liked to conduct paramilitary training - established the "Constitutional Township of Tigerton Dells," a "township" that consisted of a compound of trailers on a farm lot. From there, Wickstrom waged a war against local authorities that resulted, in the mid-1980s, in the eventual destruction of the "township" and Wickstrom's arrest (one of many). In other states as well, most notably Kansas, Posse members repeatedly clashed - with resulting deaths and injuries - with local authorities.

It was, however, Gordon Kahl of North Dakota who achieved the most notoriety and became the Posse's first real martyr. Kahl was a virulent racist and tax protester who traveled to farm protest

meetings across the country's midsection to win converts to the Posse cause. In 1983 four U.S. marshals and two local law enforcement officers set up a roadblock to arrest Kahl for violating the terms of his probation. A shootout ensued which resulted in the death of two of the marshals and the wounding of two others. Also wounded was Kahl's twenty-year-old son. When Kahl fled the state, a nationwide manhunt - and nationwide publicity - began. Months later, Kahl was tracked down in Arkansas, where he died during another gunfight in which a county sheriff was killed.

Eventually, though, the Posse declined as an effective organization, largely through loss of leadership. Faced with repeated imprisonment, some leaders such as James Wickstrom scaled back their activities. Other leaders, such as Henry Beach and William Potter Gale, died of natural deaths, the latter while appealing a conviction for threatening IRS agents. Still others, like Kahl, died violently. The result was that by the late 1980s the Posse was floundering. Always locally based, pockets of the Posse continued to survive here and there, but it was no longer a force.[55]

As an organized right-wing group, the Posse did not really survive. But the Posse had never been simply an organization-indeed, it was hardly ever well organized. The Posse Comitatus was much more durable as an ideology. Thousands, perhaps tens of thousands, of people who never formally belonged to any Posse group nevertheless subscribed to Posse ideology. The belief system survived even as the group faded.

The Posse ideology and the justifications that results from it are complex, but stripped of racist overtones, there are three main tenets to Posse ideology that are crucial to understanding how the Posse mindset works. In order of increasing importance, these tenets are (1) the importance of local control, (2) the need to avoid legal and financial authority, and (3) justifications derived from the revelation of "hidden history." ***The Importance of Local Control***

The importance of local control to adherents of Posse ideology was the simplest and most visible feature of their philosophy. Indeed, the term "posse comitatus" itself is a Latin phrase that

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[5] No adequate history of the Posse exists. Summaries can be found in David H. Bennett, The Party of Fear; The American Far Right from Nativism to the Militia Movement (New York, 1955), 350-355; James Ridgway, Blood in the Face; The Ku Klux Klan, Aryan nations, Nazi Skinheads, and the Rise of a New White Culture (New York, 1990), 109-44; James Corcoran, Bitter Harvest; The Birth of Paramilitary Terrorism in the Heartland (New York, 1955), 5-42. Cheri Seymour's Committee of the States; Inside the Radical Right (Mariposa, CA, 1991)

means "power of the county." Accordingly, Posse teachings argued that the county government was the highest authority of government in the country, a belief sometimes misreported as the county being the only form of legitimate authority. Actually, the Posse recognized the other levels of government, but contended that federal or state officials had to bow before the power of the county sheriff.[6]

Avoiding Legal Authority

Because of the emphasis given by Posse members to the county sheriff, many journalists well into the 1980s persisted in calling the Posse Comitatus a "law-and-order" group. But nothing was further from the truth. The Posse's motivation was essentially the exact opposite of law and order. The Posse wanted to be free of all obligations to laws its members didn't like, and to be free of financial obligations as well. Its entire ideology was specifically designed to achieve this. For instance, their emphasis on the importance of the county sheriff was not intended to support greater "law and order." The Posse argued that it was the sheriffs responsibility "to protect the people of his County from unlawful acts on the part of anyone, including officials of government ... whether these be judges of courts or Federal or State Agents of any kind whatsoever."

In other words, the local sheriff's duty was to shield the citizenry from the interference of federal, state and local government. If the sheriff neglected this duty, the people had "the lawful right under natural law to act in the name of the Sheriff to protect local jurisdiction." They could arrest people and hold them "for trial by a citizen jury empanelled by the Sheriff from citizens of the local jurisdiction, instead of by the Courts as is the current procedure in most Counties and which has no basis under law, any act of any legislature or directives issued by the judiciary or Executive notwithstanding."

Especially important to the Posse was that sheriffs not be used to enforce court rulings: "The unlawful use of County Sheriffs as LACKEYS of the Courts should be discontinued at once … The Sheriff is accountable and responsible only to the citizens who are the inhabitants of his County." Indeed, the Posse offered a thinly-veiled threat to Sheriffs and others who did not accommodate the

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[6] Posse Handbook, at 1.

will of local citizens: "In some instances of record the law provides for the following prosecution of officials of government who commit criminal acts or who violate their Oath of Office: He shall be removed by the Posse to the most populated intersection of streets in the township and at high noon be hung by the neck, the body remaining until sundown as an example to those who would subvert the law." Many Posse members proudly wore a pin shaped as a hangman's noose as a symbol of their membership.[7]

"Hidden History" as Justification

The third defining characteristic of Posse ideology is the peculiar method by which Posse members justified their positions. They did this through an emphasis - some would say obsession – on "hidden history." In other words, they believed that the true history of the United States - and thus the true laws, the true obligations of citizens, the true government - had been hidden from the American citizen by a massive, long-lasting conspiracy. Indeed, the Posse's handbook noted that:

> "the rule for the Judiciary, both State and Federal, has been subtle subversion of the Constitution of these United States. The subversion and contempt for the Constitution by the Judiciary is joined by the Executive and Legislative branches of government. It is apparent that the Judiciary has attempted to alter our form of Government. By unlawful administrative acts and procedures, they have attempted to establish a Dictatorship of the Courts over the citizens of this Republic. The legal profession has, with few exceptions, conspired with the Judiciary for this purpose."[8]

Later, Posse leaders would develop this simple beginning into a complex tale of conspiracy and cover-up, over a period of over one hundred years, designed to subvert liberty. Given this notion, that the true laws of the United States had been covered up by conspiring legislators, judges and lawyers. Posse adherents seek to uncover the hidden history that has been deprived them. They do this through searching through law books and legal codes, the writings of the founders and early legal scholars, the Uniform Commercial Code, the Bible, and other documents. "People say we're creating our own laws," said Montana Freeman Russell Landers, "We're not creating anything. It's right there in the law already." Indeed, practically any document can become fodder for a Posse governmental

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[7] Ibid
[8] Ibid

theory. There is no end to what a creative Posse mind can come up with.[9]

One example is the "Missing Thirteenth Amendment," popularized by Texas activist Alfred Adask. Posse adherents discovered a draft Constitutional amendment from the republic's early days, one that would deny citizenship to Americans accepting titles of nobility. This was one of many Amendments that failed because not enough states ratified it. But Posse adherents decided not only that it had been ratified, but that its ratification had been covered up by a conspiracy. Their erroneous beliefs were bolstered by discovering some old printed copies of the Constitution which listed the draft Amendment along with other, actually ratified Amendments. Posse "scholars" combed through state archives, looking for votes on ratification, or hints of cover-up, and concluded, not surprisingly, that there had indeed been a cover-up. Why did the Posse spend all this energy? Because of the way that they interpreted the meaning of the Amendment. To the Posse, all lawyers had "titles of nobility," because they put the term "esquire" after their names. Therefore, lawyers were not legally citizens of the United States - but they had engaged to cover up the Thirteenth Amendment, which would have taken away so much of their power.

Another example of Posse creativity was the Committee of the States, the brainchild of Posse leader William Potter Gale in the 1980s. Gale argued that the Articles of Confederation, the document that governed the United States before the Constitution was ratified, had never been officially repealed and remained in force. Gale then pointed to a clause in the Articles which said that Congress could appoint a committee that would handle the general affairs of the United States when Congress was not in session (under the Articles, there was no executive branch). Gale interpreted this to mean that the Committee of the States was a second Congress, with full and equal powers-he promptly arranged for a (self-appointed) Committee to come into being.

These different facets of Posse Comitatus ideology shaped the evolution of the movement in the 1970s and 1980s. The Posse absorbed much of the tax protest movement, whose natural inclinations were very similar: to avoid the obligation to pay income taxes, and to use "hidden history" as a means, including re-interpreting obscure or out-of-context parts of the tax code and finding novel ways of declaring that the 16th Amendment had never been legitimately ratified. Another, more

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[9] St. Louis Post Dispatch, November 3, 1996

important, association made by the Posse during this time period was the development of close ties with the anti-Semitic religious sect Christian Identity.

Christian Identity, whose members believe that Jews are descended from Satan, was small in number but disproportionately influential in the far right. From the very beginning, Posse ideology was attractive to Christian Identity leaders (and vice versa). For Posse adherents looking for the "true law" that conspirators had erased, Christian Identity advocates pointed to the Bible, saying that the Constitution was divinely inspired. For Posse adherents looking for the source of conspiracy, Christian Identity could point to Jews or "international bankers" as the culprits. Identity theology and Posse ideology complemented each other. William Potter Gale, one of the founders of the Posse, was also one of the most prominent Christian Identity ministers. James Wickstrom, the most visible Posse leader, was likewise an influential Identity figure. Although Posse ideology could always be utilized without a racist component, for many, Posse and Identity beliefs went hand in hand.

The development of the Posse ideology also helps to explain its first rise to prominence during the farm crisis of the early 1980s, when inflation, falling land values, rising interest rates, and poor lending practices combined to create a financial crisis that threatened to overwhelm farmers of little or moderate means. The Posse offered a culprit - the international (Jewish) banking conspiracy which had destroyed the Constitutional/Biblical monetary system and replaced it with one based on credit designed to suck people dry. The Posse also offered a solution: its version of the common law. In February 1981 Missouri farmer Wayne Cryts confronted federal marshals preventing him from retrieving his crop from the grain elevator in which it was stored by telling them, "I am a sovereign individual and a citizen of the state of Missouri and am operating under common law. The court order is without the weight of law and does not have jurisdiction over me." The marshals stepped aside, allowing Cryts to recover his soybeans. This action, which made Cryts a hero to desperate farmers, symbolized the hope and the promise of the "common law."[10]

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[10] New York Times. February 17, 1981; Tim Bryant, "Wayne Cryts: American Hero?", UPI, September 19, 1982.

The Posse and the Common Law

The term "common law" is itself common, but most people do not know exactly what it means. Its meaning, though, is pretty simple: it refers to unwritten, judge-made law (as opposed to written or statutory law). Centuries ago, in England, most petty crimes or complaints were settled by judge-made precedents, rather than elaborate legal codes. Robbery was a crime because it had always been a crime, rather than because there was actually a statute which described it as such. English common law was easily transplanted to the American colonies, where the lack of elaborate legal apparatus - or even law books-facilitated such a judicial system. Gradually, as legal codes became more systematic, statutory law began to replace English common law, with the areas reserved for the latter growing ever smaller. Common law survives to this day. In states such as North Carolina, "common law robbery" is a punishable crime. In Michigan, prosecutors (unsuccessfully) tried to convict Dr. Jack Kevorkian on charges of common law murder for his role in assisted suicides.

Posse ideology, however, places a far different meaning and reliance on common law. Though there are many different strains and theories of Posse common law, a common thread that runs through most of them is that the common law is a separate, parallel legal/judicial system, one independent from and not subordinate to statutory or written law. For example, throughout the 1980s and 1990s, Posse adherents came up with inventions such as "common law trusts" and "common law banks." What these concepts have in common is the notion that the normal written laws governing the establishment of trusts or the regulation of banks do not apply to these institutions, because they are beholden only to the "common law." In other words, the term "common law" was attached to the word "bank" as a (futile) attempt to avoid the law.

Every common law theorist or group has a slightly different explanation for the origins of and nature of their version of "common law," but the following broad summary of their beliefs is general enough to hold for most circumstances. The key, as mentioned above, is that Posse adherents believe in "common law" as independent of (and even hostile to) other alleged legal systems, rather than all

being part of a whole.[11]

According to common law doctrine, the common law originated in the Middle Ages to protect property rights. The American Revolution destroyed allegiance to the British crown, but kept common law rights of property. This situation made every man "sovereign" over his own property. Neither Congress nor state legislatures nor county or city ordinance nor judicial ruling by any courts could deprive people of their common law rights, including their rights to "allodial" property (an ancient concept describing property that could not be lost for failure to pay taxes; it never applied in the United_States, although some states did enact "homestead" laws). Grievances were to be settled by common law juries that decided the facts and the law of the case.

Common law, however, was not the only form of law possible. Common law theorists describe many other types of law, although sometimes they distinguish between them and sometimes treat them as synonymous. One such is "Roman Civil Law," which some argue is the system of law generally used in continental Europe. Roman Civil Law ignores rights to due process. Another form of law is Law Merchant, which deals not with money "of substance" (silver and gold), but rather with credit and negotiable instruments. These terms are often used interchangeably; one common law publication lists as types of "Roman Civil Law" all the following: Admiralty Law, Law Martial, Law Merchant, Maritime Law, Martial Law, Martial Law Proper, and Martial Law Rule.

Essentially, common law theorists argue that these other forms of law have been used by unscrupulous lawyers, merchants and others to subvert and replace the common law. Some include another type of law among the "unlawful" types; others consider it value neutral: this is Commercial Law, which governs commercial transactions "of substance." Commercial Law is very important to common law theorists; and is discussed below.

The subversion of the legitimate common law was a long process, with many steps. The original judicial system was based solely on common law and, when applicable, commercial law. Roman Civil Law in this country was confined to the law of the sea (Admiralty). Common law

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[11] One of the more easily accessible versions of this common law doctrine is Howard Fisher and Dale Pond, "Our American Common Law." For copies, write to: Delta Spectrum Research, 2100 W. Drake Rd., Suite 402, Fort Collins, CO, 80526. The summary of common law thought in this essay is largely, though not completely, drawn from this pamphlet.

theorists cite the "missing" Thirteenth Amendment, the Limited Liability Act of 1851, the Civil Rights Act of 1866 and the Fourteenth Amendment as early steps along the way to the subversion of the common law. The last step is the most important. Most people know the Fourteenth Amendment as the Constitutional amendment that gave citizenship to the freed slaves after the Civil War. However, common law theorists see the Fourteenth Amendment as establishing an entirely new class of citizenship designed to make persons subordinate to the federal government. In the words of one theorist, "the [Fourteenth] Amendment was instrumental in shifting citizenship of each American from being primarily a *state citizen* to being citizen *of the private corporation* of government." Previously, the federal government only had authority over Washington, D.C., and federal territories.

With the ratification of the Fourteenth Amendment, however, citizens of the states could unwittingly give up their common law rights and contractually enter into the jurisdiction of the federal government. According to common law theorists, this was implemented by and designed to benefit large corporations or "international bankers." Now the law could be used to "financially enslave the masses and destroy the republican union." The theorists believe this led to further injustices from the removal of the gold standard and the declaration of states of emergency in the 1930s to the unjust "de facto" government that operates today.[12]

Common law theorists offer a way out of the predicament they assert exists. They argue that Americans become "Fourteenth Amendment citizens" only voluntarily - through entering into some sort of contract with the federal or state governments. "Contracts" are obviously defined quite liberally as any sort of agreement or reciprocal relationship, including paying income taxes, applying for social security numbers, and using drivers' licenses. Common law theorists refuse to accept the alleged subversion of common law rights. In the words of one common law tract, "Each freeborn Sovereign American individual has the authority and the Right to deny and to disavow all Equity jurisdiction, and to refuse to acquiesce to the jurisdiction of Courts of Equity, or to Equity jurisdiction of any Executive or Legislative branch of government agency or agent. State or Federal or County … Compelling a freeborn. Sovereign American individual to do anything, except upon the verdict of a Common Law Jury, constitutes an enforcement of the alien and evil

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[12] *See* "U.S.A. The Republic, Is the House That No One Lives In." World Wide Web document:

Roman Civil Law and is in fact fascist totalitarianism."[13] Simply stated, Americans can refuse to participate. Americans can revoke their social security numbers, their license plates, their income tax. They can declare themselves once more to be "sovereign citizens." In so doing, they remove themselves from the Roman or Admiralty Law and are once again only bound by the common law. They gain near immunity from the "de facto" court system.

This solution explains much of the bizarre behavior of Posse adherents. Some are arrested repeatedly for driving without license plates, registration or a license, yet keep on doing it: they believe they have a biblical right to travel and refuse to enter into contractual relationships with the government. In court, sovereign citizens refuse to accept the aid of lawyers, who are "titles of nobility," and instead defend themselves, usually unsuccessfully. Most important of all, they continuously challenge the court on questions of jurisdiction and claim that the court has no authority over them. For instance, it is common for Posse adherents to point to a gold-fringed flag in the courtroom, which they argue is a sign that the court is an Admiralty jurisdiction court. They believe they are only answerable to a common law court. Common law literature dictates that "when summoned into any court, the first thing a party must do is analyze and identify the nature of the charges, jurisdiction of the court, and the status of the accused, to determine if the status of the accused falls within the statute and the jurisdiction of the court." This fervent belief often leads them to obstreperous and outrageous behavior when brought into a court they claim is illegitimate.[14]

The following brief excerpt from a March 1996 detention hearing for arrested Montana Freemen leaders Leroy Schweitzer and Daniel Petersen provides an excellent example not only of such behavior, but of the concerns of the defendants regarding jurisdiction and "titles of nobility":

> THE COURT: The record should also show that standby counsel is appointed for both -
>
> DEFENDANT PETERSEN: I object and take exception.
>
> DEFENDANT SCHWEITZER: I object to any reference to standby counsel and related to Leroy Michael it's an invasion of privacy. I object. I ask that he be removed from the courtroom.

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http://www.usa-the-republic.com/Lee Brobst/usa.html

[13] Fisher and Pond, note 9.

THE COURT: — are present in the courtroom.

DEFENDANT SCHWEITZER: I do not have assistance of counsel. None. I reject it. I'm not pro se. I am myself. This is a common law venue.

THE COURT: And I want to advise both defendants, Mr. Schweitzer present here in the courtroom, as well as Mr. Petersen from his cell, once again they are entitled -

DEFENDANT PETERSEN: I object and take exception, you f——g pervert.

THE COURT: - to the appointment of counsel to represent them in all proceedings, and I urge you to accept appointed counsel.

DEFENDANT SCHWEITZER: There will be no exception, no consent, unequivocal no. I will not accept a title nobility in common law venue. I do not waive common law venue. No one is going to represent me as sworn in from the appellate branch of the Supreme Court which is voluntary jurisdiction. And you better start reading your law. Why do you think the code commissioner is now putting the codes back into special television programs that came out just recently because of the edict that we put on the Joint Chiefs of Staff. And if you press want a story, go get it, because you are -

THE COURT: Mr. Schweitzer, your objection is clear I think, you're refusing counsel.[15]

Common law adherents are not just obstructionist. They also strike back. Common law theorists have "discovered" how to use that other form of law, commercial law, as a weapon against those people who persist in misusing Admiralty Law. The key weapon in the commercial law arsenal is the lien. Common law theorists claim that once you place a lien on someone's property, they must either successfully rebut your commercial affidavit, convene a common law jury, or pay the lien. The beauty of commercial liens, to common law theorists, is that they are "non-judicial." That is, the liens bypass the judicial system, which theorists believe has been thoroughly corrupted. Thus often one of the first retaliatory responses by a common law adherent to unwanted government interference is to place a lien upon the property of an offending official, In the real world, the illegitimate liens convey no obligations at all, but people on whose property such liens are placed often must go through

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[14] Jerry Simmons, "Demand for Common Law 'Due Process'". Document in author's possession.

considerable effort and expense to get them removed, even though they are invalid. Of course, the Posse adherents are well aware of this.

The First Wave of the Common Law Movement

Although the very first Posse booklet mentioned the importance of common law, it took years for such a complex and elaborate ideology to develop. But by the end of the 1970s the Posse common law framework was complete and well disseminated. People across the country acted in similar ways, indicating the degree to which Posse ideology had solidified.

Though Posse members such as James Wickstrom and Gordon Kahl were in the news more often, a less-known figure, George Gordon, provides an excellent example of how the common law philosophy was used in practice. Gordon, from Boise, Idaho, was a cantankerous man who adopted Posse ideology wholeheartedly as a way to rid himself of unwanted societal obligations. Primarily a tax protester, the high-school dropout began to study "common law" principles as a way to avoid paying federal and state income taxes, but his opposition expanded to include many court and police procedures. He developed a following in Boise, where he eventually established (in the basement of a local bar) the Barristers Inn School of Common Law. Gordon lectured on common law ideology to small audiences in return for fees. The following chronology offers some indication of the scope of his actions:

- April 1982. Gordon is arrested after refusing to comply with a traffic officer's instructions when pulled over. After being booked, he appears in court clad only in shorts and a T-shirt, because he tore up all his jail clothing.

- May 1983. Gordon files a $700,000 federal suit over a $615 tire bill he did not pay. A collection agency and local officials had taken him to court, and he filed his suit against them, claiming a violation of his constitutional rights in that he was coerced to submit to an oath against his religious beliefs. He also claimed to have been beaten and verbally abused by Ada County jail personnel. Officials successfully move for dismissal of the suit.

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[15] Hearing transcript, March 29, 1993

- August 1983. Gordon leads 100 people in a protest in a statehouse hearing room to demand the elimination of state income taxes.

- September 1983. Gordon leads another protest before a legislative subcommittee to demand reforms and reduction of government services and taxes. States Gordon: "I don't want your damned services and I don't want to pay for them … When the teachers scream for more money, let the children go home and be taught there. I don't want my children to go to public school. I'll teach them at home. I created them. I'll teach them." and "Did it ever occur to you that we might not want those services? Did it ever occur to you that we don't want the police driving up and down our streets spreading their police-court tyranny?"

- November 1983. Gordon files a $3 million lawsuit claiming a local hospital treated his daughter without permission and violated his civil rights in trying to collect $2,000 for care expenses. He claims hospital staff performed "pagan practices" on her against his will, then sought payment for her six-day stay. The suit alleges the girl was taken to hospital by an unidentified person and admitted on the grounds that state law allows a hospital to hold a child if there is a suspicion the child has been abused. The hospital successfully moves for dismissal.

- March 1985. Gordon loses a case in the Idaho Court of Appeals in which he argued that his constitutional rights to travel were violated by being required to have a driver's license. Gordon contends he is a "freeman" and exempt from regulations. The court sentences him to 35 days in jail for driving without a license, operating an unregistered vehicle and not having proof of liability.

- February 1986. Gordon, having moved from Idaho to Isabella, Missouri, now operates the George Gordon School of Common Law. He also travels around the plains states giving seminars on common law tactics, charging fees of $175 for individuals, and $225 for couples. He offers $1,000 week-long seminars for people in small groups and sells videotapes of his seminars. A promotional leaflet says: "We'll teach you how to stop a foreclosure, the common and civil law of real property, why national banks may not lend credit, the use of liens to supersede a bank mortgage, why bank fraud is an affirmative defense to foreclosure, and the courtroom strategy and procedure to accomplish these actions."

- November 1986. Gordon claims hundreds of students have been taught at his school, where

he teaches them to not make "contracts" with the state. Payment for his classes must be made only in gold or silver, or barter. "I don't think I am a threat to anybody," he says. "I am a legal strategist. I don't give legal advice. I run a school and teach law, and that's freedom of speech." Gordon has been arrested more than 10 times in the past five years for various traffic violations relating to not having license or registration. He claims his school generated about $100,000 during the previous year, on which he paid no income tax.

- August 1995. Gordon is still living in Missouri and still operating the George Gordon School of Common Law. He charges 21 ounces of gold for a seminar. Says Gordon, "The average guy who walks in here, he's an anarchist, he wants to break the law. He wants to do what he wants to do without putting himself in the envelope of laws and rules. All George Gordon has ever done is research the law and learn how it is applied and made sure he is in that envelope. And I'm as happy as a clam at high tide."[16]

George Gordon, though his commitment to common law theories has been quite lived, was never a lonely practitioner. In fact, "common law" schools proliferated in the 1980s, under names like the "John Doe School of Common Law," the "School for the Last Days," and the "Universal Life University School of Law." Tax protest groups such as Your Heritage Protection Association also issued pamphlets, seminars and videotapes on common law ideology.

By the early 1980s, practitioners of common law ideology had gone so far as to advocate setting up their own court and jury systems, in full defiance of the "de facto" systems they opposed. William Potter Gale, visiting James Wickstrom in Tigerton, Wisconsin, in May 1981, responded to news that a Wisconsin legislator proposed a bill against paramilitary training by saying, "I think you guys ought to hang that son-of-a-bitch." Wickstrom replied that the legislator deserved some sort of hearing by a "citizen's grand jury" first. By December of the following year, Wickstrom had actually formed such a "grand jury," one of the first "common law courts" to begin operation. Nor was it the only one.

In January 1983, sheriffs in Kansas received letters from the "Citizens Grand Jury of Kansas,"

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[16] George Gordon materials from The New York Times, The Cleveland Plain Dealer, and various UPI wire reports.

the members of which threatened local judges and said if they were not jailed, Grand Jury members "would take the law into their own hands and the judges would end up buried in a potter's field."[17] These self-styled grand juries and courts demonstrated the willingness of Posse members not only to oppose local or federal government, but to go so far as to set up parallel governments of their own. One of the best examples of this growing sentiment in the early 1980s was the "township" movement. The township movement was started by a Utah tax protester named Walter P. Mann III, who sold information packets for $20 detailing how to avoid filing federal income tax returns and offered $1,000 seminars on forming "common law governments." His seminars became popular, as did his ideas about townships. As early as 1980 a group in South Carolina formed a "township" based on common law. Self-described survivalists who were convinced that the United States was about to collapse financially, wanted to be ready with "an ancillary form of government."[18]

Walter Mann popularized the township concept. He argued for the creation of heavily armed communities based on "common law," which he claimed superseded the laws of the United States. By 1982, Mann boasted of chapters in 40 U.S. cities. The township concept was popular primarily because, according to the strictures, each township was completely autonomous, completely independent - most especially, independent from the federal government. Mann follower Gordon Jenkins established "Zion Township" in southern Utah, while James Wickstrom established the "Township of Tigerton Dells" in Wisconsin. Gordon Kahl was in the process of establishing a township the day marshals attempted to arrest him. Other notorious townships were established in Walla Walla, Washington and Texas. It was no coincidence that a decade later, the Montana Freemen named their Montana refuge "Justus Township." These townships, according to Mann's theories, allowed their law to take precedence over the "'equity' court system."

Of course, local and state authorities were not particularly pleased with people setting up autonomous "townships" in their midst, often within the boundaries of other communities. Township advocates said that their townships had no geographical boundaries. Legitimate officials responded by enforcing tax laws, zoning laws and statutes against impersonating public officials. Typically clashes started over traffic tickets. For instance, a member of the "Southern District of Texas

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[17] UPI, December 29, 1980.

Township Court," a "people's court" operating north of Houston in the early 1980s, was issued a traffic ticket in Montgomery County, Texas. The town shipper attempted to pay the traffic fine with a bogus money order - thirteen years before the Montana Freemen would become famous for issuing such fraudulent financial instruments. When the city judge refused to accept the phony money order, the Township Court issued subpoenas and summonses for county officials to appear before it. Instead, Texas Rangers and local officials raided the township court and arrested three members for tampering with government records and impersonating a government official. Common law adherents responded to such moves with their favorite weapon: liens. Richard Cooper, "Supreme Court judge" of the common law court of Zion Township, for instance, filed 41 property liens totaling $12 million in the early 1980s against various federal, state and local officials. In Walla Walla, Washington, Posse members issued "common law liens" totaling $29 million against ten officials. The courts ruled the liens invalid, as always, but the tactic nevertheless proved highly frustrating to public officials trying to perform their duties. Common law court adherents found placing liens a successful tactic because the liens discouraged officials from acting against Posse members, they clogged the legal system, and sometimes had other uses as well.

For instance, when Maryland officials decided to dispute the status of a Posse Comitatus group in Maryland that had claimed their posse was legal, the leader of the local group sent his followers to every courthouse in the entire state to file property liens against every district and circuit court judge. Posse members hoped this would disqualify the judges from hearing the case against them. However, they inadvertently missed one judge, who was secretly assigned to hear the case. He threw out the liens and declared the Posse's activities illegal. Another imaginative creation was the notion of "signature liens," used by a common law advocate, Raymond L. Montee, in 1982. Montee filed "common law signature liens" against sixty public officials and their spouses, which he claimed would prohibit officials from signing their name. Montee argued that if they were not allowed to sign their name, they could not vote and would have to be removed from voter lists.

The total amount of bogus liens placed by common law advocates on officials in the early 1980s is not known, but estimates run into the hundreds of millions of dollars. Many, if not most,

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[18] Description *of Pro Se* meeting comes from The Tampa Tribune. April 28, 1996.

public officials were uncertain how to respond to such pseudo-legal tactics. The federal government, however, soon made it illegal to place liens on Internal Revenue Service agents. Several states also adopted statues prohibiting the filing of bogus liens.

Decline and Resurgence

By the mid 1980s, the initial tide of common law activism surged and then waned. By this time a large number of leaders on the far right were either dead, in jail or in "retirement." Events such as the prosecution of members of The Order, the shutting down of the survivalist/Christian Identity compound of the Covenant, the Sword and the Arm of the Lord (CSA), the destruction of the township of Tigerton Dells, and the much-publicized trial of various white supremacist leaders for sedition in Fort Smith, Arkansas, worked to paralyze the leadership of the far right, including the Posse Comitatus and its adherents. For the Posse, too, the fact that the farm bankruptcy crisis had eased also resulted in a loss of support.

However, the Posse's ideas about the common law never disappeared. Tax protesters continued to espouse Posse ideology, and Posse believers continued, although with less frequency, to place fraudulent liens and use other Posse tactics. Perhaps one could think of the movement as existing in a state of hibernation, waiting to emerge again in a more favorable climate. The early 1990s seemed to provide that climate. Events such as the infamous standoff at Ruby Ridge, Idaho, and the tragic end to the standoff at the Branch Davidian compound in Waco, Texas, gave renewed energy to the "patriot" movement, as it now called itself. It fueled the fires of those who believed that a tyrannical and illegitimate government was usurping the sovereign rights of freemen.

From this climate of anger and paranoia emerged a new leadership for the common law movement. Some of the faces were familiar. From Wisconsin came Thomas Stockheimer, one of the leaders of the old Wisconsin Posse Comitatus. Stockheimer and his associates formed a new group called Family Farm Preservation, which encouraged the use of bogus checks and money orders as a way to defeat creditors and government agents. From Texas came a roofer named Alfred Adask, who started publishing AntiShyster Magazine, a periodical devoted to popularizing common law tactics, particularly the use of bogus liens. Adask, running for a seat on the Texas Supreme Court in 1992,

received more than 200,000 votes in that state. In Colorado, a veterinarian named Eugene Schroeder, a former leader in the Posse-sympathetic American Agriculture Movement, began publicizing the notion that the Constitution had been suspended since 1933.

Nowhere more than in Florida, however, was the movement so strongly resurgent. Tax protesters, white supremacists, common law court advocates and others combined to give new energy to Posse ideology. Some of the sovereigns' concerns were traditional, such as the banking system and the Federal Reserve. Other concerns included those events that catalyzed the related militia movement, such as the standoffs at Ruby Ridge and Waco. And there were new issues as well. For all the talk by common law adherents criticizing the intrusive federal government, what angered many of them most were the actions of local governments, particularly regarding zoning and building regulations. A catalyzing issue for many in the largely male movement was the issue of divorce settlements. Many "sovereigns" felt powerless in the face of a legal system that seemed to give them no say.

The emergence of Florida's first common law court in the mid-1990s reflected all of these concerns. The guiding spirit behind the court's emergence was Emilio Ippolito, a Tampa, Florida, property owner who possessed millions of dollars worth of low-income housing. Ippolito, along with his daughter Susan Mokdad, a co-owner, fought a long-running battle in the 1980s and 1990s with city authorities over various building code violations in Ippolito's apartment buildings. The structures incurred repeated fines for faulty wiring, and missing extinguishers and smoke alarms. Some were declared fire hazards and closed down. As their struggles with the city intensified, Ippolito and Mokdad became increasingly politicized. Ippolito first formed Defenders of Life and Property, Inc., in 1991, a group opposing city code enforcement boards. By 1993, he and Mokdad had become leaders in a more radical group that called itself Pro Se Litigants.

Pro Se Litigants met monthly in the Orlando Public Library, where its members discussed their various legal problems and passed around copies of Alfred Adask's Anti-Shyster. Some fought local authorities over permits and ordinances; others contested divorce settlements or fought wage garnishments. They represented an increasing frustration with a non-responsive court system in which the only winners seemed to be licensed attorneys. Among the group's other leaders were Charles Eidson, founder of the white supremacist Church of the Avenger, who repeatedly clashed with

local authorities, not only for his racial views but for flouting laws on dumping of waste, and Daniel Schramek.[19]

Schramek himself had long been making a living by providing an alternative to hiring lawyers. Since the 1980s he had been a self-styled "estate planner," which meant he drew up legal documents for people, although he was not an attorney. He was also local director of a relatively mainstream group, HALT (Help Abolish Legal Tyranny). Schramek's participation in divorce cases brought him into frequent conflict with local judicial authorities and lawyers, many of who claimed he was practicing law without a license. Actions such as signing a dead man's name on a deed finally resulted in a court order in 1993 to stop Schramek from advising people on legal issues or preparing legal documents; this order caused Schramek's business to fail, but did not stop Schramek's practices.

Indeed, by 1993 Schramek, Ippolito, Mokdad, Eidson and others in the group had launched dozens of suits against lawyers, judges, the Florida Bar, and other organizations and individuals. Eidson went so far as to post a document in the Hillsborough County courthouse calling for the formation of a "posse comitatus." Ippolito and Mokdad even served brief stints in jail for fighting with bailiffs during one trial. By then they had lost much of their property in their continuing and losing battle with city authorities as it was seized or condemned for various building violations. Hardened veterans now, thoroughly disenchanted with the existing legal system, it was an easy step for them to form in mid-1993 a legal system of their own, the "Constitutional Court of We the People." Ippolito and Mokdad and others not only formed the court, but advertised in local papers that they would hear divorce proceedings for a $25 fee. Within a year they moved from bogus divorce proceedings to issuing arrest warrants for local judges. The Constitutional Court's "Fugitive Warrants Unit" warned judges to "schedule appointments" or face "physical arrest at your home or workplace by the Militia which could result in a dangerous confrontation."[20]

The common law court finally went too far when, in support of the California tax protest group called the Pilot Connection Society, it mailed threatening letters to the jury trying a fraud case against the tax protest group's leaders. Ippolito, Mokdad, and others were arrested and indicted in the spring of 1996 on conspiracy, obstruction of justice, and other charges, covering the arrest warrants,

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[19] St. Petersburg Times. August 10, 1994.

the Pilot Connection letters and threats against other federal officials and jury members.

The Constitutional Common Law Court of Ippolito and Mokdad was not the only such "sovereign" group in central Florida; indeed, it was merely at the center of a web of such activity. Charles Eidson had his own common law group, the "Tampa Freedom Center." He offered common law advice and issued bogus liens. Five sovereigns were convicted in the Premier Benefit Capital Trust scheme, which defrauded investors of more than $7.5 million; two of the principles, Janice Weeks-Katona and her son, Jason Weeks, were convicted on additional charges, including plotting to kill U.S. District Judge Steven Merryday in Tampa, Florida. Similarly, two couples, members of a group called the American Citizens Alliance, received sentences for threatening two judges and filing fraudulent $25 million liens against them in retaliation. Members of the Alliance openly advocated killing police officers; its leader is in jail on federal charges of fraud. Other Alliance members included George Sibley and Lynda Lyon, who fled Orlando on aggravated battery charges rather than give themselves over to a "fraudulent and unconstitutional court."

While fugitives, Sibley and Lyon murdered an Alabama police officer and are currently on death row. Three freemen in Orlando, members of "American National Freeman" as well as Ippolito's common law court, were convicted in early 1996 on 21 counts of conspiracy, mail fraud and obstruction of justice relating to bogus liens they filed. Other common law groups, such as the Guardians of American Liberty, were less openly confrontational, but still operated to spread the Posse ideology across the state, as did numerous individuals, who labeled themselves "freemen" or "sovereign citizens." Individuals were able to wreak just as much havoc on the legal system as groups.[21]

Florida was an early hotbed of common law activity, but the movement grew. From Florida and Texas and Wisconsin, and from resurgent Posse members in other areas, the common law movement spread like wildfire across the country. At meetings in Kansas and Oklahoma hundreds of people congregated to learn common law tactics, some of them paying large amounts of money for the privilege. Across the country, common law adherents began establishing versions of common law

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[20] Fort Lauderdale Sun-Sentinel. October 5, 1996.

[21] The description of this incident is based largely on common law court documents sent to author by Glenn Sawyer.

courts, which they called "Our One Supreme Court." They believe that the Constitution, referring to the judicial power of the United States being vested in "one Supreme Court," did not mean the establishment of one Supreme Court, but rather meant local common law courts that are the highest judicial authority in the land. By 1995, officials in Nebraska detected common law activity in almost half of the state's counties. Similar surveys in Ohio discovered common law activity in almost every single county in the state.

By mid-decade, certain hubs of activity had arisen: in Montana, the so-called Montana Freemen, fugitives from the law, offered classes on common law strategies, especially bogus money orders and checks, to people from around the country. In Ohio, groups such as "Rightway Law" offered common law seminars, while the central Ohio "Our One Supreme Court" received national attention for its activities. Indeed, by 1995 in Ohio, one common law leader had been killed in a traffic stop confrontation on a rural road, while another was in jail for assaulting a police officer and a third a fugitive for the same offense. Still another prominent leader had been convicted on fraud charges. Common law court activity was also especially high in California, Colorado, Idaho and Missouri, but no state was completely devoid of such activity.

As in the 1980s, there were many different types of common law activity, including tax protest activities, issuing arrest warrants, and establishing common law courts. Many common law actions were triggered by some sort of confrontation between a "sovereign citizen" and some authority figure, whether it be the IRS, a loan officer, or a state trooper issuing a traffic citation. It is at that moment that the adherent's fanatical nature is revealed, often turning the most minor incident into a violent confrontation or even an armed standoff.

One typical example is the case of James Conrad Gutschmidt of Mercer Island, Washington. In February 1996, Officer Glenn Sawyer of the King County Airport Police/Aircraft Fire-Rescue Division spotted a burned-out headlight on a car in a restaurant parking lot near Boeing Field Airport in South Seattle. Sawyer pulled up to the vehicle, occupied by Gutschmidt and two friends. Sawyer told Gutschmidt that the stop was only a safety stop and no citation would be issued. He asked to see Gutschmidt's driver's license. Gutschmidt replied that he was not "driving." Sawyer repeated his request. When Gutschmidt finally complied, Sawyer went back to the car and pulled up the license number on the computer, where he discovered a restraining order from a family law court, two failures

to appear, two unpaid speeding tickets, and two suspended license actions for failure to appear. Sawyer asked Gutschmidt to step out of the vehicle. Gutschmidt refused, causing Sawyer to call for another officer to aid him. The two demanded that Gutschmidt leave his vehicle, which he finally did. After the confrontation, Gutschmidt was arrested on charges of obstructing an officer arrest. In the courtroom, Gutschmidt was no more cooperative. When the judge asked where he lived, Gutschmidt replied, "In my body, which is the temple of God." Gutschmidt having no fixed address, having been evicted earlier, the judge decided there was reason to believe Gutschmidt would again fail to appear at the readiness hearing and set bail at $1,000.

The police officers might have thought that the irritating episode was over, but retaliatory sequels to such events are a common occurrence. A few months later, Gutschmidt took his grievances to the local "Our One Supreme Court," where he charged the two officers with a variety of offenses and asked for a judgment of $10,000 in gold or silver (plus costs) against them. The common law court issued a summons to the two officers to appear before it, or face "judgment by default." The court also recorded for Gutschmidt an action against King County, the judge scheduled to try Gutschmidt's case, and Sawyer and the other police officer, and ordered that the case be dismissed and the thousand dollars in bail returned. The police officers ignored the summons and other documents, but were nevertheless worried about them, and not without reason. They could not guarantee that a group of sovereign citizens would not show up at their front doors and attempt to "arrest" them. In another, unrelated action, Gutschmidt secured a $170,000 common law court fine against Interest Savings bank, the bank that foreclosed on his house.

Not only do the common law courts issue summonses and judgments, but the courts and their adherents are especially active in placing bogus liens on the property of individuals or institutions with which they have disagreements. What was a nuisance in the 1980s turned into a serious problem nationwide in the 1990s. Common law court members filed liens against police officers, judges, city officials, banks, utility companies, businesses, and neighbors. Because such liens often go unnoticed until the recipient tries to sell his or her property, there could be thousands more liens still undiscovered. The filed documents look legitimate; in early 1996 a county sheriffs department in Colorado even served some common law court documents on a local church before noticing that they were bogus. Not only have Posse adherents become adept in drafting such documents themselves,

but in a disturbing trend, some are finding legal practitioners willing to participate in such schemes. Several disbarred lawyers-as well as the occasional practicing one - have been known to prepare common law documents. To give but one example, in the spring of 1996, attorney Jerry Wilkins of Waxahachie, Texas, was one of four men convicted in that state of passing more than $61 million in fake money orders through their group "USA First." As a result, there is no shortage of people able to create realistic counterfeit money orders or bogus liens.

The paper value of the liens known about thus far runs into the trillions of dollars. The dollar amount of these liens is not as significant-because the liens, after all, are bogus-as is the fact that in many states it can cost up to thousands of dollars to have such liens removed. When the "Common Law Court of Pleas" in Arlington, Texas, filed a $1 billion bogus lien against the A. H. Belo Corporation (owner of the Dallas Morning News), the company had to pay $12,500 in legal fees to get it removed. A.H. Belo Corporation could spare the money; the average sheriffs deputy or county clerk cannot.[22]

Recently, many states have passed new laws making such liens easy to remove or making the filing of bogus liens criminal. Other states have dusted off old laws against impersonating public officials or criminal syndicalism in an attempt to deal with the actions of these courts. In most cases it is too soon to tell whether these new efforts will enjoy success. It is important to note, however, that in almost every case, the states have been reactive in nature, responding sluggishly to the tactics of the common law court movement. In contrast, the common law movement itself has so far proven itself extremely creative in discovering new strategies and tactics.

The most prominent example of common law activity, of course, is the group of people known as the Montana Freemen. Near Jordan, Montana, a group of unsuccessful fanning families decided to resort to common law activity to stave off debt and foreclosure, while to the south, in Roundup, Montana, a smaller group of tax protesters, steeped in Posse ideology, taught classes on how to use bogus checks and money orders. In both locations, quasi-standoff situations developed, local authorities not having the physical power to remove the Freemen from their foreclosed – upon land. Defiant, the Freemen escalated from frivolous lawsuits to bogus liens to common law

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[22] The Washington Times. August 12, 1996.

courts and arrest warrants.

In September 1995, the Freemen in Roundup drove in a convoy north to Jordan and merged with the other group. By now the dark family ranch near Jordan had become, in true Posse fashion, "Justus Township." It also became a haven for common-law adherents fleeing from the law from Colorado, North Carolina, Utah and elsewhere. Garfield County, where the dark ranch lay, simply did not have the resources to deal with so many armed and committed extremists.

Common law adherents from across the country traveled to Jordan to learn how to use bogus checks from group leader Leroy Schweitzer. Not until March 1996, when federal authorities finally stepped in, was there a serious attempt at bringing the group to justice. Local citizens cheered as the FBI instituted a peaceful 81-day standoff that resulted in the surrender of the Freemen, now awaiting trial on numerous charges.

The resurgent common law court movement, though a direct descendant of its 1980s predecessor, has exhibited certain marked differences from its older incarnations. Of these, perhaps the most important is increased organization and increased cooperation between groups and individuals. The 1990s movement has exhibited an unprecedented degree of organization. Much of this has been due to the development of advanced technologies, including inexpensive fax machines, laser printers and the Internet. While in the 1980s a typical group might have operated only locally after attending some seminar on the subject, in the 1990s such groups are in contact with people of similar persuasion across the entire country. Magazines such as The AntiShyster and The Americans Bulletin cater to common law views, while the number of people traveling around to offer seminars (or seminars by videotape) is greater than ever. Even more obvious has been the impact of the Internet. World Wide Web sites that offer common law material are very numerous.

The range of this material is breathtaking, from long discourses and legal rationales for common law activity to detailed instructions on how to create "nonstatutory abatements" and "common law liens." Automated e-mail discussion lists allow common law adherents to share tactics with each other, something they do on a regular basis. The average common law proponent in the movement today potentially has much more information at his fingertips than did his predecessor a decade ago.

Another difference between the old movement and the new are the different strategies that have more recently emerged. While many of the goals of modem day common law court activists remain the same as those active in the 1980s, some goals have changed. The typical common law activist in 1983 might have been an angry farmer threatened by foreclosure who attempted to place a lien on his own property in an (futile) effort to forestall legal action. While a 1996 common law activist might engage in a similar battle, perhaps over a home mortgage, a zoning restriction, or in retaliation for a divorce action, there are a growing number of committed common law adherents who openly advocate common law tactics as a way to overload the legal and judicial system, with the ultimate goal of eventually bringing it down together. One of the reasons the Montana Freemen taught people how to issue bogus money orders was to destroy the hated Federal Reserve System. Others were content with lesser goals, such as flooding local county clerks' offices and local courts with so much common law activity that local officials would be too distracted to perform their lawful duties. This tactic has been especially effective in sparsely populated counties, where county governments have neither the staff nor resources to cope with such efforts. Another more immediate result of this strategy has been attrition, as many public officials and employees have become so frustrated dealing with these tactics that they have resigned from public service.

The common law court movement has also seen increasing violence and threats of violence, leading to great concern on the part of individuals whose jobs put them in contact with its members. Violence was always a possibility with the old Posse, particularly in farm states like Kansas, yet today the threat or actual use of violence seems much more widespread. Agencies like the Internal Revenue Service have long had to deal with the radical actions of the tax protest wing of the movement. People like Joseph Bailey, convicted of trying to blow up an IRS building in Reno, Nevada, in December 1995, keep the IRS vigilant. But now fanatical common law advocates have taken serious measures in their wars against other public officials. Many judges, prosecutors, police officers and other public servants have received arrest warrants; some have received death threats. In California, when Stanislaus County Recorder Karen Mathews refused to file the liens and other documents of the local common law group, Juris Christian Assembly, members of that group ambushed her in front of her home in early 1994, attacking her with blows and cuts from a knife. One assailant dry - fired a pistol repeatedly at her head, warning her to "do your job."

In Montana, the Montana Freemen were thwarted in 1995 in what was apparently an attempt to kidnap (and perhaps hang) law enforcement and criminal justice officials who opposed the Freemen. The following year, in Idaho, common law proponent Gary DeMott, head of a group called "Idaho Sovereignty," announced his plans to arrest not only a local judge but hundreds of county officials across the state. In the end, he backed down from his confrontational statements, but not before creating considerable concern and anxiety. The past actions of Posse adherents such as Gordon Kahl in the 1980s and George Sibley and Linda Lyons in the 1990s, individuals who translated threats of violence into the reality, demonstrate that such threats must be taken seriously.[23]

An additional feature of the resurgence of the common law court movement is greater numbers and distribution. The movement of the 1980s saw most activity in Wisconsin, the Great Plains states, and the Pacific Northwest, with incidents occurring in a number of other states, particularly in the West and Midwest. A decade later, there are sovereign citizen groups in every single state in the country. Moreover, these groups have exhibited a willingness to establish relations with other branches of the "patriot" movement. In several states, common law court leaders have expressed a desire that militia groups in their states act as marshals of the common law courts. So far, most militia units have been wary of such alliances, because of the danger it would place them in, but it is not uncommon for individuals to belong both to militias and to common law courts, particularly in rural areas.

Common law courts also have developed considerable connections with white supremacists, more so than has the militia movement. The sect Christian Identity maintains a very strong foothold within the movement, as evidenced by the Montana Freemen. In a few states, the common law ideology has taken a bizarre twist, resulting in secessionist movements. Not surprisingly, such movements have been limited to only a few states such as Hawaii, Alaska, and Texas. Texas has spawned the most notorious of such groups, the so-called "Republic of Texas" (ROT), which argues that Texas was never lawfully annexed and is therefore an independent nation. ROT grew quickly and spread across the state. It has co-opted most of the other common law groups and part of the militia movement in Texas. Its leaders act in open defiance of local authorities, who have obtained an arrest

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[23] San Francisco Chronicle. July 16, 1995.

warrant (not yet served) for the ROT'S most visible leader, entrenched with his followers at a remote West Texas site.

The Future of Common Law Courts

Currently, the common law court movement is both widespread and pernicious. It shows no sign of decreasing in strength any time soon. In fact, new groups are formed regularly. High-profile operations such as the long-delayed arrest of the Montana Freemen have shut down the activities of specific groups but have not stemmed the activities of the overall movement. Some states, such as Missouri and Illinois, have conducted widespread arrests of common law court members on various charges, but these actions are too recent for us to see whether they have adversely affected statewide or regional common law activity.

Many states possess laws that are applicable to common law activity. These statutes range from simulating the legal process to impersonating a public official to criminal syndicalism. Enterprising public servants have begun to search the statute books for applicable laws, just as Posse adherents have searched law books for their own purposes. Some of these efforts are bearing fruit. Many states have passed new laws, or are in the process of doing so, that are specifically designed to combat the problem of retaliatory common law liens. Such legislation will provide additional tools for prosecutors and other public officials.

However, common law activists have proven quite resourceful; merely passing statues after the fact may not be enough. They discovered that bogus checks and bogus liens are effective and disruptive anti-government tactics. Presumably they will discover additional, equally disruptive tactics in the future. Moreover, the more dedicated of the common law believers have shown themselves willing to lose their property and to risk imprisonment as a necessary price for their beliefs. If the legally constituted authorities become more successful in dealing with common law tactics, it is possible that thwarted activists may resort to increased violence in an effort to meet their followers' expectations as well as to strike blows. Nevertheless, it is important that the government - federal, state and local-enforce the laws and put pressure on the bogus courts, for a key strategy must be to separate the committed leaders and members of the movement from the large body of the primarily curious,

and other less committed followers and supporters, who might thereby be deterred from engaging in illegal activity. Enforcement resources must be concentrated on the comparatively small number of high-risk members who pose the greatest threats.

The most important need of all, however, is for increased awareness. Not only must public officials in areas with heavy common law activity be aware of the potential for violent confrontation or even domestic terrorism, but they must understand how to deal with the day to day activities of such extremists. County clerks and recorders must deal with their filings. Police officers must pull them over for traffic violations. Judges must face their courtroom antics, while prosecutors must learn how effectively to build cases against them. All these people and more besides must deal with the possibility of bogus liens or other retaliatory measures. Moreover, public officials in areas that have not yet seen an influx of common law activity must be aware of the warning signs of common law activity. Knowledge is a weapon that can be brought to bear to combat the rhetoric of the Posse adherents, decrease their membership, guard against their threats or acts, and punish them for any illegal activities they might commit.

Part II

Tactics in the Courtroom

This section contains tactics commonly used in the courtroom, during all types of proceedings. While most responses to any or all of these tactics fall squarely within judicial discretion (i.e., using the contempt power, facilitating agreement with the party), some responses to the tactics herein and in the following sections clearly implicate civil rights and must be taken with caution. These responses include any that deal with the party's speech, their rights to trial counsel and fair hearings, and the like. We should point out that courts generally have three avenues open to them: continuing the proceeding over objection, use of the contempt power to threaten or punish those who are disruptive, and accommodation or acquiescence to a party's request. As such, the universe of potential responses is not large. However, and in response to each individual tactic, creative and efficient solutions are urged.

Those responses which the court feels are soundly within its discretion might nonetheless have serious ramifications upon the court's ability to fulfill its mission - especially for those courts charged with implementing the Trial Court Performance Standards (TCPS) or some similar system for improving the court's performance. To that end, the court should become familiar with the TCPS, the text included herein, and consider alternatives that have a lesser impact on the court's ability to properly carry out its mission.

The sections on each tactic and response differ in that some are followed by a section titled "Additional Authority." This section exists where there is a rich body of law on point or closely related. In other sections, where the particular point is not as developed, additional authority is provided by way of annotation and gives reference to a starting point from which to search.

Subpart 2.1 - Challenging Subject Matter Jurisdiction

A. The Gold-Fringed Flag Issue

The members of antigovernment groups and common law courts frequently challenge the state courts' jurisdiction over the subject matter of the cases they are involved in by declaring that the gold fringe typically found on decorative flags transforms the court into a court of Admiralty jurisdiction. The bases underlying this belief are not entirely coherent, and adherents of different movements cite disparate, though related, reasons for this. A common theory is that in 1933, as the United States abandoned the gold standard, our country became "bankrupt." As a result, elected leaders have hidden this information from the public and worked to conceal it since. In 1938 there was allegedly a secret meeting of the nation's top attorneys, judges and United States Attorneys, in which they were told that the courts were operating in Admiralty jurisdiction - and they have been ever since.

Another variation on this theme is that ships traditionally fly the flag of their native country. Because of that, it is supposedly well known that whenever an individual is confronted with a proceeding before a particular flag, he or she is on notice that the laws of the country the flag represents are to govern that particular proceeding. In 1925, the United States Attorney General issued an Opinion in which he offered: "The placing of a fringe on the national flag, the dimensions of the flag and the arrangement of the stars in the union are matters of detail not controlled by statute, but are within the discretion of the President as Commander in Chief of the Army and Navy."[24] In 1959, President Eisenhower issued Executive Order No. 10834, in which he stated that, "A military flag is a flag that resembles the regular flag of the United States, except that it has a yellow fringe border on three sides." Consistent with the common conspiratorial angle from which the antigovernment groups often approach matters, those words have been interpreted to mean that whenever a court is displaying the gold-fringed flag that court has suspended "constitutional" law and is operating under military court martial authority - wherein individual rights are supposedly suspended.

With these beliefs, or some variation thereon, firmly in mind, members of antigovernment groups frequently refuse to acknowledge the jurisdiction of whatever court they happen to be in when this flag is present. Because they also believe that to object without caveat may subject them to the

court's jurisdiction, they will file documents such as "notices of special appearance" and the like, in order to proffer an objection without submitting to the court's jurisdiction. Like many other tactics, this is one that can potentially use much of the court's valuable time and, if the court refuses to acknowledge the objection, to costly and time consuming appeals.

B. Typical Responses to the Flag Objection

Courts are generally left with three avenues when faced with this objection: (1) to note the objection and move on; (2) to become combative - even to the extreme of using the court's contempt power to sanction the participant; and (3) to understand that it may be faced with this problem repeatedly and take precautionary measures to alleviate it -namely, to replace their flag.

1. Noting the Objection - There is little controversy surrounding the option of noting the participant's objection and moving forward. In 1997, a United States Federal District Court spoke at length about this issue. There, a "freeman" brought a federal civil rights claim against a state court judge, claiming that the judge acted without jurisdiction because of the fringe on its flag. The federal court responded:

> "The plaintiffs claims against the [defendants] must be dismissed because his factual predicate is incorrect as a matter of law... in flag manufacture, a fringe is not considered to be a part of the flag, and is without heraldic significance ... even if the plaintiff could prove that [a yellow fringe] converted the state court's United States flag to a maritime flag of war, the Court cannot fathom how the display of a maritime war flag could limit the state court's jurisdiction."[25]

Pursuant to the reasoning of this case, it appears well settled that there is no actual claim relating to the fringe on a flag and a court's jurisdiction. Be advised, however, that simply because there is no cognizable claim, courts cannot expect that litigants will not pursue an appeal or a federal civil rights claim against the judge whose court utilizes the gold-fringed flag.

2. The Contempt Power - a court may, of course, use its traditional contempt power to bring litigants in line with the expected norms of courtroom behavior. As with option 1, above, be forewarned that the likely result of the use of that power will be publicity, appellate review and further lack of cooperation from litigants.

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[24] *See*, 34 Op. Atty. Gen. 483 (1925).
[25] *McCann v. Greenway*, 952 F.Supp. 647, 651 (W.D.Mo. 1997).

3. Acquiescence - Another, and becoming more frequent, response is to acquiesce to the objection posed by the participant. This typically happens in one of two ways. First, the court has dealt with and is aware of the tactics of antigovernment groups, and takes proactive measures by simply replacing its flags with less ornate United States flags. This may be a permanent measure, or merely one that is taken before these individuals appear in the courtroom. Second, and where the court is unaware of this tactic but suddenly faced with the objection, the court simply acquiesces and replaces the flag. A suggestion from Judge Bonnie Sudderth of Texas: "flags are relatively inexpensive items. Replace the fringed flag with a less fancy version and this argument disappears with it."[26]

C. Additional Authority

The following cases present additional discussion pertaining to the flag issue:

Federal Courts

Vella v. McCammon, 671 F.Supp. 1128, 1129 (S.D. Tex. 1987)(holding that the flag argument has no arguable basis in law or fact).

Schneider v. Schlaefer, 975 F. Supp. 1160,1162 (E. D. Wis. 1997) (calling the difference between flags "purely cosmetic").

Sadlier v. Payne, 974 F. Supp. 1411 (D. Utah 1997)(noting that any arguments made under the "flag code," 36 U.S.C. § 176(g) fail because the code does not proscribe conduct and is merely advisory in nature).

State Courts

Commonwealth v. Appel, 652 A.2d 341, 343 (Pa.Super. 1994) (calling the flag argument a "preposterous claim").

State v. Whelan, 961 P.2d 1051 (Ariz.App.Div.2 1997) (not a holding on point, but exemplary of the tactics members use in court). *City of Belton v. Horton*, 947 S.W.2d 104 (Mo. App. W.D. 1997) (calling argument "mere abstract statements").

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[26] *See* Judge Bonnie Sudderth, "The Patriot Movement: Paper Warriors and Common Law Courts," 26 Court Review at 22-29.

Subpart 2.2 - Challenging Personal Jurisdiction

A. The "Sovereign" vs. the "Corporate" Citizen

Though the precise contours of their philosophy differ among the various groups, almost all antigovernment movements adhere to a theory of a "sovereign" citizen. Essentially, they believe that our nation is made up of two types of people: those who are sovereign citizens by virtue of Article IV of the Constitution, and those who are "corporate" or "14th Amendment" citizens by virtue of the ratification of the 14th Amendment. The arguments put forth by these groups are generally incoherent, legally, and vary greatly among different groups and different speakers within those groups. They all rely on snippets of 19th Century court opinions taken out of context, definitions from obsolete legal dictionaries and treatises, and misplaced interpretations of original intent. One of the more cogent – in the sense that it is readily followed - arguments is that there were no United States citizens prior to the ratification of the 14th Amendment. All Americans were merely citizens of their own state and owed no allegiance to the federal government. As a result of that Amendment, however, Congress created a new type of citizen - one who now enjoyed privileges conferred by the federal government and in turn answered to that government.

One of the ramifications of this belief is the dependent belief that, unless one specifically renounces his federal citizenship,[27] he is not the type of citizen originally contemplated by the Constitution. And, in their view, the Constitution requires all federal office holders to be the original or sovereign type of citizen, a state citizen rather than a United States citizen. As a result, all federal officers are holding office illegally and their laws and rules are thus constitutionally suspect. If the complaint, then, is that the federal government is suspect and thus so is its hold over these believers, it is unclear exactly why the state courts are correspondingly without authority. The explanations for that diverge widely. Essentially, members of these movements believe that they are able to renounce their federal citizenship by "quieting title" and by repudiating any possible "contractual" link to the government - such things as licenses, paying taxes, etc. They appear to just bootstrap their claims against the states onto the federal argument, and when they quiet title and

become sovereign, all government's jurisdiction over them dissolves - except for the common law court to whose authority they have acquiesced.

Followers of these beliefs will typically attempt two types of argument in the state courts. Both go to the court's lack of jurisdiction, but for different reasons. The first is that they are sovereign and thus not answerable to state courts. They often support this contention by attempting to avail themselves of the "non resident alien" status described in Title 8 of the United States Code.[28] This argument will be made in conjunction with some variation of the discussion above. The second tactic will be to proclaim that they simply are not a "person" for purposes of whatever statute they are being charged or sued under - almost always a losing argument that is nonetheless very popular with tax protest groups.

B. Typical Responses to the Personal Jurisdiction Issue

Courts' responses to both of the usual arguments have been swift and decisive. These arguments have repeatedly lost at the appellate level. At the trial level, the court may respond in one of several ways, much like the flag issue in the preceding section.

1. Note the Objection and Move On - This appears to be the approach that most courts follow. As with any confrontation with members of these movements, arguments are interminable. Suffice to say that our system and its rules have established that: (a) these people are not "sovereign" in any special sense,[29] and (b) they are certainly "persons" within the meaning of whatever statute is at issue - especially provisions of the United States Tax Code. Most courts that have dealt frequently with these movements have heard these arguments before and merely note an objection and move on over that objection. Note, however, that courts may wish to determine as a matter of policy how to handle these objections in light of the fact that an overruled objection will most likely lead to an appeal - frivolous or not. Certainly, courts do not wish to encourage frivolous appeals, and it is likely that the penal apparatus for filing such appeals can and does discourage them on this ground.

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[27] This is commonly done in an action to "quiet title."

[28] *See, e.g.* 8 U.S.C. § 1481.

[29] *See, e.g. United States v. Hart,* 701 F.2d 749 (8th Cir. 1993) (not holding on point, but assessing party double penalty for frivolous claim of sovereignty); *Shrock v. United States, 92* F.3d 1187 (7th Cir. 1996) (declaring sovereignty argument in tax context "universally rejected"). *See also* 8 U.S.C. § 1481 (establishing requirements for consideration as independent foreign sovereigns).

2. Use of the Contempt Power - It is not entirely clear whether courts are using the contempt power in response to these personal jurisdiction arguments. It is quite evident that contempt is frequently used in accordance with the tactics these groups present, for they are often disagreeable, disruptive and disorderly. When stuck on this point in court, the court may feel compelled to use contempt to bring the party in line with acceptable behavior and decorum. However, a few caveats. First, it is not entirely clear that the court can censure an individual merely for uttering the objection based upon their view of the court's jurisdiction. The remedy for that failing is simply that they lose the argument as a matter of law. To censure them for the content of their speech, without more, is provocative and likely to lead to further argument and even retaliatory civil rights suits. There are a few ways in which the contempt power can be used in response to this tactic, however. First, where the argument over jurisdiction involves the party becoming disruptive or disorderly, as does happen, it is clear that contempt after warning is an acceptable response. Second, where the party lodges an objection that is noted by the court and asked to move on, but continues to argue the point, contempt is likely an acceptable response. In this instance, the censure is a result of the party's unacceptable behavior, rather than the content of his or her speech.

3. Engaging the Party in Argument - Judge Sudderth tells of a Texas judge who apparently bought the party's sovereignty argument and granted sovereign status to several litigants. The judge was rebuked by a conduct commission and subsequently resigned.[30] That is perhaps the extreme example of the danger of engaging in this argument with the litigants who come into your courtroom. Some judges, however, apparently cannot resist the urge to either "put these people in their place" or to emerge victorious in debate. Be forewarned that engaging them on these dogmatic issues may lead to several negative consequences. First, there exists the possibility that engagement will lead to the appearance of personal animus or prejudice, particularly any engagement beyond noting an objection and moving forward. Second, engaging in rhetorical debate with members of these groups amounts to granting to them the affirmation they seek and affirming that their points merit debate in a court of law. Third, engagement takes time and resources, and to spend these on debate plays right into one of the

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[30] Sudderth, *supra* note 3, at 25.

purposes behind the tactic to begin with.

C. Additional Authority

The following cases present additional discussion pertaining to "sovereignty":

Federal Courts

- *Young v. Internal Revenue Service,* 596 F.Supp. 141 (N.D.Ind. 1984) (tax protester - district court calls sovereignty claim "preposterous").
- *United States v. Studley,* 783 F.2d 934, 937 (9th Cir. 1986) (tax protester case - calling argument "frivolous"),
- *United States v. Sloan,* 939 F.2d 499, 500-501 (7th Cir. 1991) (tax protester case - noting that "strange" argument had repeatedly been rejected in the courts).
- *United States v. Gerads,* 999 F.2d 1255, 1256 (8th Cir. 1993) (tax protester case - rejecting contention that defendants are "Free Citizens of the Republic of Minnesota" and thus not subject to federal income taxation).
- *Valldejuli v. Social Security Administration,* 75 A.F.T.R2d 95-607
- (N.D.Fla. 1994) (social security number protester - district court finds sovereign argument "meritless").

State Courts

- *Uphoff v. Wisconsin Dept. of Revenue,* 411 N.W.2d 428 (Wis. App. 1987) (noting that appellant's "sovereign status" provides her no immunity from tax laws). This is an unpublished opinion. The fact that the court uses the term "appellant's sovereign status" is dangerous, for it is just the type of language these groups grasp and spin in order to legitimize their beliefs. The statement might have been better phrased "appellant's, claim of sovereign status.
- *State v. French,* 883 P.2d 644, 653 (Haw. App. 1994) (using Black's Law Dictionary to define "person" as "a human being," and denying petitioner's challenge to traffic law).

Subpart 2.3 - Demanding Use of "The Common Law"

A. Demanding a Strict Interpretation of "Common Law"

Central to much, but not all, antigovernment doctrine is the belief that the "common law" is all that rightfully governs sovereign individuals. That much is quite clear. What is not so easy to discern is precisely what "common law" means to members of these groups. Typically, arguments contain an imprecise mixture of principles embodied in the Magna Carta, the English common law (as reported in Blackstone's Commentaries), the Declaration of Independence, the United States Constitution and the Bill of Rights. One of the tactics, or typical demands, of the antigovernment groups is to require that the court only apply this "common law." Where the court fails to do so, the members often effectively terminate the proceeding - becoming disruptive, entirely uncooperative, and usually either filibustering or refusing to speak at all.

As with other areas of antigovernment or sovereign citizen doctrine, the specific arguments vary among the particular groups and among the speakers within those groups. A common theory is that the American Common Law is the "unwritten set of laws that get their binding force from age-old usage and acceptance."[31] It is not clear that any particular groups share a common vision of what the "common law" is and exactly how it should be applied, for there does not seem to be a working hierarchy among documents or a general theory for reconciling apparent contradictions among the documents the movement relies on. It does appear clear that the notion of "common law" is as much about a belief in the inalienable sovereignty of the individual and a certain mindset as it is about a given set of usable rules by which to govern a society. In fact, one commentator has described the "common law" as "more than a system of rules to be observed or a set of formal institutions that demand recognition; it is a world in which people live."[32]

Given this understanding of the "common law," it is easy to imagine the importance adherents to these groups attach to it, and thus makes clear why they make this demand when in the state courts. Essentially, this demand is not so much a tactic as it is a way of doing business. Typically, the member

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[31] Richard Abanes, American Militias (1996) at 31. Mr. Abanes is the Director of the Religious Information Center of Southern California, and has written extensively on his view of the threat posed by the militia movement.

will be in state court for some purpose. If it is a civil matter, he or she cannot be liable, because the court is corrupt and refuses to recognize the binding law of the Magna Carta, for example (though members have appeared in court as plaintiffs and had no problem using the state's legal system to his or her own ends). If this is a criminal matter, the member will again demand use of the common law, citing – and often shouting – pieces of wisdom taken out of context from one of the great historical documents.[33] Herein lies the "tactic": when the court refuses to recognize the member's objection or argument - as the court almost always will - the member will further object, completely disrupt the proceeding, will file an appeal based on the court's failure to adhere to the "proper law," and will sometimes bring a separate, outside suit against the judge for violating his or her civil rights.

In addition to the "common law" demand, members will often incorporate references to the Uniform Commercial code.[34] Adherents rely on a belief that, after the case *of Erie Railroad Co. v. Tompkins*[35] *our* courts abandoned the use of what we think of as the common law - that judge-made law that plays an integral role, along with the statutory and administrative law that makes up our system. Rather than the accepted reading of *Erie,* that is, that there is no federal common law (but that common law in the states is left intact and federal courts apply state substantive law and federal procedural law), these groups believe that the case abolished the use of all common law. To them, this both leaves a gap in our system of laws and is evidence that the Supreme Court declared that "commercial" law is now supreme. For this, they have adopted liberal readings of the Uniform Commercial Code, and demand that tortured readings of its provisions be used as statutory law in the proceedings of which they are a part.

B. Typical Responses to the Common Law Demand

1. Acquiescence - it has actually been suggested by some commentors that courts just acquiesce and agree to apply the laws as demanded by members of the movements. This is a

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[32] *See* Susan P. Koniak, "The Chosen People in Our Wilderness," 95 Michigan Law Review 1765 (1997)

[33] Susan P. Koniak has described the common law courts adherents "jurisprudence" in the following very perceptive way: ".. they believe that in our world, admiralty law prevails and the Uniform Commercial Code has somehow replaced the Constitution of the United States as our fundamental social contract. No one can construct, or reconstruct, a legal order from precepts strung together on a list ..." *Id.* at 1769-70.

[34] *See, e.g.*. Appendix C, "Movement Documents."

[35] 304 U.S. 64 (1938).

dangerous, if not absurd, proposition. It may be that such commentors are actually suggesting that the courts sort of "play along" with these groups and their demands. Regardless of the way in which acquiescence is suggested, it is clear that no legitimate tribunal can either apply the "common law" as understood by these groups or "play along" with their demands. This is simply not an option.

2. Continue over objection - this is the likely response to the "common law" argument. It is, in fact, the only route a court can legitimately take - if it wishes to retain its credibility and legitimacy. Like all responses, this is likely to trigger two things: resistance in the litigant demanding use of the "common law," and an appeal later on. While courts will have to deal with the resistance of the litigants, using traditional devices such as contempt, removal and the like, courts should not fear the results of an appeal - "common law courts" and their attendant jurisprudence have been long held to be legally non-existent.[36]

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[36] See, e.g. Kimmel v. Bumett County Appraisal District, *835 S.W.2d 108 (Tex. App. 1992).*

Subpart 2.4 - Significance of "The Bar"

A. Refusing to Enter the Bar

There is a general theory among these groups that the term "esquire" following an attorney's name is a "title of nobility," in violation of the United States Constitution. In Article I, Sections 9 and 10, the Constitution states that no title of nobility shall be granted by the United States and, furthermore, that no state shall grant titles of nobility. Because of this, several things occur. First, the states lose legitimacy in the eyes of these groups because they confer licenses upon attorneys — thus magically turning them into "esquires" and illegally granting titles of nobility. Second, and most important for purposes of this text, courts which have a bar - the area in front of the gallery - have a space that is reserved for attorneys only (supposedly). Therefore, the thinking goes, a member of these groups cannot "enter the bar" lest they either become an "esquire" or acknowledge the validity of the "title" - which consequence is more feared is not quite clear.

A second, and related, reason is often used to support the "titles of nobility" theory. In 1810, Congress proposed what would have been the 13th Amendment to the U.S. Constitution. This Amendment would have forbade any United States citizen from receiving a title of nobility and from holding public office if he or she did so. The proposed Amendment was never ratified by the states, however. Twelve states did accept the proposed Amendment - but thirteen of the then seventeen states were required for it to be adopted. The problem that arises is that, apparently, there were communications problems between the state and federal governments in 1810 and, as a result, the text of the "13th Amendment" made an appearance in a particular Virginia law book.[37] Virginia was one of the states that did not accept the proposed Amendment. A member of one of these groups made this "discovery" some time ago, and has subsequently argued (and taught to the masses) that this Amendment was actually ratified. Because of this, all attorneys are violating the constitution - especially those who hold public office. This is just another way to validate the belief that attorneys - as we know them today - are, as a class, just bad, illegal and corrupt people.

The members of these groups want nothing to do with that, and therefore refuse to "enter the bar" and choose not to "take the stand" to testify.

B. Typical Responses to the Bar Argument

1. Acquiescence - the result of this argument is that adherents will refuse to take the stand to testify. How to deal with this is a matter of judicial discretion, the answer to, which is guided by the court's values - i.e., whether the resulting fight is worth accommodating the litigant's demand. It is possible that a court could acquiesce and allow the litigant to be sworn outside of the bar and testify from his or her seat, for example. This is likely a matter of court procedure that can be changed to fit a given circumstance. While acquiescence relieves the initial burden of having to deal with the litigant's outburst, resistance, etc., it does hamper the appearance that the court treats litigants equally and that the court is committed to a consistent process. The authors hesitate to use a "slippery slope" argument, but must point out that, if courts are to begin accommodating members of these groups in every tedious demand such as this, where does such accommodation stop? Further, what does the court do when members of another group demand the same concession? It is suggested that courts take the ramifications of a decision to accommodate seriously when deliberating over how to approach this problem. Finally, consider the circumstances and the end result of a person's refusal to enter the bar. Where that person is a witness is one thing - and clearly a contemptible offense. Where the person is a party, however, is another. When that person essentially refuses to testify, they are harming their own cause and will likely be seen to have waived any objection.

2. Refuse to Accommodate/Contempt - It is clear that it is within the court's authority to use the contempt power when a litigant refuses to obey the court's lawful command. A few things bear noting, however. First, it is possible that the use of the contempt power against a person who refuses to enter the bar will be construed as a violation of the litigant's First Amendment right against the abridgment of his or her free speech. Though likely a claim without merit,[38] it could give rise to a federal civil rights action against the judge. Such a case is a non-winner, from the Plaintiff's point of view, but does result in the successful harassment of the judge and forces the

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[37] Confusion surrounding the ratification of proposed Amendments has been ameliorated by Congressional enactment of 1 U.S.C. § 106b, which provides a process for notifying and verifying that an Amendment has been ratified.

judge and likely the state to defend a lawsuit.

3. Creative Resolution - It appears that the chief concern for members of these groups is something that can often be alleviated through semantics. That is, the problem may not be that they enter the bar, but that they will be thought of as accepting a title of nobility and will be discredited before their peers for acquiescing and lending credence to a system they do not believe in. One way to alleviate this concern might be for the court to question the litigant as to why they do not wish to enter the bar, and then to "agree" to decree that, for the purposes of testifying, the litigant is not accepting a title of nobility. It is, to this author's point of view, a simple way of alleviating much of the problems attendant with dealing with these groups in your courts. It is not unlike being willing to remove the offending flag or otherwise accommodating these folks in an efficient and legally irrelevant way. It goes a long way toward gaining some measure of cooperation.

C. Additional Authority

1. The First Amendment Problem - Trial judges have enormous power to control the conduct of affairs in their courtroom. Any challenge to a judge's use of the contempt power will likely be based upon the premise that a judge's use of that power comes in violation of the First Amendment. Learned commentators suggest that this possible problem be viewed in the following manner: First, if viewed as a restriction or other harm based on the content of the individual's speech, the individual is likely to lose because of the necessity of content based regulations in the courtroom. Second, the courtroom is considered a "non-forum" in which reasonable regulations designed to "permit the orderly conduct of business of the court are both inevitable and permissible."[39] Justice Stevens alluded to this problem and its solution in his concurrence in *Consolidated Edison v. Public Service Commission*, 447 U.S. 530, 545 (1980). There, he discussed the Supreme Court rules, which dictate the order in which parties may present their argument. He justified those content-based restrictions on just these grounds - that the court was a non-forum and that only certain types of expression relevant to the conduct of the judicial process are permitted. Inasmuch as a person might argue that their refusal to enter the bar is an expressive act, there is simply no room for that act in the efficient conduct of the judicial process.

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[38] See Section C, Additional Authority.

2. Titles of Nobility - several courts have passed on the validity of the claim that "esquire" and other terms are titles of nobility:

- *Woodson v. Davis,* 887 F.2d 1082 (4th Cir. 1989) ("Officer of the Court" is not a title of nobility).
- *Hilgeford v. People's Bank,* 113 F.R.D. 161 (N.D.Ind. 1986) (being a "lawyer" is not having a title of nobility).
- *Frederick v. dark,* 587 F.Supp. 789 **(W.D.Wis.** 1984) (being a "lawyer" is not having a title of nobility).

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[39] *See, e.s;* Rodney Smolla. Smolla and Nimmer on Freedom of Speech, at 3-41.

Part III Disrupting the Operation of the Court

This section covers tactics that, while they may occur in the courtroom, may also occur outside of the courtroom, in the presence of clerks, guards and other court personnel. The most crucial step a court can take to prepare for these tactics is to be aware of their potentiality and prepare a plan in advance to either placate or dissuade the patron from acting or to alleviate the effects of the patron's actions.

As the author notes in the discussion of the Trial Court Performance Standards, the responses courts take must be well-considered beforehand, for the parties against which those responses are taken both have a right to the same process as others and represent an unusually active threat to the courts. Civil rights suits by members of these movements, against judges in their personal capacity, are not unheard of. The response a court takes against one of these members might well make the difference whether the judge or other court personnel end up burdened with defending, or at least answering to, a suit against their person. For this, the authors strongly suggest an understanding and appreciation for the goals and methodology espoused by the Trial Court Performance Standards.

Subpart 3.1 - Refusing to Speak / Identify Oneself

A. Refusal to Identify Oneself

Members of the anti-government movement will often attempt to avoid conferral of jurisdiction onto a court by refusing to identify themselves or denying that they are the person named in a warrant or summons. This refusal may come from any one of or even several of the following bases. Often, anti-government adherents will refuse to come forward simply to waste time, or out of a more general refusal to recognize or submit to the court's jurisdiction.

Some parts of the anti-government movement however, will refuse to come forward on the ground that their name is misspelled, or even because their name is in all capital letters. This particular objection comes from a number of "sources". Some believe that the spelling (or misspelling, or use of all capital letters) of their name is a sign of the movement toward "one world government." Others believe that all capital letters denotes a corporation, and that answering as a corporation subjects them to the illegitimate laws of the American judicial system. Some believe that all capital letters denotes "the Mark of the Beast,"[40] or that it is a denotation of a "war name." Finally, some members of the movement believe that they only "own" their first and middle names, and that their last name reveals their family. They use their middle name in place of a last name, or go by their first and middle name "from the family of their last name. Attached to this particular issue may be a desire to be referred to as "Sir" or "Sovereign," because of a belief that this title more effectively conveys their status as a "sovereign citizen." It is the belief of members of the movement that they can file a document renouncing their citizenship to become a nation subject only to their own local common-law, and not subject to the law of their state or the federal government.

Another ground for a follower's refusal to identify himself may be his refusal to recognize himself as a "person." This particular objection comes from what appears to be a somewhat mystical distinction between a "person" and a "human being" according to the anti-government movement's philosophy.

B. Typical Responses to Refusals to Identify

Obviously dealing with such antics tends to be frustrating and to waste time. For this reason it is very important that the court impose a schedule for filings and appearances, and when the defendant fails to appear or refuses to identify himself, the court should move on. Some courts have had success requiring such defendants to post bond to secure appearances. When the defendant is in the courtroom, but simply refuses to identify himself, the court can ask if anyone else in the court is able to identify him, or use a legal document for ID purposes. If no one in the court can identify the defendant, the judge can warn the defendant of the contempt power. Obviously, where the defendant refuses to recognize him or herself as a "person," the court can do little other than read the definition of "person" to the defendant, note the objection, and move on.

1. Scheduling — It is virtually unquestioned that courts have the authority to maintain control over their dockets, and to move forward where delay is impractical. Also, as noted repeatedly within this guide, it is one of the primary objections of members of the movement that the law treats them and those like them unfairly. In order to avoid fanning the flames, courts (and indeed government personnel in general) should set their rules and follow them scrupulously, thus reducing the fervor of this particular complaint. Where the court knows or suspects that followers (or anyone, for that matter) will appear before it in a given case and present such problems, the court can best deal with the situation by setting and adhering strictly to a schedule for pretrial and trial proceedings.

2. Alternative Identification - Where a defendant refuses to identify himself the obvious solution is to find some other way to identify him. The court can ask those present if the defendant is present and if any one can identify him, or a person suspected to be the defendant can be asked to present identification. It is important to keep in mind, however, that many adherents to the movement do not carry identification, especially drivers' licenses, because they refuse to recognize the government's authority to require such licensing.

Where a defendant refuses to recognize himself as a "person" the court can only read the definition of a "person," note the defendant's objection, and move on.

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[40] The Kitsap County Prosecuting Attorney's Office, *Freemen: Armageddon's Prophets of Hate and* Terror, p. 59 (1998).

3. Bonds and Contempt — Where no one in court can identify the defendant and the defendant will not identify himself, the court can do little other than warn those in the courtroom of the contempt power (hoping that the defendant is present). It is at this point that adherence to the schedule becomes critical. The court must then issue a warrant to bring the defendant before it to show cause why he should not be held in contempt and go on with its docket. At least one court filed for such a warrant where the defendant was in the courtroom but refused to respond to his name.

Many courts deal with the problems of getting followers to appear by requiring that they first post a bond securing their appearance. Being required to appear and make this fact known or lose several thousand dollars provides an obvious and significant incentive to a defendant.

As always, where a government official deals with members of the antigovernment movement, it is important to recognize that virtually any response to them may result in lawsuits (often frivolous) being filed against the official in either legitimate state or federal courts or in the follower's own common-law court.

Subpart 3.2 - Silence/Filibuster

A. Party Chooses to Remain Silent or Party Chooses to 'Filibuster"

Members of the movement will engage in any of a number of tactics to stall, disrupt, or render literally impossible the operation of the courtroom. As part of a general refusal to subject himself to the court's jurisdiction the defendant may refuse to enter a plea. He may refuse to swear an oath on religious grounds before taking the stand, or he may even refuse to say anything at all. In some cases, a party may take the stand in his own defense, and then refuse to respond to questions asked by the other side on cross-examination.

Members of the movement are also known to take the exact opposite tack. They may talk incessantly, refusing to follow substantive or procedural law. A defendant may also respond to simple questions with questions of his own. In at least one case a member of a common-law court actually went so far as to convene his own court in the courtroom, asking the judge questions in response to his questions, ruling on arguments and motions, and generally conducting proceedings pursuant to his court's "rules."

B. Typical Responses to Silence/Filibuster

The obvious response to these problems is the use of the court's contempt power. The thorny problem with that response is that, at least with a criminal defendant, there may be serious 5th Amendment implications - a defendant simply may not be required to testify against himself where it may incriminate him. Where a criminal defendant refuses to respond to the court, the court may choose to enter a "not guilty" plea on the defendant's behalf. The court also has the option of ordering compliance with the court's rules and taking such actions as may be necessary to obtain such compliance.

1. Contempt Power - As always, the court has the power to find a party that refuses to comply with its rules and orders. While this power is secure, at least in the criminal context there are issues that must be addressed under the 5th Amendment. The most crucial place where use of the contempt power and attendant measures to ensure compliance is where the litigant is proceeding *pro se* in a criminal matter, and is thus his own attorney, as well. In this instance, the litigant's ability to make objections, question witnesses, and the like is seriously hampered. Here, the court

must address very serious Sixth Amendment concerns.[41]

2. Entering a Plea on the Party's Behalf - Where the militiaman refuses to enter his own plea, the court should enter a plea of "not guilty" on the defendant's behalf. The defendant is clearly not prejudiced by such an action (assuming he is, in fact, present - otherwise there are substantial procedural due process problems), because he may later change his plea if necessary, and a "not guilty" plea affords him the benefit of a presumption of innocence. In other words, the other side must still prove its case in both a civil and a criminal action where the court assumes that the defendant denies the charges filed against him.

3. Ordering Silence/Compliance With Rules - In either the case where the defendant refuses to speak or the case where the defendant refuses to refrain from speaking, a court is clearly within its power to order, under pain of contempt, compliance with court rules and procedures. Where a defendant chooses to represent himself pro se, this issue becomes more complicated, except that jurisdictions generally allow a court to terminate a defendant's right to represent himself, where necessary. The court should make the requirements clear, and then punish with the contempt power in order to see that those requirements are met. In some cases, more drastic measures may be necessary in order to secure compliance with court rules (see below). In other circumstances a defendant may refuse, on religious grounds, to give an oath before testifying. An oath may be modified for religious witnesses. Generally the oath need only show that the witness intends to tell the truth and that he knows that failure to do so will subject him to a penalty for perjury.

C. Additional Authority

The United States Supreme Court has addressed the issues surrounding the unduly disruptive litigant. The following case is the first clear explication of the principles at stake:

1. Gagging Party - *Illinois v Alien*, 397 U. S. 337 (1970).

2. Removing Party From Proceedings - *Illinois v Alien*, 397 U. S. 337 (1970) ("a defendant can lose his right to be present at trial if, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, he nevertheless insists on conducting

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[41] *See* Brooksany Ban-owes, "The Permissibility of Shackling or Gagging Pro Se Criminal Defendants," 1998 U. Chi. Legal ?? F. 349. Ms. Ban-owes' article includes a recent and

himself in a manner so disorderly, disruptive and disrespectful of the court that his trial cannot be carried on with him in the courtroom").

3. **Generally** - see the following:

- *Bostic v. State*, 531 S .2d 1210 (Miss. 1988)
- *People v. Davis*, 851 P.2d 259 (Colo.App. 1993)

4. **But See** - the following cases limit the court's authority:

- *Spain v. Rushen*, 883 F.2d 712 (9th Cir. 1989) (court must pursue less restrictive alternatives before pursuing physical restraints).
- *Jones v. Meyer*, 899 F.2d 883 (9th Cir. 1990) (allowing the use of shackles only when justified by need to maintain security, and after seeking less restrictive alternatives).
- *Elledge v. Dagger*, 823 F.2d 1429 (11th Cir. 1987) (violation of due process to shackle defendant at hearing without affording opportunity to contest necessity of the shackling). For further discussion of the gagging/shackling response, please see the Bellowes article cited at Note 42, above.

Subpart 3.3 - Demanding "Counsel of Choice"

A. Party Requests to be Represented by a Non-Lawyer

Because members of the movement reject the legitimacy of the judicial system in this country, it should not be surprising that they also reject the concept of a "bar" of lawyers who do most litigation. In fact, the movement generally suggests that, because the bar is not a state organization, membership in the bar does not confer a "license," but instead confers only membership in an exclusive club. According to members of the movement, proceedings in court are meetings of this private club, presided over by a member of the club, and such proceedings have no jurisdiction over them.

As a result, and in addition to other tactics, members of these movements often seek to be represented by "one of their own," when appearing in court. That is, to be represented by another member of the movement, versed in their interpretation of the law and willing to argue it. Where denied this opportunity the member may attempt to proceed *pro se*, or may accept representation by a court appointed attorney with the expectation that this attorney will follow their instructions and make the arguments they wish to make (which includes their "interpretations" of

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thorough examination of the law surrounding the permissibility of measures that may be taken

the law). In many cases, either the attorney representing the member will move to be relieved of the case or the member himself will become frustrated with the attorney's refusal to advance his arguments and will seek to remove or replace counsel.

Members of the movement may also seek to be represented by "counsel of their choice." While this argument will often include their desire to be represented by a non-lawyer adherent to their views, it may also be an argument that the court should pay any lawyer they select (not court appointed). As well, members may attempt to delay the proceedings by selecting an attorney who either cannot or will not represent the defendant.

B. Responding to Requests to be Represented by a Non-Lawyer

It is quite clear that the court cannot itself lapse into lawlessness and violate state law by allowing a non-lawyer to practice law for another in the state courts. The court may rely upon several justifications for such a restriction, including the following:

1. Barratry - All states have barratry laws forbidding the unauthorized practice of law by non-attorneys.[42]

2. Waiver of Right to Counsel - Courts must exercise extreme caution in presuming that an individual has waived his or her right to counsel.[43]

3. *Pro Se* Litigants - the Sixth and Fourteenth Amendments guarantee a criminal defendant the right to counsel in most cases. The United States Supreme Court has elaborated on this right, to say that "the Sixth Amendment does not provide merely that a defense shall be made for the accused" and that "the right to self-representation - to make one's own defense personally - is thus necessarily implied by the structure of the amendment."[44] As a result, it is quite clear that the defendant himself or herself may proceed *pro se*. Though we include this reminder here, the *pro se* defendant does not actually present the barratry problem because they do not fit the definition of the unlicensed practice of law.

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against the *pro se* litigant.

[42] *See, e.g.* Appendix A, Section 2.1.1, State Barratry Laws.

[43] The United States Supreme Court has long upheld the fundamental nature of the right to counsel. *See Johnson v. Zerbst,* 304 U.S. 458, 463 (1938). In more modern times, the Supreme Court has clearly held that courts should indulge every possible presumption against the waiver of counsel and that doubts will be resolved in favor of no waiver. *See Michigan v. Jackson,* 475 U.S. 625, 633 (1986). For a good discussion and example of the danger of reversal, *see United States v. Meeks,* 987 F.2d 575 (9th Cir. 1993).

[44] *Faretta v. California,* 422 U.S. 806, 818-819 (1975).

Subpart 3.4 - Verbal Threats Against the Court

A. Party Makes Verbal Threats Against the Court

Some members of the Anti-Government movement can be scary people. They range from truly non-violent tax protesters and simple farmers or racially intolerant members of the KKK and the Aryan Nations to gun toting secessionists who both preach and practice violence in order to attain their goals. Threats by the movement, though clearly not always carried out, should be dealt with swiftly and severely. The alleged connection to the bombing of the Oklahoma City federal building, the sieges at Ruby Ridge and in Waco and the issuance by common law courts of billions of dollars in false liens and many "death sentences" should make at least two things clear – these people are serious, and they have the potential to be dangerous.

Although it is not as common (yet) as one might expect, members of the movement have been known to issue threats to court clerks and administrators, not to mention judges and jurors. They have been known to "pack the courtroom" in order to intimidate those conducting a hearing or trial. Obviously, the defendant may not be the only militiaman present, and he may not be the only one who is perceived as threatening or making threats.

B. Responding to Threats Made by Members of the Movement

1. Calm/Warning - It is of the utmost importance that both the court and court personnel remain calm and courteous when threats are made. Although it may be difficult to keep this in mind when one feels threatened, overreacting or becoming rude or adversarial plays into the hands of the anti-government movement's adherents. A court should have an established procedure for dealing with such threats, and should adhere to the procedure religiously. At the same time, the court should make clear to the militiaman that such threats will not be tolerated, and that statutes exist for punishing those who attempt to intimidate those involved in courtroom proceedings. Where warranted, additional security is an option, and under sufficient circumstances the courtroom may be closed to spectators.

2. Contempt - No one would argue that where a person in a courtroom openly threatens a member of the court staff, contempt lies. The use of the contempt power should be used with some restraint, as a finding of contempt will almost inevitably delay proceedings and add additional fuel to the flame.

3. Report Threats - Threats made against court personnel should be reported to the police as soon as possible, and they should be investigated. While there may be times that a threat is either imagined (having large numbers of people who clearly think that your authority is illegitimate is sufficiently unnerving that small innocuous statements or actions may seem threatening), the very real possibility that such threat may be carried out should be sufficient to justify at least some investigation. Also, there are statutes that may be brought to bear in such circumstances, both general assault statutes and specific intimidation of court personnel statutes, as well as conspiracy statutes where a number of movement members are involved.

4. Reassure Jurors, Take Extra Safety Precautions - Because members of the movement often proceed pro se, it may be impossible to keep from them a list of the jurors. Because of this, the jury may find themselves being threatened. It becomes important here to provide sufficient security such that jurors can feel safe. In addition, the court should make it clear to the party that tampering with the jury through contact, threats to them, their families, or otherwise, will result in severe sanctions, perhaps including criminal prosecution. The court might also use the option of sequestration to ensure that jurors feel and remain safe and unmolested.

Members of the movement may very well be dangerous. Threats should not be taken lightly, they should be investigated and dealt with in the swiftest fashion.

Subpart 3.5 - Hunger Strikes

A. Party Begins a Hunger Strike

Many members of the Anti-Government movement view themselves as being at war against a hostile, occupational government. These people refuse to recognize the legitimacy of the law enforcement officers who arrest them, the courts and judges that decide their fate, and the institutions in which they are incarcerated not only after a conviction, but also before and during trial. Where such a member of the movement is held in prison, he considers himself to be a prisoner of war.

In an attempt to gain public sympathy and support (in addition to the desire some of the more extreme groups have to achieve martyrdom), it is not unheard of for incarcerated members of the movement to refuse food and water, to engage in a "hunger strike." Because of the dangers this poses, the state courts are placed in a precarious situation - to force feed the party clearly implicates any of a number of constitutional and civil rights, but to allow them to go without food and water not only threatens their health and welfare, it also attracts unnecessary and unwanted attention to them and their cause.

B. Responding to a Hunger Strike

1. Safeguarding the Party's Well Being - Without a doubt, the courts' response must be to safeguard the party's well being above all. This may even extend so far as to force feed an individual.[45] However, any response must be given serious consideration by the court and the executive branch, due to the likelihood of litigation to arise over the choice the government makes.[46] As with the general tone of this guide, the authors again suggest that the court first take all reasonable steps to accommodate the individual before this becomes an issue.

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[45] Force feeding a civil contemnor has been held to not violate the contemnor's constitutional rights in several federal courts. *See, e.g. In Re Sanchez,* 577 F.Supp. 7 (S.D.N.Y. 1983) (holding that, given that the purpose of the strike was to coerce the court, and that the contemnor's strong objection was already expressed by fact of the hunger strike, his constitutional rights were not violated by government force feeding).

[46] It is also advisable for the court or the executive to arrive at a medical determination that the individual's health is in jeopardy before taking this step. *See Martinez v. Turner,* 977 F.2d 421 (8' Cir. 1992) (holding that individual failed to state a constitutional claim where evidence

2. Minimize Negative Publicity - As suggested above, martyrdom is a goal of many of the more extremist groups the courts will encounter. As a result, courts should consider this issue before it occurs and have contingencies in place - including establishing a spokesperson for the court, policies governing the use of force feeding, and the like. In order to both deter this particular activity in the future as well as to minimize the ability of the movements to propagandize these occurrences, the court should be prepared to act as reasonably but firmly as possible.

Subpart 3.6 - Attempts to Disqualify the Judge

A. Judicial Disqualification

As we have explained throughout this guide, members of antigovernment groups, militias and common law courts very frequently attempt to disrupt state court proceedings to which they or their comrades are a party. Our research has shown that they try to delay the course of proceedings, frustrate judges and judiciary staff and otherwise delay proceedings almost as a matter of course. A very effective, and to the court, potentially dangerous, method of accomplishing these ends is to file complaints against a judge.

These parties can file complaints which fall into one of two categories: either the litigant conjures some personal grievance and sues the judge, thus making him an "interested" party, or the person follows the typical complaint route and files whatever kind of general grievance or motion state process allows. Note that the first category, adversarial complaints against the judge, could fall into one of two classes - the complaint could be filed pursuant to a legitimate cause of action (though one without basis in fact) in a state court, or it could be pursuant to an unfamiliar cause of action and filed in a common law court. Obviously, complaints filed in common law courts have no real bearing on the state process, but they are, however, grounds for continued and more severe action in the common law courts. Complaints filed in state courts, however, present a different story. These complaints are legitimate until ruled otherwise, so a judge must proceed with caution.

The second category of complaint is the typical motion for recusal or disqualification. Presuming the member is familiar with or has retained counsel that is familiar with state law, it is

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showed that authorities had arrived at a medical decision that force feeding was necessary to the

likely that they will pursue the typical state remedy in the proper manner. These motions succeed in varying degrees, with the rate of success depending on the state. At this time, approximately fifteen states allow parties to peremptorily challenge judges and ask for their removal.[47] Proceedings involving members of antigovernment groups have seen peremptory actions in many of the states that allow these challenges. On the other hand, the majority of states require a showing of cause for removal or disqualification. Rest assured that members of these groups will find cause sufficient to bring a motion under the appropriate statute.

B. Typical Responses to Judicial Disqualification or Recusal

The judicial responses differ according to the laws of the particular state. These responses depend, in large part, upon statutory provisions governing disqualification and recusal, as well as state codes of judicial conduct, constitutional requirements and common law developments. In addition to the particular responses addressed below, it is imperative that judges do not "take personally" these challenges. They are often merely a part of groups' tactics and are meant to harm the process, not the judge. As with all suggested or typical responses, courtesy is urged – for slights against the members will be counterproductive and harm the integrity and efficiency of your court.

1. Responses to Typical Motions for Recusal/Disqualification

a. States That Allow Peremptory Challenges - In these states, there is often a combination of rules that govern the procedure surrounding a challenge.[48] Judges should ensure that members follow the proper procedures and that all documents are in order. This is, of course, a matter of integrity of the judiciary - to require proper procedure in all cases - but in the antigovemment context it is also a matter of deterrence. It may be understood that the members will use these challenges in a frivolous way, but without any evidence of frivolity. Therefore, they should be made to strictly comply with the procedural requirements.

b. States Which Allow Removal For Cause - Here, an entirely different type of

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individual's health).

[47] *See, e.g.* Richard E. Flamm, Judicial Disqualification: Recusal and Disqualification of Judges. Ch. 27 (1998 Supp.). Flamm's text contains an exhaustive discussion of the state procedures involving judicial recusal and disqualification.

[48] In Alaska, for example, there exists a statutory right to peremptorily challenge a judge, *see* Alaska Stat. § 22.20.022, § 2, ch. 48, but this right does not dictate the procedure. For that, judges must look to the specially - promulgated criminal and civil rules. This scenario is typical in peremptory states.

> response controls. Unlike the constitutional or statutory peremptory, these challenges do not imply a right in the party seeking them unless the party makes the proper showing of cause. Again, the first and foremost response must be to retain judicial bearing and courtesy. Unlike the category above, however, judges have more control here, mainly because parties who bring this type of action bear the ultimate burden of showing cause. The courts should treat motions from members of the antigovernment groups like those from any other movement, and require strict adherence to the procedure and burdens the law imposes.[49]

2. Responses to Civil Actions Filed Against Presiding Judge - This tactic is discussed throughout, for members of these movements seem to repeatedly use the courts to redress their grievances - real or imagined. The response to this tactic depends on what type of action is filed. For actions filed in the common law courts themselves, judges should be aware that, while the action threatens no legal liability, the penalty may be a bogus lien, involuntary bankruptcy or other censure of the offending judge. For any action taken by a member against a judge, the first step should be to notify court security and the authority in the executive branch. The judge should also consult legal counsel in order to determine the complaint's validity and strategize individual responses. Again, we stress that this should not become personal - the attack is against authority and the system, generally not against the individual judge.

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[49] Again, we urge the courts to consult the Flaum treatise, *supra* note 1, for a full and complete treatment of the law of judicial disqualification.

Subpart 3.7 - Forms of Pleadings

A. Party Files "Odd" Documents/Uses Antiquated Pleading Forms

Members of the movement adhere to what they consider to be the "common-law." The common law in their terms is not necessarily the sort of judge-made law that the legal community typically would consider to be common law, but instead is a hodgepodge of Biblical quotes and doctrines, misplaced quotes from cases, leftover concepts from early legal doctrines, self-serving readings of the Constitution and other sources of law, definitions from long out of date legal dictionaries, and Blackstone's conception of "natural rights." As a result of this misshapen body of law, adherents to the movement often file what amount to massive and frivolous or irrelevant pleadings, motions or other documents. They will attempt to argue bias and "illegality" on the part of each part of the trial process, the judge, the prosecutor, the jury, even the bailiff. They may file actions against the judge or the prosecutor in order to have them disqualified. It is also common for them to file a motion for sovereign immunity on the grounds that they are a foreign nation, or to file a motion to dismiss based on the fact that they are not subject to the court's jurisdiction on bases varying from the UCC to violations of various constitutional rights (many members of the movement have tried to have traffic citations dismissed on the grounds that they violate the constitutional right to travel, for instance).

In addition to filing documents that are simply irrelevant or contextually inapposite many adherents to the movement file documents that seem antiquated or even outdated, or use legal language and Latin that is just uncommon if not unused today. Many, in "resurrecting" the common law, apparently feel that the modes of pleading and the legal terminology used gives their filings greater legitimacy. Some even refuse to recognize most of the changes made in the law since the ratification of the Fourteenth Amendment, under the argument that the Fourteenth Amendment impermissibly reapportioned the balance of local/state/federal power.[50] They will argue the Bible, cite the Magna Carta, file writs of *Quo Warranto* to have the judge or prosecutor removed, or attempt any of a number of other motions or filings to make proceedings slow, to disrupt them, or to render them entirely impossible.

The truly insidious problem with this tactic is that it is not uncommon to find, buried within the morass of useless drivel, a pleading, motion, or argument that is not only tenable, but even valid, and perhaps even a winner. Members of the movement often hope to get a "hook" by filing a huge document with one

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[50] This particular objection explains the movement's reliance on Bouvier's 1856 Law Dictionary - It was considered *the source* before the passage of the Fourteenth Amendment.

valid motion or pleading in it, expecting the judge to be too frustrated or busy to find it. Also, in filing what appear to be antiquated types of motions and pleadings, followers may very well know at least one part of the law better than those who regularly practice it legitimately: a number of states specifically reserve all causes previously existing at common law, and virtually any state may have simply failed to preclude a cause that did exist under common law. In essence, the adherents may have found a way to use the law against itself.

B. Responding to Unusual Documents

Members of the movement are American Citizens, regardless of their views of the American legal system. Because of this, they have the same rights that anyone else has to their day in court. This, in conjunction with case law that seems to require courts to construe pleadings (especially those filed by pro se litigants) broadly in order to effectuate the purposes for which they were intended, makes it clear that courts should deal very carefully with odd pleadings filed by members of the movement. While it is beyond doubt that the court has the authority to throw out worthless or incomprehensible pleadings, or at least to require that they be amended, such actions should be taken with the recognition that they are likely to fan the flames, and may even result in both lawsuits in legitimate courts and lawsuits in the movement's own common-law courts.

1. Explain Court Rules and Adhere to Them - As always when dealing with the movement, it is important that the court set forth and adhere strictly to the "rules of engagement." The court should make clear what is expected/required of the parties, and make clear the standards and time restrictions for pleadings and motions, as well as the option of amending or correcting defects in pleadings. Where the rules or schedule are violated the court should make a ruling or issue a sanction (or both) and move on.

2. Make Clear Rulings - The court should not hesitate to reject motions, pleadings, or arguments that have no basis in law or fact. Where the court chooses to do so, it should make the basis for this ruling perfectly clear. This serves at least two purposes: first, it makes it easy for higher courts to uphold the court's judgment against the party, and second, it takes away the argument by the movement that the court's action was lawless and arbitrary. It is important, especially where dealing with members of the movement, that clear rulings are given in all contexts, admissibility, validity, denying or upholding motions, etc.

3. Thoroughly Consider Documents and Arguments - Nothing is more frustrating than getting a massive stack of documents, most of which are irrelevant and all of which are nearly incomprehensible. Still it is important that the court take note of and consider carefully the documents filed by the parties.

Again, it is a common tactic for the movement to file documents with one valid document or even one valid argument hidden inside, in order to create reversible error and tie up the court system. Also, because causes of action must be construed so as to effectuate their intent, a motion that is invalid or antiquated may be similar enough to a valid motion that the court should either substitute for the party or offer the party the opportunity to amend. Finally, in some places, what looks like an invalid mode of pleading may actually be statutorily preserved - it may in fact be valid. It is best to deal with members of the movement as fairly as the system allows, so as to take away their ability to point to flaws in seeking support.

4. Give Opportunity to Cure Defects in Pleadings - Virtually all systems of procedure allow for amendment of pleadings; the federal system, for example, is extremely permissive in allowing amendments. The court should allow the party to amend its documents to make them valid where it looks like this is possible. Furthermore, the court should attempt to follow case law in construing the arguments so as to effectuate their intent, at least where this intent has some basis in law and fact. Members of the movement should not be denied the opportunities to amend that non-members are given, this is exactly what some followers point to in support of their conspiracy theories.

Subpart 3.8 - Refusal to Sign Documents

A. Party Refuses to Sign Documents

Members of the anti-government movement, in addition to refusing to submit to the court's jurisdiction, may also refuse to sign documents, orders, pleadings, etc. that they receive in connection with a case. Alternatively, they are known to sign such documents (and their driver's licenses) with "UCC 3-501 without recourse" (or some other statement and citation, usually to the UCC) in the signature line. In either case, legal proceedings often require such signatures to continue, and failure to obtain such signatures can waste significant amounts of time for both the court and the parties involved.

B. Responding to a Party's Refusal to Sign Documents

In many cases, a party's refusal to sign a document can bring a legal proceeding to a halt. Where handled improperly, the way a court deals with such a refusal can provide the error needed to get a holding reversed, and can give the anti-government movement ammunition to point to in its criticism of the American Judicial System. Because of this a court should go to great lengths to not only treat the party fairly, but also to make certain that the record reflects such efforts.

1. Consequences - As always, the court should make the rules and the penalties for their violations clear to the parties, and when the rules are not adhered to, the court should issue a ruling or sanction and move on. Where a party refuses to sign documents, there is no exception to this general rule.

2. Acquiescence - Generally, where a party signs a noncommercial document with "UCC – without recourse" or "rights reserved" it is clear that this has no legal effect. Those terms are simply not legally operative in such contexts. In some cases, where to do so would not affect the rights or privileges of the parties in any way, the court may simply allow the party to submit the signed document with the UCC "qualification." Provided that it can be shown that the consequences of such action have been explained to the party and he clearly understands the ramifications, it may very well be easier to allow such legally irrelevant addition to the signature than to provide the militiaman with the opportunity to spout his doctrine and enter his politics into the proceedings.

3. Contempt/Bonds - The contempt power certainly reaches those incidences where a member of the movement refuses to receive a document, or where he refuses to sign a valid legal order. Again, the reasoning behind the ruling should be made clear, and the party should be made aware of the consequences of his actions beforehand. Some courts have had success using cash bonds where members of

the movement have refused to sign promises to appear at future hearings. This technique might be adaptable to requiring members of the movement to follow through with discovery orders, requests to appear, etc.

Part IV Tactics Outside of the Courtroom

This Section describes tactics that commonly occur outside of the courtroom but are either directed at members of the court or involve using the court and its process. There are several key considerations in responding to these tactics. First, while the individuals are generally not involved in an in-court proceeding when these tactics are used, courts must be aware that their responses still represent state action and thus are constrained by constitutional and civil rights considerations. Second, the courts must be aware of the danger of escalation. Where these tactics often harass and annoy, they are slowly being legislated against in the states. The important point is that, rather than making such harassment "personal," and escalating the situation, court personnel should be encouraged to pass information and evidence on to the proper investigative authorities. Such authorities are the proper party to handle dangerous or harassing tactics, and their involvement is likely to alleviate the possibility of physical harm, violence and the like.

Subpart 4.1 - Interactions with the Clerk

A. Appearance at Office/Window/Counter of Court Clerk

Members of the anti-government movement pride themselves on their knowledge (however flawed it often may be) of the conventional court system, and on the ease with which they can enter the system by filing documents or suits. Because of this, it is not uncommon to see members of the movement enter court clerks' offices and request filing of liens (which are often false), suits, motions, pleadings, etc. Clearly, the police and judges are not the only ones who must be prepared to deal with members of the anti-government movement. In fact, it is county and court clerks who are often the first to deal with them. It is important that clerks be aware of their existence and that they be prepared to handle the unique problems and issues they often pose.

While members of the movement pose just as great a threat to clerks as they do to the police and law enforcement officials, it is often the case that they are simply trying to force the government to do what it says it will, or to perhaps feel as if they have exercised some authority over the state. Chuck Ericksen of the National Center for State Courts tells stories of a group of followers who would come to the clerk's office in Washington state to ask for an obscure document that the clerk was supposed to have available upon request. Apparently these people would come every year to ask for this document, and would become combative and belligerent when the clerk failed to produce it. Finally, the clerk put the document out in a basket, and provided it when asked. Once they had gotten the document the followers were courteous and polite, and left without incident. The problem now is dealt with by making such forms available online, thus making certain that state statutes requiring the documents to be available are observed, as well as reducing the potential for discordant confrontations between clerks and members of the movement.

One of the biggest problems posed by the movement is its persistent filing of false liens, frivolous suits, involuntary bankruptcies against public officials and the "reification" of documents issued by a common law court (which has no real authority to issue binding orders) by having it certified or sealed by the clerk of a real court. The clerk's office is obviously in the best position to deal with such problems; by recognizing when a document is false or frivolous, or by notifying those higher up of action by the movement, a clerk can prevent incredible hardship later on for those who must attempt to clear their credit or who must deal with the mountains of useless claims the movement proffers.

B. Clerk Responses to Members of the Movement

1. Train Personnel to Identify Members of the Movement and the Types of Documents They File - Obviously it is only in the rarest of circumstances that you can look at an individual and immediately peg him as a member of the anti-government movement. Clerks should be taught to be wary when any customer comes to them and acts unruly, belligerent, or abusive. They should be aware of the unusual requests they are likely to make, the unusual practices they may engage in (e.g. Signing documents with "UCC without recourse"), and the refusal to accept common standards. Such people are the ones who are unlikely to produce valid ID, who refuse to sign when required, and who will not give a standard postal address. They may also sign their names First Middle, Last (e.g. John Smith, Doe), appear in the clerk's office frequently, or even tell the clerk outright that they are a "patriot" or "Freeman," or refer to their common law court or militia. Members of the movement may also attempt to file strange looking (bogus or false) liens, notices of involuntary bankruptcy against public officials. It is also fairly common for members of the movement to file documents that either do not exist under current law or are irrelevant to the case in which they attempt to file them. Clerks should be trained to look out for documents issued by "Our one Supreme Court of____" or signed by judges who do not sit in that jurisdiction. The easiest way to deal with falsely filed documents is to prevent them from being filed in the first place.

2. Have Written Policies - Not unlike in the court context, in the context of clerks dealing with members of the movement it is important that there be clear rules, and that these rules be made known to the party and adhered to strictly. Clerk's offices should have written policies, perhaps even posting them (both on the wall in the office and on the Internet), so that they cannot be challenged to the clerk when he follows them. Written policies give the clerk something to hide behind ("It's not my rule, but it is the rule.") and they also help to make sure that clerks know what they are supposed to be able to do for and provide to customers.

3. Personnel Should Remain Calm and Courteous - It is not always easy to deal with members of the movement. They may be obnoxious, belligerent, or even threatening. Still, for court personnel to get flustered and shut them out gives their argument merit, in addition to simply being a failure by the clerk to do his duty. Where policies so permit, clerks should refuse to serve those who are belligerent, and they should report any threats to law enforcement, but otherwise they should treat members of the movement like anyone else.

4. Be Ready, Willing and Able to Explain Policies - It is not in the best interests of the system or

the clerk himself for the clerk to engage in doctrinal or philosophical debate with a member of the movement. At the same time, not unlike other customers, followers may genuinely not understand or simply be interested in the policies of the court and the clerk. The clerk's office should be ready, willing and able to provide members of the movement, or anyone else, with information about the policies and procedures the clerk oversees.

5. Notify up the Chain of Command - It is important that the right hand know what the left is doing. Where members of the movement begin to appear in clerk's offices, their appearance before law enforcement officers and the courts cannot be too far behind. Their appearance may also signal the coming of an onslaught of false liens and frivolous litigation, among other things. Where clerks have reason to suspect that a "cell" of the anti-government movement is operating in an area, there can be nothing but benefit obtained by making other branches of the government aware of their presence. Members of the movement should not be treated differently from anyone else, but the ways in which they *act* differently from everyone else can pose such significant problems for the law that it is important that all branches be prepared to deal with it when contact is imminent.

Subpart 4.2 - Actions Against Court Personnel

A. Service of Process/Personal Suits Against Court Personnel

Members of the movement take pride in their ability to make use of the law, both traditional state and federal courts and their own common-law courts. Because of this, it is not uncommon for court personnel to be served with process in both "common-law lawsuits" and lawsuits filed in traditional courts. Examples of such common law documents as Notices to Appear, Common-law Indictments, Orders and Judgments from common-law courts, and warrants issued by such courts have been noted. As well, because members of the movement make use of the conventional court system to validate their false liens, court personnel may find their credit impaired by perfected liens, or that an involuntary bankruptcy has been filed against them.

Court personnel may also find themselves served with process for "real" suits such as actions for violations of federal or constitutional rights under 42 U.S.C. § 1983, § 1985, or § 1986. Suits under state tort law are also filed in traditional courts, as well as the occasional attempt to file a common-law cause in such traditional courts. Finally, as noted above, where a member of the movement has obtained a lien against an official in a common-law court (and often has had it officially sealed, inadvertently, by the clerk of a traditional court) he will often attempt to file an involuntary bankruptcy against the official. Federal Bankruptcy law may allow a creditor of more than $10,775 to file for involuntary bankruptcy against a debtor.[51] Because these bogus liens are often for hundreds of thousands or even millions (and occasionally billions) of dollars, members of the movement often attempt and occasionally succeed in getting such bankruptcy filed.

B. Responses to Service of Process/Personal Suits

1. Avoid Confrontation - It is important that court personnel remain calm and non-confrontational when served with process by a member of the movement.

Because the service may very well be for a "real" case (though often not a legitimate case), such service should be taken seriously. Still, given the possibility of violence by members of the movement, personnel so served should be careful to avoid escalating the situation by confronting members of the

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[51] *See* 11 U.S.C. § 303 *et seq.* Interestingly, this provision does not allow "involuntary" bankruptcies against farmers or ranchers - livelihoods that are well represented among the groups that might use this provision against public officials. There is, however, a "bad faith" provision of this section that provides for remedies against the bad faith creditor.

movement. Furthermore, because at least some of the process served will deal with cases before "fake courts," and because most of the rest will be frivolous or illegitimate suits, service of process by such groups should be taken with a grain of salt.

2. Notify up Chain of Command - As always, when court personnel encounter members of these movements, the chain of command should be notified. This is so not only because those above on the chain may also find themselves served, but also it allows for a unified strategy in meeting the suits brought against officials. In some cases, for example, it might be of benefit to consolidate the cases filed in "real" courts. That is, the evidence of joint action in filing cases against officials in common law courts may provide the necessary evidence to show a conspiracy for purposes of prosecuting those who file such "suits" to intimidate.

3. Retain Counsel, if Needed - Where court personnel are served with process it is usually advisable that they retain counsel or at least consult some form of attorney. In many places courts will cover legal expenses for those court personnel who are sued for actions occurring in the course of their duties. In any event, it may be of critical importance for such personnel to find out if the case they have been served with is a "real" case, or a common-law case that can be dealt with without litigation, if not ignored entirely.

4. Retaliate - Where "real" suits are clearly frivolous and/or are intended to intimidate or otherwise adversely affect personnel,[52] it may be prudent to file for abuse of process and seek sanctions against the plaintiff. This provides a deterrent both to the individual and the movement in general. There may also be the option of a civil suit against the member of the movement, and perhaps, in some cases, the option of a prosecution for threatening or attempting to intimidate a public official.

C. Additional Authority

1. Personal Liability for Civil Rights Suits - though the law may be in a state of flux regarding state liability and the states' amenity to suits brought under federal law,[53] the possibility exists that judges and court personnel might be named individually in civil rights suits, such as those brought

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See 11 U.S.C. § 303(i). The United States Court of Appeals for the DC Circuit has fairly recently addressed these remedies, *see Fetner v. Haggerty*, 99 F.3d 1180(D.C.Cir. 1996).

[52] Such as cases where suits are filed against judges in order to create a conflict and thereby gain cause for recusal or removal.

[53] We say this as a result of the United States Supreme Court's recent decision in *Alden v. Maine*, No. 98-436 (June 23, 1999). *Alden* and the line of cases it follows appear to be only about Congress's ability to abrogate state sovereign immunity when legislating pursuant to commerce or spending clause power. The authors, however, make no representation about the future of state sovereign immunity and how the *Alden* decision will ultimately affect legislation enacted pursuant to Congress's power under section 5 of the Fourteenth Amendment.

under 42 U.S.C. § 1983. Generally, to be liable, a person must be acting under color of state law in abrogating an individual's federal constitutional or certain statutory rights.

a. Who is a "person" - *see, generally, Hafer v. Melo,* 502 U.S. 21 (1991) (state officials, sued in personal capacity, are "persons" for purposes of § 1983, including suits for retrospective relief such as money damages).

b. Under color of state law - this generally encompasses the actions of officials and individuals whose conduct amounts to state action within the meaning of the Fourteenth Amendment. The Supreme Court has developed four types of tests to find state action:

- **Symbiotic relationship** - *see, e.g., Burton v. Wilmington Parking Authority,* 365 U.S. 715 (1961). Burton has been significantly narrowed, and may only exist under extremely similar facts.
- **Public function** - *see, e.g. Edmonson v. Leesville Concrete Co.*, Ill S.Ct. 2077 (1991); *Blum v. Yaretsky,* 457 U.S. 991 (1982).
- **Close nexus** - *see, e.g., NCAA v. Tarkanian,* 488 U.S. 179 (1988).
- **Joint Participation** - *see, e.g., Lugar v. Edmonson Oil Co.,* 457 U.S. 922 (1982).

c. Immunities -judges and those performing *judicial* functions generally enjoy absolute immunity. *See, e.g.. Stump v. Sparkman,* 435 U.S. 349 (1978). This may include attorneys, witnesses and jurors involved in the judicial process. *See, e.g., Briscoe v. LaHue,* 460 U.S. 325 (1986). Likewise, those performing *prosecutorial* functions are protected under this doctrine. *See, e.g., Imbler v. Pachtman,* 424 U.S. 409 (1986).

d. Qualified Immunity - where absolute immunity is not available, qualified immunity often exists for officials performing discretionary duties where the contours of the right in question are not sufficiently defined. For an introduction to this doctrine, *see Mitchell v. Forsyth,* 472 U.S. 511 (1985).

Subpart 4.3 - Threats Against Court Personnel

A. Threats Against Court Personnel (see also Section in, Subpart 3.4)

It is not unheard of for members of the movement to encounter court personnel, specifically clerks, in their activities of filing suits and liens against public officials and defending themselves from citations or lawsuits. Given the fact that members of the movement have views that often put them in direct opposition to the law and the courts, it should not be surprising that there have been incidences of threats against such officials. Although violence is not common (see section on Violence), there is certainly the potential for such violence, and threats by members of the movement have been known to occur. Threats should be taken seriously, and should be brought to attention of law enforcement as well as reported up the chain of command.

Sometimes members of the movement will make vague, threatening statements, other times there may be a literal threat of violence. Also, such threats may be made to known court personnel not only in the courthouse or clerk's office, but anywhere where the movement encounters such officials (e.g. post office, grocery store). It is not inconceivable that threatening letters or emails may be sent, or even that legal documents filed may themselves involve or constitute such threats.

B. Clerk/Personnel Responses

1. Have a System in Place - Courts and court systems should have a system in place for dealing with threats against court personnel and clerks. Such personnel should know the system, be aware of who to contact, and know what constitutes a "threat" within the definition of that system. ALL threats should be reported up the chain of command and to local law enforcement. The threat of violence, a la the Oklahoma City bombing, is real enough that all such threats should be investigated.

2. Ensure Personnel are Trained - Court personnel should be trained to recognize the specific actions and arguments that members of the movement make. Generally, this includes what the liens they file look like, their "UCC - without recourse" argument, the types of actions they file against public officials, etc. Court personnel should also have some idea of what constitutes a "threat" and what, generally, the law can do about such threats.

3. Do Not Engage the Party - As always when dealing with extremists, the court personnel should be careful not to make a potentially bad situation worse. While it is difficult to stay calm in the face of threats, it is important that personnel avoid engaging in a debate or argument with members of the movement. Calmness and courtesy are the most likely responses to cause de-escalation of a tense

situation, and this is no less likely here. Following threats, court personnel should engage the system, report the threat to higher ups and to law enforcement, and deal with the situation as calmly as possible.

4. ALWAYS Inform Law Enforcement or Court Security - Again, given the significant potential for violence by members of the movement, it is important that threats against court personnel be dealt with swiftly and severely. Such response discourages not only the specific individual from further threats, but also the movement in general from doing so. Most jurisdictions will have some sort of statute dealing specifically with attempts to intimidate court personnel, and all will have some sort of general assault statute. Reporting threats to the police also has the benefit of making other branches aware of the operation of the movement in the area.

Subpart 4.4 - Violent Actions

A. Members of the Movement Become Violent

Fortunately, violence by members of the movement against court personnel is not a common occurrence. It is, however, a distinct possibility, particularly given the increasing membership in the movement and the gradual diversification of the membership makeup among various racial, ethnic and socioeconomic backgrounds. Furthermore, many strains of the movement openly advocate violence to achieve their goals, many have huge sums of money, and at least a few are known to stockpile weapons. Finally, incidents including bombings of federal buildings, sieges in large private "compounds," rallies, parades, common-law court death sentences, and even shootouts with law enforcement make the possibility of violence by members of the movement a clear possibility.

B. Clerk Responses

1. Training/Support for Personnel - Conceptually, there is no real reason to view violence by members of the movement any differently than violence by anyone else. In this case it is only important that court personnel are aware that this particular part of the population has significant potential to engage in violence. They should be taught the signs to recognize members of the movement (see section on Appearance Before Court Personnel. Generally, the types of documents they file, the arguments they make, the "UCC without recourse" attached to their signature, etc.). A specific procedure should be created for dealing with incidences of violence. Personnel should be aware of the chain of command and should know for certain who they should contact in the event of an act of violence.

2. Preventive Measures - It is not at all clear how such violence can be prevented, other than making sure that clerks and other personnel avoid contact with members of the movement. Making the presence of security obvious enough that it can be felt and known may prevent violence against court personnel. Ensuring that personnel remain calm and courteous with members of the movement, and that they are able to provide what they are required to provide might also reduce the possibility of violence.

3. Involve Law Enforcement IMMEDIATELY - Where there is violence or likelihood of violence, law enforcement should be brought to bear as soon as possible. Most states (and the federal government, for that matter) have statutes specifically targeting threats or intimidation against court personnel, all have statutes for assault, assault and battery, assault with a deadly weapon, and conspiracy. Those who perpetrate violence against court personnel should be prosecuted to the full extent of the law, not only to ensure that they are punished, but also to make clear to other members of the movement that such activities will have far-reaching consequences.

Part V Trial Court Performance Standards [54]

The Trial Court Performance Standards ("TCPS"), are the culmination of a long process, involving leading trial judges, court managers and scholars, in which a common language for describing, classifying and measuring the performance of courts is put forth. The TCPS are broken down into five performance areas, as follows:

1. Access to Justice - Trial courts should be open and accessible. Location, physical structure, procedures, and the responsiveness of personnel affect accessibility. Accordingly, the five standards grouped under Access to Justice[55] require a trial court to eliminate unnecessary barriers to its services. Such barriers can be geographic, economic and procedural. They can be caused by deficiencies in both language and knowledge of individuals participating in court proceedings. Additionally, psychological barriers can be created by mysterious, remote, unduly complicated and intimidating court procedures.

2. Expedition and Timeliness - Courts are entrusted with many duties and responsibilities that affect individuals and organizations involved with the judicial system, including litigants, jurors, attorneys, witnesses, criminal justice agencies, social service agencies, and members of the public. The repercussions from untimely court actions in any of these involvements can have serious consequences for the persons directly concerned, the court, allied agencies, and the community at large. A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner - one that does not cause delay. Unnecessary delay causes injustice and hardship. It is a primary cause of diminished public trust and confidence in the court.

Defining delay requires distinguishing between the amount of time that is and is not acceptable for case processing. National and statewide authorities have articulated time standards for case disposition. These standards call for case processing time to be measured beginning with arrest or issuance of a summons in a criminal case, or from the date of filing in a civil case.

3. Equality, Fairness and Integrity - Trial courts should provide due process and equal protection of the law to all who have business before them, as guaranteed by the U.S. and state constitutions. Equality and fairness demand equal justice under the law. These fundamental constitutional principles have particular significance for groups who may have suffered bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap or political affiliation.

Integrity should characterize the nature and substance of trial court procedures and decisions, and the consequences of those decisions. The decisions and actions of a trial court should adhere to the duties and obligations imposed by the court by relevant law as well as administrative rules, policies, and ethical and

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[54] The descriptions of the standards that follow are taken from Trial Court Performance Standards and Measurement System Implementation Manual. Bureau of Justice Assistance, July, 1997.

[55] The five standards are: Public Proceedings; Safety, Accessibility and Convenience; Effective Participation; Courtesy, Responsiveness and Respect; and Affordable Costs of Access.

professional standards. What the trial court does and how it does it should be governed by a court's legal and administrative obligations; similarly, what occurs as a result of the court's decisions should be consistent with those decisions.

Integrity refers not only to the lawfulness of court actions (e.g. compliance with constitutional rights to bail, legal representation, a jury trial, and a record of a legal proceeding) but also to the results or consequences of its orders. A trial court's performance is diminished when, for example, its mechanisms and procedures for enforcing its child support orders are ineffective or nonexistent. Performance also is diminished when summonses and orders for payment of fines or restitution are routinely ignored. The court authority and its orders should guide the actions of those under its jurisdiction both before and after a case is resolved.

4. Independence and Accountability - The judiciary must assert and maintain its distinctiveness as a separate branch of government. Within the organizational structure of the judicial branch of government, trial courts must establish their legal and organizational boundaries, monitor and control their operations, and account publicly for their performance. Independence and accountability permit government by law, access to justice, and the timely resolution of disputes with equality, fairness and integrity; and they engender public trust and confidence. Courts must both control their proper functions and demonstrate respect for their coequal partners in government.

Because judicial independence protects individuals from the arbitrary use of government power and ensures the rule of law, it defines court management and legitimates its claim for respect. A trial court possessing institutional independence and accountability protects judges from unwarranted pressures. It operates in accordance with its assigned responsibilities and jurisdiction within the state judicial system. Independence is not likely to be achieved if the trial court is unwilling or unable to manage itself. Accordingly, the trial court must establish and support effective leadership, operate effectively within the state court system, develop plans of action, obtain resources necessary to implement those plans, measure its performance accurately, and account publicly for its performance.

5. Public Trust and Confidence - Compliance with the law depends, to some degree, on public respect for the court. Ideally, public trust and confidence in trial courts should stem from the direct experience of citizens with the courts. The maxim "Justice should not only be done, but should be seen to be done!" is as true today as in the past. Unfortunately, there is no guarantee that public perceptions reflect actual court performance.

Several constituencies are served by trial courts, and all should have trust and confidence in the courts. These constituencies vary by the type and extent of their contact with the courts. At the most general level is the local community, or the "general public" - the vast majority of citizens and taxpayers who seldom experience the court directly. A second constituency served by trial courts is a community's opinion leaders (e.g., the local newspaper editor, reporters assigned to cover the court, the police chief, local and state executives and legislators, representatives of government organizations with power or influence over the courts, researchers and members of court watch committees). A third constituency includes citizens who

appear before the court as attorneys, litigants, jurors or witnesses, or who attend proceedings as a representative, a family friend, or a victim of someone before the court. This group has direct knowledge of the routine activities of a court. The last constituency consists of judicial officers, other employees of the court system, and lawyers - both within and outside the jurisdiction of the trial court - who may have an "inside" perspective on how well the court is performing. The trust and confidence of all these constituencies are essential to trial courts.

Part VI Relationship Between Responses and the TCPS

The TCPS suggest five areas in which courts must strive for excellence in order to best serve those who come before them. Each of the potential responses discussed in Sections II - IV above implicates at least one of these areas in some way.

1. Access to Justice - The first basic tenet of the TCPS is that trial courts should be open and accessible. The corollary to this is that a court should strive to eliminate all barriers to its services that are not necessary for safety and efficient operations. Coincident with that is the mandate that court personnel should attempt to understand the litigants that their court services. This is not to say that courts should sacrifice detached impartiality in rendering legal judgments. Rather, it goes toward the attitude court personnel have toward consumers of their service. Barriers can transcend the physical and extend to the ideological. The members of the groups to which this guide speaks are not somehow unintelligent or malicious or evil. Rather, they are often vulnerable people who have become disaffected for some reason and are looking for answers that our system does not seem to provide for them. If our courts understand that they hold these beliefs, and work to accommodate them within the safe and efficient operation of the courts, we can assure that our courts do remain open - while dousing some of the fuel which fires the fervent beliefs antigovernment groups hold. This goal is most clearly understood in the context of TCPS Standard 1.3 – Effective Participation. Though these tactics are not explicitly contemplated by the TCPS, it is clearly within their spirit to do so now. While use of the contempt power, for example, is clearly necessary in some circumstances, in others it amounts to little more than access to justice denied. Conversely, noting the objection of a litigant and moving on, or working to accommodate their reasonable demands, are more in line with truly providing access for these people. While noting the objection initially alleviates any implication that justice has been denied, it ultimately strains judicial resources by providing - in some instances - grounds for appeal. Though odious to some, in particular cases such as the fringed flag objection, the course of action most consistent with this aspect of the TCPS might just be accommodation.

2. Expedition and Timeliness - The underlying goal of this section of the TCPS is that all trial court functions should be performed within a proper, suitable and reasonable time. While, again, the tactics discussed here are not explicitly discussed in the TCPS, it is clear that TCPS Standards 2.1.1 - 2.1.4 are implicated by issues arising in and related to the courtroom or trial process. Each of these is concerned with the time it takes for cases to reach disposition, the ratio between case dispositions and filings, and the age of impending caseloads. If courts engage members of these antigovernment groups in their protests and refuse to accommodate certain of their demands - such as not flying the fringed flag - cases will age as appeals are docketed and arguments are heard. For these reasons, it is entirely consistent with TCPS Performance Area 2 for courts to forego use of the contempt power, unless absolutely necessary, and to instead attempt to facilitate cooperation between the parties and the court.

3. Equality, Fairness and Integrity - This performance area is concerned with a court's consistency in the way that it applies rules and conventions and assesses penalties against the parties who

come before it. In this area, perhaps the biggest danger that courts face is the danger that judges begin to take dealing with the antigovernment groups personally. That is, it might become a personal challenge for a judge to deal with a heavy hand and not allow the views of these groups or their arguments to be expressed. Certainly, when a court acquiesces or compromises with an unruly party, the court is minimizing the chance that it will be seen to be heavy-handed or unfair. In contrast, the judge who is quick to invoke the contempt power and fine or lock up someone with whom the judge disagrees and who also has been a disruptive or contentious party, the judge and the court risk losing their presumptive impartiality. This may occur in the eyes of those who see the judge quickly resort to contempt, perhaps sooner than the judge would have with a different type of patron. As well, it will certainly appear to the members of the movement that the judge will truck no disturbance or refusal to conform.

It is not an easy place for the trial judge, for almost no matter what he or she does, the members of these groups are likely to remain dissatisfied. Even the appearance of a personal challenge begins to destroy the court's actual integrity and the public's perception of that integrity. For this reason, we advocate for judges to resolve disputes over matters which afford different avenues in ways that uphold both the perception of fairness and the actual existence of fairness. In response to the in-court tactics, this is probably an equally good approach as that of noting the party's objection and moving on. Both show that this is a fair judge and one who does not allow his or her own preconceived opinions to dictate his or her rulings in the court.

4. Independence and Accountability - Performance Area 4 encompasses several heuristic measurements designed to assess how courts maintain comity and deal with the people they serve and events they are confronted by. Responses to the tactics of the antigovernment movement may possibly implicate at least two of the specific standards within this Performance Area. Standard 4.4.3 measures a court's community outreach efforts. While the standard itself is meant in the context of traditional community outreach, the spirit of that standard values all court-community relations. For this, we believe that responses to these tactics that evince less of an authoritative or, especially, prejudiced attitude toward members of these movements and more of a willingness to work with litigants are the more desirable route. Necessarily, courts' responses will have to be different, according to the particular tactic at hand. For example, there is probably more leeway available to work with and around a "subject matter jurisdiction" argument based on a gold-fringed flag than there is to work around a "personal jurisdiction argument" based in a litigant's beliefs about citizenship. The flag is a physical object that may be removed, even if just for that particular hearing. The citizenship argument, however, invites interminable discussions about the nature of citizenship and the like - whether the court intends to go there or not. In cases such as this, it is entirely reasonable for a judge to note the party's objection and move forward -such a response does not indicate animosity toward the party, preconceived ideas about the party, or prejudice against the party, but rather evinces the judge's fairness and respect for our rules of procedure.

We do not wish to suggest here that courts should placate members of these groups for the sole sake of placating them. Nor do we suggest that the existence of this class of litigants should force courts to change sound court policy or procedure. However, existing policies and procedures are predicated upon serving a particular, already identified community having a generally common set of beliefs and expectations.

The presence of these antigovernment groups suggests that, at times, courts now deal with a different community. For this reason, we believe that their presence signifies changed circumstances of which courts must be both aware and willing to acknowledge. Finally, Performance Standard 4.4, Public Education, contains several factors concerning the way courts disseminate information to the public. The tactics used by the antigovernment groups implicate this standard in a certain way. The way a court conducts itself, the rulings it makes, and the interaction with the media all tell a story about how our institutions are responding to these groups. This is not to say that a court should become a vendor in the marketplace and take a public stance against the antigovernment political theory. However, courts must be always mindful of their effect on the public opinion and choose responses which suggest a respect for the political beliefs of all of our citizens but reflect a firm commitment to upholding the law that both governs and protects us all.

5. Public Trust and Confidence - This Performance Area is about the way that the general public perceives the court and the job it is doing. Responses that agitate or antagonize the antigovernment groups cut two ways. On one hand, such responses can lead to negative publicity, or propaganda, put forth by the movement. On the other, they can reassure what will soon become an informed public that those who threaten the system are being dealt with fairly but firmly. It may very well be that the arguments surrounding things like personal sovereignty, the fringe on flags, harassment of court personnel, and the like represent battles worth fighting. These arguments go to the very core of these groups' beliefs, and courts should take a strong stance to inform that they are incorrect as a matter of law - but nonetheless welcome back into the societal fold upon their behavior conforming to the law.

Appendix A Resource Guide

1. Legislative Responses

This section focuses on those statutes that have been passed in response to the rising "militia" or "extremist" activity in the United States or which can be used to curtail unlawful behavior engaged in by such groups. In the wake of the bombing of the Federal Building in Oklahoma City, the media has focused much attention on the activity of such groups, raising public awareness. The vast majority of state legislatures, however, have yet to target militia groups specifically in passing legislation. Apparently states consider the laws already "on the books" to be adequate to deal with the militia threat.

The current laws deal primarily with three areas: nonconsensual common-law liens (statutes against barratry and simulating legal process), intimidation (use or threat of force or violence) against public officials, and paramilitary training. As noted elsewhere, nonconsensual common-law liens are a favorite tool of militia groups. Essentially, a lien based on a judgment from a common law "court" proceeding is filed against the property of a public official. The property is then attached based on the "debt." These liens appear for all practical purposes to be true legal documents, and are often filed with a "real" court in order to give them some binding effect, effectively ruining the official's credit. The filing of such liens is a primary tool for harassing and intimidating public officials, and may violate not only laws specifically prohibiting nonconsensual common-law liens, but also laws against simulating legal process, barratry, and specialized laws prohibiting "libel or slander of legal title."

The state of Montana has passed the "Montana Anti-Intimidation Act of 1996" to deal specifically with the problem of militia groups filing false liens as a means of intimidation. Although Montana had laws to deal with such acts before, targeting the groups specifically makes a strong point.

Three states, Florida, Pennsylvania, and Rhode Island, have passed laws specifically prohibiting paramilitary training. At the time of writing no prosecutions have been brought under these laws, perhaps because of serious Constitutional issues under the 1st Amendment right to freedom of assembly and the 2nd Amendment right to keep and bear arms. The statutes might also be construed as unconstitutionally vague because of a failure to adequately define paramilitary training or to distinguish such conduct from, for example, survival training or even perhaps mere camping.

Finally, in cases such as *State v Dawson*, 272 N.C. 535, 159 S. E. 2d 1 (1968) courts have applied limits to the constitutional rights invoked by militia groups in defense of their activities (there "brandishing an unusual weapon" was found outside of 2nd Amendment protection and "unlawful assembly" was found outside of 1st Amendment protection).

1.1 Sample State Statutes

The purpose of this section is not to provide an exhaustive list of specific state responses to militia movement activity, but to give a general idea of the types of responses that states have taken.

1.1.1 - Simulating legal process (Examples)

Oregon Revised Statutes § 162.355

(A) A person commits the crime of simulating legal process if the person knowingly issues or delivers to another person any document that in form and substance falsely simulates civil or criminal process.

(B) As used in this section:

(1) "Civil or criminal process" means a document or order, including, but not limited to, a summons, lien, complaint, warrant, injunction, writ, notice, pleading or subpoena, that is issued by a court or that is filed or recorded for the purpose of:

(a) Exercising jurisdiction;

(b) Representing a claim against a person or property;

(c) Directing a person to appear before a court or tribunal; or

(d) Directing a person to perform or refrain from performing a specified act.

(2) "Person" has the meaning given that term in ORS 161.015, except that in relation to a defendant, "person" means a human being, a public or private corporation, an unincorporated association or a partnership.

(C) Simulating legal process is a Class C felony. [1971 c.743 s.210; 1997 c.395 s.l]

South Carolina Code of Laws § 16-17-735

Persons impersonating officials or law enforcement officers; persons falsely asserting authority of law; offenses; punishment.

(A) It is unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process. A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity commits a misdemeanor if, knowing that his conduct is illegal, he:

(1) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or

(2) denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.

A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(B) It is unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(C) It is unlawful for a person to act without authority under state law as a Supreme Court Justice, a court of appeals judge, a circuit court judge, a master-in-equity, a family court judge, a probate court judge, a magistrate, a clerk of court or register of deeds, a commissioned notary public, or other authorized official in determining a controversy, adjudicating the rights or interests of others, or signing a document as though authorized by state law. A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(D) It is unlawful for a person falsely to assert authority of law, in an attempt to intimidate or hinder a state or local official or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process. A person violating this subsection is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not less than one year and not more than three years, or both. (E) For purposes of this section:

(1) "Law enforcement officer" is as defined in Section 16-9-310.

(2) "State or local official or employee" means an appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, other school district, political subdivision, or other unit of government of this State.

(3) "Sham legal process" means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to:

(a) be a summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this State, a law enforcement officer, or a legislative, executive, or administrative agency established by state law;

(b) assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of a person or property; or

(c) require or authorize the search, seizure, indictment, arrest, trial, or sentencing of a person or property.

(4) "Lawfully issued" means adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, an agency, or a political subdivision of a state.

1.1.2 - Barratry

[NB: All states have some law prohibiting the unlicensed practice of law]

Georgia Code § 16-10-95.

(A) A person commits the offense of barratry when he knowingly and willfully commits any of the following acts:

(1) Excites and stirs up groundless actions in the courts or quarrels in administrative proceedings;

(2) Institutes or causes to be instituted a legal proceeding without obtaining proper authorization; or

(3) Solicits or encourages the institution of a judicial or administrative proceeding or offers assistance therein before being consulted by a complainant in relation thereto.

(B) A person convicted of the offense of barratry shall be punished by a fine of not more than $5,000.00 or by imprisonment for not less than one nor more than five years, or both.

1.1.3 - Paramilitary Training

Fl. Statute § 790.29 Paramilitary training; teaching or participation prohibited.

(A) This act shall be known and may be cited as the "State Antiparamilitary Training Act."

(B) As used in this section, the term "civil disorder" means a public disturbance involving acts of violence by an assemblage of three or more persons, which disturbance causes an immediate danger of, or results in, damage or injury to the property or person of any other individual within the United States.

(C)

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm, destructive device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder within the United States, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, destructive device, or technique capable of causing injury or death to persons, intending to unlawfully employ the same for use in, or in furtherance of, a civil disorder within the United States, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(D) Nothing contained in this section shall be construed to prohibit any act of a law enforcement officer which

is performed in connection with the lawful performance of his or her official duties or to prohibit the training or teaching of the use of weapons to be used for hunting, recreation, competition, self-defense or the protection of one's person or property, or other lawful use.

History. -s. 1, ch. 82-5; s. 164, ch. 83-216; s. 1220, ch. 97-102.

Rhode Island General Laws § 11-55-1 Definitions. - For the purposes of this chapter:

(A) The term "civil disorder" means any public disturbance involving acts of violence by assemblages of three (3) or more persons, which causes an immediate danger of, or results in, damage or injury to the property or person of any other individual.

(B) The term "explosive or incendiary device" means:

(1) dynamite and all other forms of high explosives;

(2) any explosive bomb, grenade, missile, or similar device; and

(3) any incendiary bomb or grenade, fire bomb, or similar device, including any device which:

(a) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound; and

(b) can be carried or thrown by one individual acting alone.

(C) The term "firearm" means any weapon which is designed to, or may readily be converted to, expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

(D) The term "law enforcement officer" means any officer or employee of the United States, any state, or any political subdivision of a state acting in his or her official capacity; and the term shall specifically include, but shall not be limited to, members of the National Guard, as defined in 10 U.S.C. § 101(9), the naval militia, the independent chartered military organizations set forth in § 30-1-4 and the department of environmental management in the operation of a firearm training course under its auspices.

Rhode Island General Laws § 11-55-2 Paramilitary training prohibited.

(A) Any person who teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that it will be unlawfully employed for use in, or in furtherance of, a civil disorder; or any person who assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive, or incendiary device, or technique capable of causing injury or death to persons, intending to employ it unlawfully for use in, or in furtherance of, a civil disorder shall be guilty of a felony.

(B) Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his or her official duties.

Rhode Island General Laws § 11-55-3 Penalty for violation.

Any person who violates any of the provisions of this chapter shall, upon conviction, be imprisoned for not

more than five (5) years or be fined not to exceed ten thousand dollars ($10,000), or both.

Pennsylvania Consolidated Statutes § 5515. Prohibiting of paramilitary training.

(A) Definitions.-As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Civil disorder."

Any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual. "Explosive or incendiary device."

Includes:

dynamite and all other forms of high explosives;

any explosive bomb, grenade, missile or similar device; and

any incendiary bomb or grenade, fire bomb or similar device, including any device which:

(1) consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound; and
(2) can be carried or thrown by one individual acting alone.

"Firearm."

Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

"Law enforcement officer."

Any officer or employee of the United States, any state, any political subdivision of a state or the District of Columbia and such term shall specifically include, but shall not be limited to, members of the National Guard, as defined in 10 U.S.C. 101(9), members of the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or the District of Columbia, not included within the definition of National Guard as defined by 10 U.S.C. 101(9) and members of the armed forces of the United States.

(B) Prohibited training.-

Whoever teaches or demonstrates to any other person the use, application or making of any firearm, explosive or incendiary device or technique capable of causing injury or death to persons, knowing or having reason to know or intending that same will be unlawfully employed for use in, or in furtherance of, a civil disorder commits a misdemeanor of the first degree.

Whoever assembles with one or more persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device or technique capable of causing injury or death to persons, said person intending to employ unlawfully the same for use in or in furtherance of a

civil disorder commits a misdemeanor of the first degree.

(C) Exemptions. - Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his official duties.

(D) Excluded activities. - Nothing contained in this section shall make unlawful any activity of the Game Commission, Fish and Boat Commission, or any law enforcement agency, or any hunting club, rifle club, rifle range, pistol range, shooting range or other program or individual instruction intended to teach the safe handling or use of firearms, archery equipment or other weapons or techniques employed in connection with lawful sports or other lawful activities.

1.1.4 - Threats to Public Officials

California Penal Code § 71.

(A) Every person who, with intent to cause, attempts to cause, or causes, any officer or employee of any public or private educational institution or any public officer or employee to do, or refrain from doing, any act in the performance of his duties, by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out, is guilty of a public offense punishable as follows:

(1) Upon a first conviction, such person is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(2) If such person has been previously convicted of a violation of this section, such previous conviction shall be charged in the accusatory pleading, and if such previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, he is punishable by imprisonment in the state prison. As used in this section, "directly communicated" includes, but is not limited to, a communication to the recipient of the threat by telephone, telegraph, or letter.

California Penal Code § 76

(A) Every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, or the staff or immediate family of any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense, punishable as follows:

(1) Upon a first conviction, the offense is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) If the person has been convicted previously of violating this section, the previous conviction shall

be charged in the accusatory pleading, and if the previous conviction is found to be true by the jury upon a jury trial, or by the court upon a court trial, or is admitted by the defendant, the offense is punishable by imprisonment in the state prison.

(B)

(1) Any law enforcement agency which has knowledge of a violation of this section shall immediately report that information to the California Department of Justice.

(2) In addition to the reporting requirement imposed by paragraph(l), if a violation of this section occurs that involves a constitutional officer of the state, a Member of the Legislature, or a member of the judiciary, the law enforcement agency which has knowledge of the violation shall immediately report that information to the Department of the California Highway Patrol.

(C) For purposes of this section, the following definitions shall apply:

(1) "Apparent ability to carry out that threat" includes the ability to fulfill the threat at some future date when the person making the threat is an incarcerated prisoner with a stated release date.

(2) "Serious bodily harm" includes serious physical injury or serious traumatic condition.

(3) "Immediate family" means a spouse, parent, or child, or anyone who has regularly resided in the household for the past six months.

(4) "Staff of a judge" means court officers and employees.

(5) "Threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(D) As for threats against staff, the threat must relate directly to the official duties of the staff of the elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms in order to constitute a public offense under this section. (E) A threat must relate directly to the official duties of a Deputy Commissioner of the Board of Prison Terms in order to constitute a public offense under this section.

Delaware Code Annotated § 1240. Threats to public officials.

(A) Every person who intentionally threatens the life of or threatens serious physical injury to any elected public official, prosecutor, public defender, appointee of the Governor to a full-time position, county administrator for Kent or Sussex County or the New Castle County chief administrative officer, or member of the judiciary, with the specific intent that the statement is to be taken as a threat and the apparent ability to carry out that threat by any means is guilty of making a threat to a public official. Threat to a public official is a class G felony.

(B) For purposes of this section, the following definitions shall apply:

(1) "Apparent ability to carry out that threat" includes the ability to fulfill the threat at some future date.

(2) "Threat" means a verbal or written threat or a threat implied by a pattern of conduct or a

combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family; provided, however, that the threat must relate directly to the official duties of the elected public official, prosecutor, public defender, appointee of the Governor to a full-time position or member of the judiciary in order to constitute a threat to a public official under this section.

(3) For the purposes of this section, the words "member of the judiciary" means a judge or justice of the following courts:

Supreme Court, Chancery Court, Superior Court, Court of Common Pleas,
Family Court or Justice of the Peace Court.

(70 **Del.** Laws, c. 551, § 1; 71 **Del.** Laws, c. 176, § 13)

1.1.5 - Exceptions to Duty to Record

Ohio Revised Code Annotated § 317.13

[General Assembly: 121. Bill Number: Sub. House Bill 644 Effective Date: 11/06/96]

(A) Except as otherwise provided in division (B) of this section, the county recorder shall record in the proper record, in legible handwriting, typewriting, or printing, or by any authorized photographic or electronic process, all deeds, mortgages, plats, or other instruments of writing that are required or authorized by the Revised Code to be recorded and that are presented to the recorder for that purpose. The recorder shall record the instruments in regular succession, according to the priority of presentation, and shall enter the file number at the beginning of the record. On the record of each instrument, the recorder shall record the date and precise time the instrument was presented for record. All records made, prior to July 28, 1949, by means authorized by this section or by section 009.01 of the Revised Code shall be deemed properly made.

(B) The county recorder may refuse to record an instrument of writing presented to the recorder for recording if the instrument is not required or authorized by the Revised Code to be recorded or the recorder has reasonable cause to believe the instrument is materially false or fraudulent. This division does not create a duty upon a recorder to inspect, evaluate, or investigate an instrument of writing that is presented for recording.

(C) If a person presents an instrument of writing to the county recorder for recording and the recorder, pursuant to division (B) of this section, refuses to record the instrument, the person may commence an action in or apply for an order from the court of common pleas in the county that the recorder serves to require the recorder to record the instrument. If the court determines that the instrument is required or authorized by the Revised Code to be recorded and is not materially false or fraudulent, it shall order the recorder to record the instrument.

Missouri Revised Statutes § 428.110 [Fraudulent Conveyances and Liens Section *428.110* Filing officer may reject lien, exceptions-filing officer to accept notice of invalid lien, when]

(A) Any filing officer may reject for filing or recording any nonconsensual common law lien. This section shall not be construed to permit rejection of a document that is shown to be authorized by contract, lease or statute or imposed by a state or federal court of competent jurisdiction or filed by a licensed attorney, a financial institution including, but not limited to, any commercial bank, savings and loan association or credit union or a Missouri state licensed mortgage company or mortgage broker.

(B) If a nonconsensual common law lien has been accepted for filing, the filing officer shall accept for filing a sworn notice of invalid lien on a form provided by the filing officer signed and submitted by the person against whom such lien was filed or such person's attorney. The form shall be captioned "Notice of Invalid Lien" and shall state the name and address of the person on whose behalf such notice is filed, the name and address of the lien claimant and a clear reference to the document or documents the person believes constitute a nonconsensual common law lien. A copy of the notice of invalid lien shall be mailed by the filing officer to the lien claimant at the lien claimant's last known address within one business day. No filing officer, county or the state shall be liable for the acceptance for filing of a nonconsensual common law lien, nor for the acceptance for filing of a sworn notice of invalid lien pursuant to this subsection.

1.1.6 - Preventing Nonconsensual Liens Against Public Officials

Alaska Statutes § 34.35.950. [Nonconsensual common law liens]

(A) A nonconsensual common law lien is invalid unless the lien is authorized by an order of a court of competent jurisdiction recognized under state or federal law.

(B) A person may not submit a nonconsensual common law lien under AS 40.17 to the recorder in order to record the lien unless the lien is accompanied by a specific order authorizing the recording of the lien issued by a court of competent jurisdiction recognized under state or federal law. When a nonconsensual common law lien is submitted for recording under this subsection, the court order accompanying the lien shall be recorded with the lien.

(C) A person may not submit a nonconsensual common law lien under a law authorizing the filing of a lien against personal property in order to file the lien unless the lien is accompanied by a specific order authorizing the filing of the lien issued by a court of competent jurisdiction recognized under state or federal law. When a nonconsensual common law lien is submitted for filing under this subsection, the court order accompanying the lien shall be filed with the lien.

(D) In this section,

(1) "filed" means the acceptance of a document by a department or person having responsibility for the receipt and filing of documents that may be filed and that are presented for filing in the place of filing designated by law, whether or not under applicable law the department or person is directed to file the document;

(2) "nonconsensual common law lien" means a lien on real or personal property that

(a) is not provided for by a specific state or federal statute;

(b) does not depend on the consent of the owner of the property affected for its existence;

and

(c) is not an equitable, constructive, or other lien imposed by a court recognized under state or federal law;

(3) "record" means the acceptance of a document by the recorder that the recorder has determined is recordable under AS 40.17 and that is presented for recording in the place of recording designated for the recording district where affected property is located whether or not the place of recording is in that district and whether or not under applicable law the recorder is directed to record the document;

(4) "recorder" means the commissioner of natural resources or the person designated by the commissioner of natural resources to perform the duties set out in AS 40.17.

Revised Code of Washington § 60.70.010

Intent-Definitions.

(A) It is the intent of this chapter to limit the circumstances in which nonconsensual common law liens shall be recognized in this state.

(B) For the purposes of this chapter:

(1) "Lien" means an encumbrance on property as security for the payment of a debt;

(2) "Nonconsensual common law lien" is a lien that:

(a) Is not provided for by a specific statute;

(b) Does not depend upon the consent of the owner of the property affected for its existence; and

(c) Is not a court-imposed equitable or constructive lien;

(3) "State or local official or employee" means an appointed or elected official or any employee of a state agency, board, commission, department in any branch of state government, or institution of higher education; or of a school district, political subdivision, or unit of local government of this state; and

(4) "Federal official or employee" means an employee of the government and federal agency as defined for purposes of the federal tort claims act, 28 U.S.C. Sec. 2671.

(C) Nothing in this chapter is intended to affect:

(1) Any lien provided for by statute;

(2) Any consensual liens now or hereafter recognized under the common law of this state; or

(3) The ability of courts to impose equitable or constructive liens. [1995 c 19 § 1; 1986 c 181 § 1.]

Revised Code of Washington § 60.70.020

Real property common law liens unenforceable-Personal property common law liens limited.

Nonconsensual common law liens against real property shall not be recognized or enforceable. Nonconsensual common law liens claimed against any personal property shall not be recognized or enforceable if, at any time the lien is claimed, the claimant fails to retain actual lawfully acquired possession or exclusive control of the property. [1986 c 181 §2.]

Revised Code of Washington § 60.70.030

No duty to accept filing of common law lien-Filing of a notice of invalid lien.

(A) No person has a duty to accept for filing or recording any claim of lien unless the lien is authorized by statute or imposed by a court having jurisdiction over property affected by the lien, nor does any person have a duty to reject for filing or recording any claim of lien, except as provided in subsection (2) of this section.

(B) No person shall be obligated to accept for filing any claim of lien against a federal, state, or local official or employee based on the performance or nonperformance of that official's or employee's duties unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of such lien.

(C) If a claim of lien as described in subsection (2) of this section has been accepted for filing, the recording officer shall accept for filing a notice of invalid lien signed and submitted by the assistant United States attorney representing the federal agency of which the individual is an official or employee; the assistant attorney general representing the state agency, board, commission, department, or institution of higher education of which the individual is an official or employee; or the attorney representing the school district, political subdivision, or unit of local government of this state of which the individual is an official or employee. A copy of the notice of invalid lien shall be mailed by the attorney to the person who filed the claim of lien at his or her last known address. No recording officer or county shall be liable for the acceptance for filing of a claim of lien as described in subsection (2) of this section, nor for the acceptance for filing of a notice of invalid lien pursuant to this subsection. [1995 c 19 §4; 1986 c 181 §3.]

Revised Code of Washington § 60.70.040

No duty to disclose record of common law lien.

No person has a duty to disclose an instrument of record or file that attempts to give notice of a common law lien. This section does not relieve any person of any duty which otherwise may exist to disclose a claim of lien authorized by statute or imposed by order of a court having jurisdiction over property affected by the lien. [1986 c 181 §4.]

Revised Code of Washington § 60.70.050

Immunity from liability for failure to accept filing or disclose common law lien.

A person is not liable for damages arising from a refusal to record or file or a failure to disclose any

claim of a common law lien of record. [1986 c 181 §5.]

Revised Code of Washington § 60.70.060

Petition for order directing common law lien claimant to appear before court-Service of process - Filing fee - Costs and attorneys' fees.

(A) Any person whose real or personal property is subject to a recorded claim of common law lien who believes the claim of lien is invalid, may petition the superior court of the county in which the claim of lien has been recorded for an order, which may be granted ex parte, directing the lien claimant to appear before the court at a time no earlier than six nor later than twenty-one days following the date of service of the petition and order on the lien claimant, and show cause, if any, why the claim of lien should not be stricken and other relief provided for by this section should not be granted. The petition shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or his or her attorney setting forth a concise statement of the facts upon which the motion is based. The order shall be served upon the lien claimant by personal service, or, where the court determines that service by mail is likely to give actual notice, the court may order that service be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the petition and order to the lien claimant at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(B) The order shall clearly state that if the lien claimant fails to appear at the time and place noted, the claim of lien shall be stricken and released and that the lien claimant shall be ordered to pay the costs incurred by the petitioner, including reasonable attorneys' fees.

(C) The clerk of the court shall assign a cause number to the petition and obtain from the petitioner a filing fee of thirty-five dollars.

(D) If, following a hearing on the matter, the court determines that the claim of lien is invalid, the court shall issue an order striking and releasing the claim of lien and awarding costs and reasonable attorneys' fees to the petitioner to be paid by the lien claimant. If the court determines that the claim of lien is valid, the court shall issue an order so stating and may award costs and reasonable attorneys' fees to the lien claimant to be paid by the petitioner. [1995 c 19 § 2.]

Revised Code of Washington § 60.70.070

Claim of lien against a federal, state, or local official or employee - Performance of duties - Validity.

Any claim of lien against a federal, state, or local official or employee based on the performance or nonperformance of that official's or employee's duties shall be invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of such lien or unless a specific statute authorizes the filing of such lien. [1995 c 19 § 3.]

2. Helpful Websites

American Civil Liberties Union- www.aclu.org

Anti-Defamation League- www.adl.org

Findlaw (legal research site)- www.findlaw.com

Hatewatch- www.hatewatch.org

Militia watchdog- www.militia-watchdog.org

National Association for the Advancement of Colored People- www.naacp.org

National Association of Attorneys General- www.naag.org

National Center for State Courts- www.ncsc.dni.us

Ontario Consultants on Religious Tolerance- www.religioustolerance.org

Southern Poverty Law Center- www.splcenter.org

3. Listserv

Listserv for Court Management

In December 1995, the National Center for State Courts' Information Service Director initiated a listserv - a free, on-line forum - on which subscribers might post questions and exchange information related to the operation of courts. As of this date, May 1999, this listserv, appropriately called "Court2Court," had approximately 426 subscribers, including judges, clerks, and court administrators from state and federal courts; NCSC staff; consultants; academicians; and even some internationals. Subscribing to the court2court listserv is a two-step process:

1) Send an e-mail message to cwright@ncsc.dni.us. This message should contain your contact information, including your name, organization affiliation, mailing address, and telephone/fax number.

2) Send an e-mail message to court2court@ncsc.dni.us. This message should contain only the word "subscribe" in the body of the message. There should be no subject, nor any other text. This message causes the listserv machine to actually add you to court2court.

Once you've been added to the list, you'll receive a confirmation message.

Once you receive this message, you can post to the listserv by sending a message to court2court@ncsc.dni.us.

Appendix B: Movement Sources

1. Movement web pages

Note: This is a short list of representative sites relevant to the movement. Given the nature of both the medium and the movement, the addresses change all the time, and entire sites may move from server to server. Many of these links may be broken by the time the reader looks for them, but a search at any of the major search engines (www.yahoo.com, www.excite.com, www.infoseek.com, etc.) will reveal a plethora of similar sites. Also, a number of the sites in appendix D will have lists of such sites readily available and categorized, not unlike these pages, only hotlinked, so as to be more convenient to use. Anyone interested in or threatened by the movement should regularly canvass the web, so as to see the movement's new developments.

1.1 Patriots

The Freedom Page

http://freedompage.home.mindspring.com/

American Patriot Network

www.civil-liberties.com/

National Organization for Non-Enumeration

www.noneusa.org

1.2 Militias

Information on militias

www.well.com/user/srhodes/militia.html

Texas Militia Papers

www.constitution.org/mil/tmp.htm

Posse Comitatus

www.posse-comitatus.org/

1.3 Tax Protestors

Tax truth 4 you

www.taxtruth4u.com/

Bill Conklin's Anti-IRS.com

www.anti-irs.com/

Taxgate.com

www.taxgate.com/

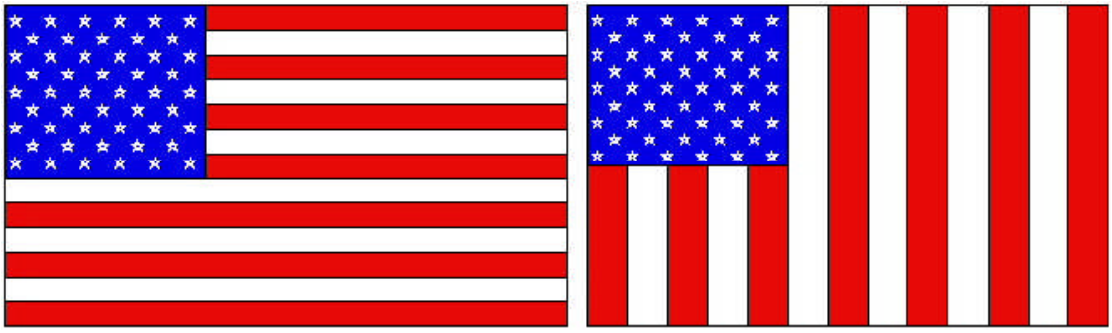
Appendix C: Movement Documents

Appendix C: Movement Documents

Following are documents taken directly from members of the movement. All documents included are included either with specific permission from the authors or as being in the public domain as a result of having been filed in court. Interestingly, when approached for permission, members of the movement were highly receptive to freely granting such permission, often suggesting that the researchers "read the constitution" and "teach those judges what real law is."

The documents included have been edited as little as possible in order to preserve as much as possible their true flavor. In some spaces formatting and serious spelling or grammatical errors may have been corrected. The reader should not hesitate to search the world-wide-web for more examples of the same, and readers should not doubt that new documents will appear as new ideas and strains of the movement erupt.

1. Tactics



Have You Been Hornswoggled? [56]
Which Flag is Which?
By Richard McDonald

The people of the United States actually have two national flags: one for our military government and another for the civil. Each one has fifty stars in its canton, and thirteen red and white stripes, but there are several important differences.

Although most Americans think of the Stars and Stripes *(above left)* as their only flag, it is actually for military affairs only. The other one, meant by its maker for wider use, (peacetime) has vertical stripes with blue stars on a white field *(above right).* You can see this design, which bears civil jurisdiction, in the U.S. Coast Guard and Customs flags, but their service insignias replace the fifty stars.

I first learned of the separate, civil flag when I was reading Nathaniel Hawthorne's *The Scarlet Letter,* published in 1850. The introduction, titled "The Custom House," includes this description:

From the loftiest point of its roof, during precisely three and a half hours of each forenoon, floats or droops, in breeze or calm, the banner of the republic; but with the thirteen stripes turned vertically, instead of horizontally, and thus indicating that a civil, and not a military post of Uncle Sam's government, is here established.

It took me two years of digging before I found a picture that matched what he was describing: my second clue was an original *Illuminated History of North America* (1860). If this runs against your beliefs, look up these two references.

History book publishers contribute to the public's miseducation by always picturing the flag in military settings, creating the impression that the one with horizontal stripes is the only one there is. They don't actually lie; they just tell half the truth. For example, the "first American flag" they show Betsy Ross sewing at George Washington's request was for the Revolution — of course it was military.

The U.S. government hasn't flown the civil flag since the Civil War, as that war is still going on. Peace has never been declared, nor have hostilities against the people ended. The government is still operation under quasi-military rule -

You movie buffs may recall this: In the old Westerns, "Old Glory" has her stripes running sideways and a military yellow fringe. Most of these films are historically accurate about that; their stories usually took place in the territories still under military law and not yet states. Before WWII, no U.S. flag, civil or military, flew within the forty-eight states (except in federal settings); only state flags did. Since then, the U.S. government seems to have decided the supposedly sovereign states are its territories, too, so it asserts its military power over them under the "law of the flag."

Today the U.S. Military flag appears alongside, or in place of, the state flags in nearly all locations within the states. All of the state courts and even the municipal ones now openly display it. This should have raised serious questions from many citizens long ago, but we've been educated to listen and believe what we are told, not to ask questions, or think or search for the truth.

NOTES

1. homswoggled: deceived. The term comes from the traditional image of cuckolded husbands wearing horns.óEditor

2. canton: The rectangular section in the upper comer of a flag, next to the staff.

3. The Scarlet Letter: An Authoritative Text, edited by Sculley Bradley, W. W. Norton, New York, 1978, pp. 7-8.

4. There is also a picture of the Coast Guard flag in Webster's Third New International Dictionary of the English Language Unabridged, G. & C. Merriam Company, Springfield, Mass., 1966.

5. For more about the law of the flag, see "A Fiction-at-Law ...," in the printed version of Perceptions Magazine

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[56] Used with permission from http://users.netonecom.net/~gwood/TLP/ref/

May/June 1995, Issue 9, page 11.

About the author: Richard McDonald is a California Citizen domiciled in The California state Republic. He does legal research and has his own site on the web. State Citizen's Service Center.

Gold-Fringed Flag Returned to Court [57]

Last September, County Commissioners in Ferry County, Washington removed a gold-fringed flag from the courtroom because Commissioner Jim Hall said he was shown government documents proving that fringed flags are inappropriate. Commissioner Hall, who assured everyone that he doesn't subscribe to constitutionalist views, said the flag was removed to appease "anti-government constitutionalists," according to an article in Spokane's Spokesman Review.

After several months of fruitless negotiation, presiding Superior Court Judge, Larry Kristianson, threatened legal action against Hall, saying he could order the flag replaced and have Hall jailed if he got in the way. To avoid a confrontation that could have been "politically explosive" it was agreed that the judge would buy a new fringed replacement flag with his own money if the commissioners would promise to leave it alone. "No person is authorized to come into the court and take accouterments of the court without the court's permission," he said. [SOURCE: American's Bulletin, March '96]

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[57] Reprinted with permission from www.cascadian.com.

Right Way L.A.W. Suggests: Quit Contracting for Traffic Tickets [58]

You probably never thought of traffic tickets in terms of contracts to purchase certain goods and services. But according to Right Way L.A.W. reported in AntiShyster, they are part of a commercial contract. If you don't agree with the contract, it is absolutely essential to object to traffic citations in a timely fashion (within 10 days) using a "Refusal for Cause."

When a law enforcement officer writes a ticket (s)he is actually issuing a commercial instrument called a "citation," and the recipient of said "ticket" automatically becomes party to a commercial contract. The commercial instrument is actually a "confirmatory writing," an instrument defined in UCC 2-201 that defines a "product being purchased," which in this case is, fines and court costs. Right Way L.A.W. explains that anyone using International Monetary Fund (IMF) debt credit (Federal Reserve Notes) as a medium of exchange, is subject to the Uniform Commercial Code.

UCC 2-201 is called the "Statute of Frauds." It deals with the legality of contracts and says contracts for the sale of goods for $500 or more are not enforceable unless there is some "writing" indicating that a contract for goods has been signed between the parties. UCC 2-201, Subparend (2) says that if one of the parties objects to the terms of the confirmatory writing, their objection must be registered within 10 days after receipt or the contract stands. Don't wait for your court date to register an objection. It'll be too late under the UCC.

At this point, you may think that refusal to sign the citation would prevent entering into a contract. Not so! If you sign the citation, the action falls under UCC 2-201. If you don't sign, it still falls under UCC 2-201 because the 10 day period to object to the "writing" automatically goes into effect, according to commercial law. It is a maxim of law that law applies in spite of ignorance of it. Therefore, it is presumed that everyone who fails to object during the 10 day period agrees to all the terms of the contract. You're guilty by default.

Commentary: It's important to respond to every citation, notice to appear or other paper action of the government, so as to not support their presumptions and agree to the terms of their contracts by acquiescence and neglect. [SOURCE: AntiShyster, Vol 5, No.4; Reviewed by Esther Holmes].

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[58] Reprinted with permission from www.cascadian.com.

The Federal System [59]

Three jurisdictions exist in the federal system used in this country. Each jurisdiction has separate and distinct responsibilities under the original constitutions.

A. The Federal Government (the United States).

1. Create laws to perfect the union created by the State governments to control commerce between states, national problems, etc.

2. Provide for the common defense of the Federal government, the state governments and the free states.

3. Promote the general welfare of all bodies and peoples by generating federal law to do this.

4. Create a body of law to control the employees of the Federal government (these were citizens of the United States).

B. The State Governments (the several states).

1. Create laws to control the defense of the territory in which they are authorized to make laws.

2. Promote the general welfare of the area in which they govern in which the Federal government does not control by generating civil law to accomplish this.

3. Create a body of law to accomplish this.

C. The Common Law States (the free states).

1. Create laws to control the security of the free state by organizing and managing the militia.

2. Promote the private welfare, establish privileges, generating private law for this purpose.

3. Create a body of law to control the people of the free states.

4. Assume all responsibilities of government not specifically given to state and federal governments. (Such as education, rules for militia membership, etc.)

D. The effects of the 14th Amendment.

1. A body politic was created called "Citizens of the United States" in which any person could become a member by submitting to the jurisdiction of the United States (the Federal government).

2. These citizens became "residents" of the state governments for issues in that particular jurisdictional boundary.

3. A right now existed for the Federal and State governments to create a body of laws to control the people of this newly created "civil law" state.

Under the original constitution it was presumed that United States citizens where mostly those individuals who

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[59] Reprinted with permission from www.civil-liberties.com.

chose to participate in government service, their families and others who were free but not members of one of the common law jurisdictions.

Affidavit [60]

Declaration of Truth

_____ state)
) S.S.
_____ county)

I, _____, the Undersigned, do hereby affirm the following, pursuant to *James 5:12, "But above all things my brethren, swear not, neither by heaven, neither by the earth, neither by any other oath, but let your yea be yea, and your nay, nay; lest ye fall into condemnation."*

First:

That I am _____; that I am over the age of twenty-one years, and am competent to testify to My first-hand knowledge of the facts herein, and that the statements herein made by Me are true of My own first-hand knowledge, unless otherwise stated herein. Yea.

Second:

Type a single fact here. Remember to not speculate, or go into long winded explanations. Keep your facts simple. Write in the first-person (I saw, I heard, I did, etc.)

Third:

Write as many paragraphs as it takes to make your point. Remember to stay on point, and keep it simple.

Lastly:

That I have made these statements for the purpose of giving notice to the public of the facts stated herein, and not for the purpose of waiving any Right or Immunity. I do hereby reserve all rights given Me by the One True God.

Witnesses:

_____

_____
affiant

On this _____ day of the _____ month, in the year of Our Lord, Nineteen hundred ninety-six,

_____

[60] Used with permission from http://users.netonecom.net/~gwood/TLP/ref/.

in the Two hundred twentieth year of Our Independence, the foregoing document was affirmed before me, a Notary Public, by _____, in and for the county and state above written, and He did affirm to me that He is literate, and competent to make This Affidavit without the assistance of a Notary, therefore, no benefit was received therefrom.

_____
Notary Public

My commission expires: _____

Notary for _____ county,

_____ republic

Prepared by:_____

Mail/Post location: _____

From: R. J. Tavel, J.D.
Subject: LPU: HOW TO HANDLE A ROADBLOCK
Date: Tuesday, March 25, 1997 10:50AM

How to handle a Roadblock the Libertarian Way:

Please fasten your seat belt and keep your head and hands inside the ride at all times!

(1) Wait for the Officer to ask you a question. Then say, "Sir, can you please tell me if my answer to that question is voluntary or mandatory?

(2) If Officer says, "Voluntary." Then you say, "I choose not to volunteer."

(3) If Officer says, "Mandatory." Then you ask, "Sir, what will you do to me if I do not answer?"

(4) If Officer responses, "We'll kick the **** out of you." Then you say, "Show me the law, statute, case, or whatever it is that makes it mandatory and then I answer." or perhaps you may say, "I refuse to answer on the grounds that I may incriminate myself." or possibly you may say, "My answer is XXX under threat of bodily harm, police brutality, etc... Depending upon the situation, these answers are a matter of personal taste, providing you have the time to waste and can take the punishment.

(5) If Officer responses, "You won't get out of here till you do answer the question." Then you ask for meaningful assistance of counsel to help you understand the question. After all, don't all lawyers tell you that only THEY can understand the law and legal procedure? Hope you're not in a hurry at this point. All roadblocks are a fishing expedition waiting to harpoon every vehicle that motors within their reach and as we all know fishing expeditions take a lot of time. So, be patient or become a patient.

(6) If the Officer skirts the questioning issues and wants you to consent to a search, then you say, "No, get a search warrant and then I'll comply." Never volunteer anything and keep insisting on your right to legal counsel. You no more have to answer questions for a police officer than you do a complete stranger off the streets. The secret power behind the roadblock is that every driver is duped into consenting to be searched. Many folks don't challenge an invasion of privacy because they have nothing to hide, but you still have a right to challenge that invasion, even if you don't have anything to hide. Never consent to a search without a warrant, just say "No" to protect your rights.

(7) If the Officer then asks you to exit your vehicle and handcuffs you at this point. Ask him if he is placing you under arrest and on what grounds? Very likely he's not placing you under arrest, he's only handcuffing you to make it safe for him to question you further and illegally search you and your vehicle, since you've refused. The point here is that the police must tell you if they're placing you under arrest and if so what for. And once again, do not answer any questions. Demand to get meaningful assistance of counsel and counsel of choice, since it is your right to have these at every important stage of police contact, including the arrest itself if that be the case.

(8) Remember all the things you read about Mirandizing you first? Well, forget it! As long as they can get you to admit to anything or consent to anything, they can use it against you, regardless of whether or not you've been mirandized. Silence is golden.

(9) As far as the actual mirandizing goes, if you're one of the lucky ones who actually gets informed of their rights,

then when the Officer asks you if you understand your rights, you just say, "No sir, I need legal counsel to help me understand." Be a big dummy and exercise that right to have legal counsel present and/or that right to remain silent until so provided. Sometimes you have to act ignorant to play smart.

(10) Overall, you need to have a good strong attitude. Use your head, control your emotions and most of all keep your mouth shut (except to assert your rights). Don't grovel, don't complain and don't ask for anything outside of your rights, because this gives them great satisfaction and will go in their report. Remember your goal is to get them to admit anything, perjure themselves, not follow the rules, suffer as much frustration and anxiety as possible and lose in front of their friends and the press. Their goal is to INTIMIDATE you and get you to offer consent, incriminate yourself, admit to everything, skip procedural details, and wavier all your rights.

Alas, the above information should help you obtain a heap of procedural errors to line up for "arguing technicalities" or appeals in the event you end up in waist chains or leg irons. In the event you just end up being harassed, you should have a fairly strong civil case for violations of your alleged constitutional rights.

When it comes to driving and personal privacy, roadblocks are the most dangerous things on the streets.

dwjohnstun@aol.com

"Freedom begins when you tell Mrs. Grundy to go fly a kite." - Lazaurus Long

LPUtah

LPUtah — This message sent via listserver "lputah@qsicorp.com "

LPUtah — All messages are the sole responsibility of the sender.

LPUtah — Support: Jim El well, email: elwell@inconnect.com

LPUtah

Sarah Thompson, M.D.

The Righter

PO Box 1185

Sandy, UT 84091-1185

http://www.therighter.com

NOTE NEW ADDRESS!!

THE CODE PROJECT: A New School of Law

Introduction

A group of individuals have joined together to create a common law jurisdiction as defined in this information and reference material. The purpose is to create a self governing body of individuals which would be a true republic as described by Plato, modified by our Anglo-Saxon ancestors and mandated by the Constitution. The rules of this society are that the laws are made by litigation. The preexisting laws and principles can be found in the reference material. Other editions of the same works will not be useful as specific reference is made to page numbers, chapters, etc. The information enclosed is the beginning laws in this reformed republic. This information is provided so that students may start learning these laws to decide if they want to participate in this type of society. The rules will limit the ability to join or ask questions until a student has the knowledge existing in these book.

Ongoing litigation is creating new summaries.

Litigation, contributions and questions on these principles are causing ongoing modifications.

- You may choose to learn common law by these methods:
  - Start learning the reference material and the enclosed summaries on your own and file a domicile proceeding. (This usually requires book purchases.)
  - Use the study course. (No books needed to start this.)
  - This system replaces all others existing effective January 15, 1998.

It is recommended that you obtain a 3 ring binder to keep these summaries in. New address:

The Code Project
Non Domestic Mail
Suite 32
3527 Ambassador Caffery
Lafayette, La. USA 70503

Remember the information is a rough draft and subject to modification based on the results of ongoing litigation. Updates, new summaries and other material will only be sent if a self-addressed stamped envelope is furnished. Responses to questions and generally not intelligible and will probably seem confusing unless a study of this material is made and specific questions are directed to these references. The presumption is that a student is wasting time by not studying first.

Foreword

The goal of these summaries and this study material is to restart a common law society such as ones existing in this country in the last century. The method used is this:

- A jurisdiction was formed in 1993.
- The laws of the courts on common pleas existing before the civil war were adopted.
- The members who submit to this system of justice are learning how to enforce these laws in government courts.
- The old laws are now being modified by litigation and summaries to fit the needs of our present society.

The recreated jurisdiction will be a society of self-governing people. The base law will be the old common law rather than government law. One hundred years of public law making has created a society that is contrary to our basic nature as a Christian nation. This process will allow this group of people to reject that which is unsatisfactory and retain laws favorable to our inherent nature.

This study should take about a year depending on the individual effort and ability. It works like this:

- An individual who is working with this information will file a proceeding in Federal Court.
- The response or results of the government court action is reviewed by the writers.
- The summaries are then adjusted to prevent others from making the same mistakes.
- The new information is then made available to those who desire to participate in the ongoing process.

The material is generally adjusted to prevent others from making the same mistakes in this manner:

- Individuals are required to learn the common law from the books in the study guide before proceeding.
- Common law judgments issue in accordance to these summaries, prior litigations and the books.
- Successful litigation becomes part of the code.

The ability of new students to follow and understand this process is determined by requiring them to engage in litigation to become common law citizens. Litigators who can read, understand and use code are allowed to proceed. Individuals who can't are prevented and engaging in litigation or becoming citizens without the help of someone who is a citizen. The principal being adopted is that the members will not teach law to those who won't use these reference sources and/or these books.

The summaries are principles of common law, which control the subsequent actions of the justices who issue common law orders to enforce. The summaries represent very little new law but are simply a restatement (or gathering) of existing common law and principles as found in the study materials.

The summaries are simply an update of Blackstone's and Bouvier's to the law to this country and this particular jurisdiction. This is the primary information:

- They are in order of the study courses and may be rough drafts.

- Each is written and modified freely as required.
- A written question may result in a summary.
- Members (citizens) or law students are authorized to submit summaries without restrictions.
- As common law rights and court cases are discovered the summaries are amended to conform with the best information available to the writers.
- An ongoing court case, review by others, newly discovered books and joining with other jurisdictions may cause modification.
- A summary may result from common rights established by individuals attempting to live by common law.
- The wording may be updated from prior common law but the law or circumstances force change out of necessity.
- The civil code (read government law) is construed to be in conformance to common law and the summaries are modified as civil code rights are found and litigated.
- Modem technology causes minor changes.

Do not perceive that you will learn common law from this source. You will only be shown where the common law can be found. When you understand the process of how to change or modify these summaries you may start a citizenship action. The primary principles of English common law are found in Blackstone's Commentaries. Some of the laws of the United States of America and word definitions are found in Bouvier's.

Changing United States Citizenship

Corporations legally avoid United States income tax laws each and every day by changing domicile. This is done by lawyers creating a "paper corporation" in a place like the Cayman Islands. The paper corporation is then registered with that jurisdiction and the assets of the United States corporations "legally move" to the Cayman Islands while the plants and headquarters (the physical presence) remain in this country.

This process is called acquiring a foreign domicile. Foreign domicile simply means "legal home" that is not the United States. This legal right also exist for individuals who are now considered United States citizens. The following problems exist when the average individual attempts this:

- It takes a trained lawyer who charges a very large fee to accomplish abrogation of US citizenship.
- It requires a person trained in this type of litigation to resolve the resulting problems in the event of legal disputes.
- Individuals may lose certain advantages that exist in an organized society (such as availability to public schooling, welfare, etc.).

To overcome these problems a group of people have joined together to recreate a "foreign jurisdiction" that existed before the United States was formed. This nation was called the United States of America. This foreign jurisdiction overcomes the problems of changing domicile in this manner:

- It trains individuals in the manner of legally changing domicile under United States law.
- It provides a legal system that creates documents to support this move or change of domicile.
- It trains the individuals how to litigate these issues in United States courts.
- It creates an organized society with laws to retain the advantages lost by abrogation of US citizenship.

The move to a common law domicile requires the individual to make the following decisions:

- You must agree to abide by the laws of an organized society already existing that has different laws.
- You must either become trained in law or join under the protection of someone who is trained since this society does not have enough lawyers at this time.
- This implies you must be willing to spend a certain amount of time and money acquiring a legal knowledge of to help someone with your litigation.

The money amount is small compared to what you are required to pay under income tax laws. The time element is considerable but worth it when you consider that under United States tax laws you are probably paying over 35% of everything you make to support the society to which you are now a member.

The problem with starting a jurisdiction is that it requires a very large set of laws to litigate virtually anything. This was overcome by adopting the laws of the old jurisdiction. These old laws were called the "common law".

Article 4 of the Constitution mandates the government to give full faith and credit to every jurisdiction

that exists. The founding members of the jurisdiction simply recreated the old common law state that was brought over from England to this country. This is the nation that formed our present government. This is the jurisdiction that is referred to in Amendment VII. to the Constitution of the United States. The legal right to perform the act of recreating (or creating) a common law state is written in Amendment IX.:

> "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

The legal reasoning is based on these points of law:

- The common law jurisdiction was the method used by the settlers of this country to resolve disputes prior to the formation of the governments.
- The people always retained the right to go to common law and resolve disputes (this is Article 1, Section 9, Clause 2 and Amendment VII.) even after governments and civil courts were formed.
- The government was never given the specific right to form or organize common law jurisdictions. (Governments were only authorized to enforce common law judgments.)

The effect of these laws is that the people of this country have a right to be self governing if they simply learn how to live under these preexisting laws. This allows various societies to coexist (such as Indians and US citizens) provided that a "jurisdiction" (or state) exists in which differences may be litigated. This means if you want to live in a "foreign state" under "foreign laws" you must first learn the laws and then join the jurisdiction under which this can be done.

The laws of this recreated jurisdiction are based on these concepts of self government:

The primary laws are the Ten Commandments.

- The judicial actions of the people living under and interpreting the Ten Commandments were called jury trials. (This is the jury trial protected in Amendment VII. - not a government jury trial.)
- The body of law (the accumulated jury decisions) are the rules of laws of the state and is called "common law".
- The government entity created by this common law society was called the United States.
- The document controlling and limiting the power of this government body is called the Constitution.

Recreating a "common law" jural society that preexisted the government makes the people of that nation self governing.

The beginning laws of this recreated jurisdiction are currently evolving based on the fact that litigation is ongoing to re-establish this society. Individuals who have changed domicile under United States law are doing this litigation.

The college courses derived from this litigation will give you an explanation of how this type of law system works in conjunction with government court actions based on the litigation that is now ongoing. The books are being used to teach enforcement of common law judgments to those individuals who have the desire to be a member of a self governing society.

You may order the courses which will provide you with more information. This information is available based on the following principles:

- The writers have undertaken this project for the purpose of teaching common law litigation.

- You only need to read the enclosed materials before determining if you want more information.
- They are copied originals in an 8 1/2 x 11 format.
- Some of the material is under litigation and is modified as a result of ongoing court actions.
- A list of study materials will be in the first mailing which will provide you with all of the information you will need to do your own research.
- The first packet will give you enough information to determine if you wish to participate in this type of society and start learning its laws.

Think about this pledge and the fact that the government has banned it from the "public school" system:

> "I pledge allegiance the flag of the United States of America and the Republic for which it stands. One nation under God, indivisible, with liberty and justice for all."

That is the republic which has been reformed. See Bouvier's law dictionary for the legal description and court cases about this nation.

You may request the first lesson from:

The College of Common Law
Non Domestic Mail
3527 Ambassador Caffery Box 32
Lafayette, La. USA 70503

Send a 9 x 12 self addressed stamped envelope. The postage cost is $1.20. A copy of the first lesson shall be sent in the envelope you furnish if it is not with this packet.

The internet address for more information is:

www.mindspring.com/~bjrepro

Background - Effective January 22, 1999

Republic of Texas

AFFIDAVIT OF CITIZENSHIP INFORMATION AND DECLARATION

Full Name _____

Height:_____ Weight:_____ Hair Color:_____ Eye Color:_____

Sex:_____

Date of Birth:_____ Address:_____

City of Domicile:_____

County of Domicile:_____

District of Domicile:_____

I, _____, hereby affirm the following facts are true,

Correct and complete, according to my personal first hand knowledge.

1. 1 was born in *city*_____,*county*_____
*state/republic*_____,*country*_____
on *date*_____.

2. 1 currently reside in _____, County, Texas.

3. 1 have no disabilities which would prevent me from making this affidavit.

4. 1 am a sovereign, freeman character, who does and desires to operate and conduct my affairs under the Common Law in the Republic of Texas.

5. 1 have never knowingly, intentionally or voluntarily, become a citizen of any de facto nation or corporate entity, and hereby revoke all powers of attorney with any State, nation or corporate entity, to wit, I hereby renounce any such citizenship.

6. 1 am not wanted for or under indictment for any crime in Texas or abroad under the Common Law.

7. This Affidavit is not made under threat, duress or coercion and without deception for purposes of evasion.

8. This affidavit is made pursuant to the General Provisions, Section 6 of the Constitution for the Republic of Texas, as amended August 29,1994.

9. If any part of this Affidavit is found to be fraudulent, it will be null and void and I will be subject to prosecution under all applicable law.

10. 1 hereby attest that I will support and defend the Constitution and Laws of the Republic of Texas.

Date: _____ Citizen signature:_____

Witnessed at Law by:

signature:_____

signature:_____

- FOR OFFICIAL USE ONLY -

Affidavit received and recorded:_____ Name of recording official:_____

Property Identification Number:_____ Signature of recording official:_____

MEMO ON SOCIAL SECURITY NUMBER [61]

When you review Public Agencies Opposed to Social Security Entrapment v. Margaret M. Heckler, 613 F. Supp. 558 and the subsequent appellate proceedings, you'll be entertained to know that as early as the late seventies, government employees, not to mention private citizens, were surrendering out the social security program. The Congress wrote a statute to force them in, claiming an interest in the public welfare, but the government lost. Hundreds of thousands of public employees during the mid 1980's successfully liberated themselves out of this fraudulent scheme.

Social security is a government benefit administered by the United States within its territories. It began with FDR's "New Deal," the political platform upon which he was elected to office only a few years after the stock market crash of 1929. In true form of government creating a need for itself, FDR and his banker cronies from Great Britain engineered the crash of '29 and you'll find this proved adequately in the Appendix to the Congressional Record of 1940.

> "It was told to me by a heavyweight American financier before the crash came
> that the crash was coming, that it would be permitted to run to the danger point,
> and that when the danger point was passed it would be reversed by measures
> carefully prepared in advance to meet the situation."
>
> Appendix to the Congressional Record, 1940

After the Social Security Act of 1935, the governors of each state of the union were extorted into participating in this scheme under threat of an enormous tax imposed by the United States. Their submission allowed them to defer this burden onto the citizens as we see it in operation today, that was the "Deal." They may withdraw at any time but they'd lose their subscription to monopoly money. Federal Reserve Notes.

I have a letter from my congressman which admits that he can find no law requiring anyone to either use or apply for a social security number as a condition of contract in America. It took me seven months to get this confession and he even lied to me on one occasion, but recanted when he learned that I knew better. Part 301.6109-l(c) of the Code of Federal Regulations states that if someone is going to pay you money, then he must ask you for a social security number. If you refuse, he is required by regulation to tell you that you must give him one and that it's required by law. Obviously, it's not required by law but he is required to tell you that. In other words, the regulation requires him to lie. After you refuse to disclose a number for the second time, his next obligation is to attach an affidavit to any statements he's required to file using your number stating that he's fulfilled his requirement to *ask* you for a social security number.

In other words, when it comes to disclosing a social security number, no one, absolutely no one, can *require* you to do it just so he can meet his own filing requirements. Please review Greidinger v. Davis, 988 F.2d 1344.

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[61] Reprinted with permission of the author. Due Process, a legal assistance organization based in Tampa, Florida. See their website at www.dueprocess.org/index.html.

The social security tax is a mandatory tax placed only on the receipt of *wages.* If you're not earning wages, you have no social security tax liability.

I have held three jobs in the past four years without having to submit any social security number or sign any federal forms and without paying one federal income tax on my pay. I currently have a checking account, insurance, three drivers licenses, a passport, one credit card, various telephone services, mail service, and an apartment lease, all with no social security number. I've never had to file a lawsuit to enforce my right to contract without a social security number.

A client recently brought a case to me where the IRS wanted to penalize him thousands of dollars for several tax returns in which he claimed his children as dependents while they had no social security numbers. They still have no numbers and I encouraged him to keep it that way and educate his children about this fraud. This is what we found:

Prior to August 20th, 1996, Section 6109(e) of the Code required disclosure of social security numbers for dependents claimed on tax returns; however, it was repealed on August 20th, 1996 (Pub. L. 104-188, Title I, § 1615(a)(2)(A), Aug. 20, 1996, 110 Stat. 1853)

Prior to December 19, 1989, there was a $5 penalty for failing to supply the TIN of a dependent claimed on a tax return. This appeared under Section 6676(e) until it was repealed on December 19th, 1989:

"Penalty for failure to supply TIN of dependent

> If any person required under section 6109(e) to include the TIN of any dependent on his return fails to include such number on such return (or includes an incorrect number), such person shall, unless it is shown that such failure is due to reasonable cause and not willful neglect, pay a penalty of $5 for each such failure."

Repealed. - Pub. L. 101-239, Title VII, § 7711(b)(l), Dec. 19, 1989, 103 Stat. 2393

The Problems Resolution Officer is having a fit because she's going to have to abate the penalties because there's no law to enforce them!

Here is the current statute relating to deductions for dependents having no SSN: 26 USC § 151

> "(e) Identifying information required
>
> No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption."

As of January 6th, 1997, there was no monetary penalty for not using an SSN for your children when claiming them as dependents on a tax return. The penalty statute of $5 was repealed in December of 1989 and the "6109 (e) requirement" was repealed in August of 1996. In essence, the time between 1989 and 1996 in which the "requirement" was a statute, was not enforceable because the penalty statute was not in force. It seems now that the only "penalty" is not being able to claim your children as dependents. I would encourage everyone doing this to refuse to get your children a number just to claim them, as it would be equivalent to selling them to the government, or putting a price on their heads. There's a good chance you shouldn't be signing a Form W-4 or filing a tax return anyway.

2. Briefs/Filings

Earlier sections of this book dealt with the interaction between members of the movement and those involved in the day-to-day operation of courts. One cannot effectively appreciate the friction that exists in that juncture without seeing the types of things those members of the movement actually try to do in the courtroom (constitutional driver's license anyone?). Following are a few examples, not only of things done in "real" courts, but also things that members of the movement do in their common law courts and then try to have ratified officially by filing them in a "real" court.

County of_____

OFFICE OF THE CLERIC _____, Michigan

COMMON LAW VEHICULAR JUDICIAL NOTICE
CONSTITUTIONAL DRIVERS LICENSE

THE UNDERSIGNED Common Law Citizen_____: hereby Certifies, by Rights Secured under provisions of the Constitution of the United States of America, the Constitution of the several states. Common Law, Nature and Laws of Natures GOD, that these Rights are retained in FEE SIMPLE ABSOLUTE, and held and protected with special regard to Rights designated and/or set forth as follows: ALSO NOTE Rights and Property are ONE AND THE SAME THING - by the Honorable Justice LOUIS BRANDIS U.S. SUPREME COURT. NOTICE AND ADVISORY OF RIGHTS CLAIMED INVIOLATE:

(1) The Right to TRAVEL FREELY, UNENCUMBERED, and UNFETTERED is guaranteed as a RIGHT and not a mere privilege. That the Right to TRAVEL is such a BASIC RIGHT it does NOT even need to be mentioned for it is SELF-evident by Common Sense that the Right to TRAVEL is a BASIC CONCOMMITANT of a FREE Society to come and go from length and breath FREELY UNENCUMBERED and UNFETTERED distinguishes the characteristic required for a FREE PEOPLE TO EXIST IN FACT. Please See SHAPIRO vs. THOMSON, 394 U.S. 618 . Further, the Right to TRAVEL by private conveyance for private purposes upon the Common way can **NOT BE INFRINGED.** No license or permission is required for TRAVEL when such TRAVEL IS NOT for the purpose of (COMMERCIAL] PROFIT OR GAIN on the open highways operating under license IN COMMERCE. The above named Common Law Citizen listed **IS NOT OPERATING IN COMMERCE** and as such is thereby **EXEMPTED FROM THE REQUIREMENT OF A LICENSE** AS SUCH. Further, the _____ state, is **FORBIDDEN BY LAW** from converting a BASIC RIGHT into a PRIVILEGE and requiring a LICENSE and or a FEE CHARGED for the exercise of the BASIC RIGHT. Please SEE MURDOCK vs. PENNSYLVANIA, 319 U.S. 105, and if_____, state does **ERRONIOUSLY** convert BASIC RIGHTS into PRIVILEGES and require a License or FEE a Citizen may **IGNORE THE LICENSE OR FEE WITH TOTAL IMMUNITY FOR SUCH EXERCISE OF A BASIC RIGHT.** Please see Schuttlesworth vs. BIRMINGHAM, ALABAMA, 373 U.S. 262. Now if a Citizen exercises a BASIC RIGHT and a Law of ANY state is to the contrary of such exercise of that BASIC RIGHT, the said supposed Law of ANY state is a FICTION OF LAW and 100% TOTALLY **UNCONSTITUTIONAL** and NO COURTS ARE BOUND TO UPHOLD IT AND NO Citizen is REQUIRED TO OBEY SUCH **UNCONSTITUTIONAL LAW OR LICENSE REQUIREMENT.** Please see MARBURY vs. MADISON, 5 U.S. 137 (1803), which has never been overturned in over 194 years, see Shephard's Citations. Now further, if a Citizen relies in good faith on the advice of Counsel and or on the Decisions of the UNITED STATES SUPREME COURT that Citizen has a **PERFECT DEFENSE** to the element of WILLFULNESS and since the burden of proof of said WILLFULNESS is on the Prosecution to prove beyond a REASONABLE DOUBT, said task or burden being totally impossible to specifically perform there is NO CAUSE OF ACTION FOR WHICH RELIEF MAY BE GRANTED BY A COURT OF LAW. Please see U.S. vs. Bishop 412 U.S. 346 . **OBVIOUSLY THERE IS NO LAWFUL CHARGE AGAINST EXERCISING A BASIC Right to TRAVEL for a regular Common Law Citizen NOT** IN **COMMERCE on the common way Public HIGHWAY.**

THAT IS THE LAW!!! The above named Citizen IS IMMUNE FROM ANY CHARGE TO THE CONTRARY AND ANY PARTY MAKING SUCH CHARGE SHOULD BE DULY WARNED OF THE TORT OF TRESPASS!!! YOU ARE TRESPASSING ON THIS Common Law Citizen!!!

(2) The original and Judicial jurisdiction of the United States Supreme Court is ALL actions in which a State may be party, thru subdivision, political or trust. This includes ALL state approved subdivisions and/or INCORPORATED Cities, Townships, Municipalities, and Villages, Et Al. Please see Article 3, Section 2, Para. (1) and (2), U.S. Constitution.

(3) The undersigned has NEVER willingly and knowingly entered into ANY Contract or Contractual agreement giving up ANY Constitutional Rights which are secured by the CONSTITUTION, the SUPREME LAW OF THE LAND. This Common Law Citizen has NOT harmed any party, has NOT threatened any party, and that includes has NOT threatened or caused any endangerment to the safety or well being of any party and would leave any claimant otherwise to their strictest proofs otherwise IN A COURT OF LAW. The above named Citizen is merely exercising the BASIC RIGHT TO TRAVEL UNENCUMBERED and UNFETTERED on the Common public way or highway, which is their RIGHT TO SO DO!!! Please see Zobel vs. Williams, 457 U.S. 55, **held the RIGHT TO TRAVEL is Constitutionally PROTECTED!!**

(4) Conversion of the RIGHT TO TRAVEL into a PRIVILEGE and or CRIME is **A FRAUD** and is in clear and direct conflict with she UNITED STATES CONSTITUTION, THE SUPREME LAW OF THE LAND. LAWS made by any state, which are clearly in direct CONFLICT or REPUGNANCY are **UNCONSTITUTIONAL** and are NOT WITH STANDING IN LAW AND ARE BEING CHALLENGED AS SUCH HERE AND THEREBY ARE NULL AND VOID OF LAW ON THEIR FACE. NO COURTS ARE BOUND TO UPHOLD SUCH FICTIONS OF LAW AND NO Citizen is bound to obey such a FICTION OF LAW. SUCH REGULATION OR LAW OPERATES AS A MERE NULLITY OR FICTION OF LAW AS IF IT NEVER EXISTED IN LAW. No CITIZEN IS BOUND TO OBEY SUCH UNCONSTITUTIONAL LAW!!!!!

(5) The payment for a privilege requires a benefit to be received As the RIGHT TO TRAVEL is already secured it is clearly unlawful to cite any charges without direct damage to the specific party. Nor may a Citizen be charged with an offense for the exercise of a CONSTITUTIONAL RIGHT, in this case the RIGHT TO TRAVEL. Please see Miller vs. UNITED STATES 230 F2d 486. Nor may a Citizen be denied **DUE PROCESS OF LAW or EQUAL PROTECTION UNDER THE LAW.**

(6) The undersigned does hereby claim, declare, and certify ANY AND ALL their CONSTITUTIONAL RIGHTS INVIOLATE from GOD and secured in THE UNITED STATES CONSTITUTION and the CONSTITUTION OF THE STATE wherein they abode as a SOVEREIGN, COMMON LAW CITIZEN existing and acting entirely AT THE COMMON LAW, and retains ALL BASIC RIGHTS under the CONSTITUTION OF THE UNITED STATES OF AMERICA, NATURE AND NATURE'S GOD AND UNDER THE LAWS OF GOD THE SUPREME LAW GIVER.

(7) **ANY VIOLATOR OF THE ABOVE CONSTRUCTIVE NOTICE AND CLAIM IS CRIMINALLY TRESPASSING UPON THIS ABOVE NAMED COMMON LAW Citizen and WILL BE PROSECUTED TO THE FULLEST EXTENT UNDER THE SUPREME LAW OF THE LAND. BE WARNED OF THE TRESPASS AND THE ATTACHED CAVEATS. ALSO TAKE CONSTRUCTIVE NOTICE, IGNORANCE OF THE LAW IS NOT AN EXCUSE!!**

SIGNATURE OF THE ABOVE NOTED Common Law Citizen is signed_____

WITNESS_____ Date_____

WITNESS_____ Date_____

or

NOTARY PUBLIC_____ MY COMMISSION

EXPIRES_____

Form below use for County Clerk state of MICHIGAN COUNTY OF_____

1, _____, CLERK of the County of

_____, thereof do hereby certify the

Citizen above named has sworn to the contents of this document and that same is TRUE AND CORRECT. IN TESTIMONY WHEREOF, I have hereto set my hand and affixed the SEAL of said CIRCUIT COURT, at the City of _____, MICHIGAN this

_____day of_____, AD._____

_____Deputy County Clerk for

_____COUNTY CLERK

[Eds. NB: note the capitalization and placement of the commas in a militiaman's name. Often they will take exception to all caps for their name ("JOHN QUINCY DOE," not "John Quincy Doe"] or take similar exception to the absence of a comma between their "given" name and their "surname" (this fails to adequately represent their "Christian name," i.e., "JOHN QUINCY DOE" is significantly different from "John Quincy, Doe." This plays a hefty role in a militiaman's challenge to a court's jurisdiction, as seen in the following 2 documents.]

ABATEMENT - Taxes

Letter Rogatory Re: CLTLR-_____

Article in; Article IV, section one "Common Law Abatement" for publication by our clerk upon default of named respondents thirty days after verified proof of due service Affidavit by writ of supervisory control .

From: Office of Clerk of Court

Common Law Supreme Court for _____ Republic

Division of the Courts' - Original Jurisdiction

For the People In and for _____ county, _____ state

united states of America

Please communicate via mail with above Court: Office of Clerk of Court

[Address]

NON-DOMESTIC

To: Clerk of the United States Tax Court

400 Second Street, NW
Washington, DC 20217

Re:_____

accusing

UNITED STATES TAX COURT FOR THE DISTRICT OF COLUMBIA

supreme Court Docket Number:

CLTLR-_____

Dear Court Clerk:

I, _____, duly authorized supreme Court Justice hereby makes this affidavit of necessity under our law of descent through our law of nations in our peculiar venue and jurisdiction presenting this public notice of commercial disclosure to abate all nisi prices process commenced by the aforementioned federal corporation through its agents, said commencement having been induced by actual fraud and construction of cause. I hereby testify to:

One In matters concerning a NOTICE OF DEFICIENCY be advised a presentment was tendered but of necessity the said presentment was not in due form in our peculiar venue, therefore refused as a fraud under routine of commercial dishonor "without recourse."

Second In matters concerning a INCOME TAX EXAMINATION CHANGES be advised a presentment was tendered but of necessity the said presentment was not in due form in our peculiar venue, therefore refused as a fraud under routine of commercial dishonor "without recourse."

Two matters of fraud:

_____, sui juris in law, a native born Caucasian, a "state" in fact by the special character of the party, invoking all unalienable God given Right of Inheritance in Law has chosen to proceed in my own right, obligation and power to choose the Applicable Law, within the proper territorial application in which I was born, waiving none presents the following to wit:

_____, COMMISSIONER and _____, DISTRICT DIRECTOR acting without scope of her authority as agent for the INTERNAL REVENUE SERVICE has issued unlawful process against me, under presumption of commercial entity or public policy limited liability addressed to _____, said presumption of fraud.

(Complainant) hereby makes notice of commercial dishonor to the legislative assembly created tribunal and its agents to abate the above described NOTICE OF DEFICIENCY on the following grounds:

(One) said NOTICE OF DEFICIENCY against (Complainant) was presented into my hand on the _____ day of the _____ month of _____ year Anno Domini. I am noticing the legislative tribunal executive court to abate the instrument so that said instrument in present form cannot be used to further damage me.

(Two) that the instrument presented to me is evidence of misnomer or mistaken identity. Said instrument is against a fictitious name, _____. My name, a Christian name is _____under Rules of English. My family name is _____, the first letter capitalized. My name is not on the instrument. The TIN/SSN associated with my name is incorrect and doesn't belong to me.

(Three) the accuser must bring process against me under a lawful writ in my Christian name. The primary purpose of this abatement is to correct insufficient matters in law, therefore my real name is my sui juris venue.

(Four) this is by due notice an abatement in proper forum, a plea in bar in our King's bench under no titles of nobility. It is properly abated in our one supreme Court. You, the respondents, have only thirty days to answer.

(Five) by this matter in abatement (your term) the burden of proof shifts upon your nisi prius tribunal to disprove your elements of fraud.

(Six) said UNITED STATES TAX COURT FOR THE DISTRICT OF COLUMBIA WASHINGTON D.C. must abate the matters of NOTICE OF DEFICIENCY UNNUMBERED, identified by TIN _____-_____-_____ or file a written response within thirty days of receipt of this Common Law venue (non-statutory) abatement, showing why the abatement should not be imposed in Law by our Court of first and last resort. All matters in Law must be supported by documentation.

(Seven) failure to timely answer this supreme Court abatement will constitute a default by our declaratory judgment ex parte of necessity, subjecting said respondents to civil and criminal causes of action in this one supreme Court. You will become subject to your own contractual punishment: under your United States Codes Title 42, 18, 28, 19, 5 et al. Also under Private International Law for criminal conversion of private securities. A supreme Court lis pendens hage already been duly served and recorded in and for _____ county in our country of _____. Your response should be marked with the Sheriffs cause number mailed to our location in care of_____. One in matters concerning an INCOME TAX EXAMINATION CHANGES, misnomered to one _____ (The problem here is ALLCAPS – complainant objects to their use) teste meipso this _____ day of the _____ month in the _____ year, Anno Domini

Thank You,

_____

(Complainant)

supreme court Justice

_____
Clerk of "Common Law Supreme Court"

_____

united states of America country of _____ (Organic)) SS Affidavit of Return/Service _____ county, (de jure))

I, _____, Special appointed Marshall, hereby attest and acknowledge that I did serve upon the above named party by contract via Certified Mail, Return Receipt Requested.

Mail# _____this Letter Rogatory, Common Law Abatement.

Date

_____
Special Appointed Marshall

ABATEMENT-General

Respond to: [First Middle, Last Name], sui juris

Common Law supreme court for _____

[First Middle, Last Name], sui Juris) Docket Number: _____

(Demandant,) (Part One against,) Non-Statutory Abatement

NON-STATUTORY ABATEMENT By (First Middle, Last Name], sui juris

In the matter of: Oregon Uniform Citations and Complaint Summon(s) re: Dated: _ SEPTEMBER, __, No.__, No. __, No. __, Dated: _ OCTOBER __, No. __, No. ___, apparently sent to "[FIRST MIDDLE INITIAL LAST]" (sic); which citation bears no lawful signature, which citation bears no seal of a real court; which Citation No.___ alleges that "failure to carry or present a license" is a "crime," not an infraction.

In the matter of: Form letter re: Dated: _____ October _____ alleging a NOTICE TO APPEAR (sic), alleging "DOCKET *#:* No._____, _____, _____, (sic), alleging "$332.00" fine/bail (sic), apparently sent to "[FIRST MIDDLE INITIAL LAST]" (sic); alleging "ARREST" (sic), which form letter bears no lawful signature, which form letter bears no seal of a real court;

In the matter of: Form letter re: Dated: _____ alleging a NOTICE TO APPEAR (sic), alleging "DOCKET #: _____ (sic), alleging "$_____" (sic), apparently sent to "[FIRST MIDDLE INITIAL LAST]" (sic); alleging "ARREST" (sic), which form letter bears no lawful signature, which form letter bears no seal of a real court;

To All and Sundry Whom These Presents Do or May Concern:

INTRODUCTION

This is a non-statutory abatement issued pursuant to Common law rules applicable to such cases, against "CITY OF _____ MUNICIPAL COURT", a created de facto legal fiction, possibly a corporation and its agent, the "PERSON OF _____" (sic), **located at "CITY OF _____ MUNICIPAL COURT"** (sic), _____ and DEPUTY _____, ___COUNTY SHERIFF'S OFFICE, _____which are imposing provisions of a contract counter to public morals, in the Nature of a praemunire.

Part One of this matter shall be known as Non-Statutory Abatement and contains the following documents titled:

1. Non-Statutory Abatement; and,

2. Verification.

Chapter One

Return of Papers and Averments

Please find enclosed the following mailed items:

Citations (five) and form letters (two) to "[FIRST MIDDLE INITIAL LAST]" (sic). All papers were received, but are not accepted.

These items are refused for cause without dishonor and without recourse to me, and are returned, herewith, because they are irregular and unauthorized, based upon the following to wit:

COMES NOW, [First Middle, Last Name], sui juris, a Free and Natural _____, a private Christian, grateful to Almighty God for my Liberty, and humbly Extend Greetings and Salutations to you from. Our Creator, Jesus, The Christ, and Myself by Visitation, to exercise Ministerial Powers in this Matter, to return your papers, which papers were received, but not accepted.

Mark my words:

First:

Mark: Your papers do not have upon their face My full Christian Appellation in upper and lower case letters, nor, do the additions in the compilation upon the items, herewith returned, apply to me; and,

Second:

Mark: Your papers allege violations of a law, foreign to My Venue, which, no Oath, Promise, or law attaches Me thereto; and,

Third:

Mark: Your office is not established in the Oregon Constitution; and,

Fourth:

Mark: Your papers have no foundation in Law; for the reason, they are not from an office recognized by We The People or the General Laws of Oregon; and,

Fifth:

Mark: Your papers lack jurisdictional facts necessary to place or bring Me within your venue; and,

Sixth:

Mark: Your papers are unintelligible to Me; based upon the following. They are not written in Proper English; being such, they fail to apprise Me of the Nature of any matter alleged, if in fact your allegations have any foundations; and,

Seventh:

Mark: Your papers fail to affirmatively show, upon their face, lawful authority for your presence in My Venue; and,

Eighth:

Mark: Your papers fail to affirmatively show, upon their face, the necessity for your entry upon My Privacy; and,

Ninth:

Mark: Your papers fail to affirmatively show, upon their face, your authority to violate or disparage **Me** in any way; and,

Tenth:
Mark: Your papers have no Warrant in Law and are not Judicial in Nature; and,

Eleventh:

Mark: Your papers are not sealed with authority recognized in Oregon; and,

Twelfth:

Mark: Your papers are not lawfully signed by hand, in ink and fail to show from whom they issue and thereby do not establish any nexus between Myself and your office; and,

Thirteenth:

Mark: Your papers fail to disclose any legal connection between Myself and your office; and,

Fourteenth:

Mark: The foreign venue, "STATE OF _____" (sic) is not recognized as a judicial district in this sovereign republic as the word "OF" in *the* phrase "STATE OF _____" (sic) denotes belonging to or coming from. In both cases, the "STATE OF _____" (sic) is an inferior entity, if it exists at law at all, and is being used by you for malicious and vexatious purposes; and

Fifteenth:

Mark: Your papers are "incomplete and defective", upon their face, due to insufficient Law.

Sixteenth:

Mark: Your papers indicate a method of "paying" your alleged debt which is in conflict with the only supreme law in this republic, specifically article XI Section I of the _____ Constitution.

Chapter Two:

Returned Papers are Not Judicial First:

WHEREAS, pursuant to constitutional due process requirements, the Criminal Code of the State of _____, approved the First day of May in the year Eighteen Hundred Sixty Five A.D., and the Constitution of_____ Article VII amended, approved the Eighth day of November in the year Nineteen Hundred Ten A.D., "_____, CITY OF _____ MUNICIPAL COURT" (sic) employee is not a State Judicial Officer having power to issue orders or judgments of any kind; and

WHEREAS,"_____" (sic) agent for "CITY OF _____ MUNICIPAL COURT" (sic) posing to act judicially, and in collusion with _____ and the _____ COUNTY SHERIFF'S OFFICE, has in fact set upon the highway in disguise for malicious and vexatious purposes under color of law and without authority from We The People on _____ republic; that said agent is in fact appointed under the authority of the Governor of the STATE OF _____ acting under military rule and the bankruptcy receivership of the International Monetary Fund and/or the Federal Reserve Board with its agents the Treasury Department and the Internal Revenue Service acting under non – Constitutionally - compliant hypothecated authority and as such, said agent of the Governor,"_____ ____", and said agent of the entity "CITY OF_____ MUNICIPAL COURT" (sic) are not Judicial Officers of this republic or nation and have no power to issue orders of judgment of any kind and WHEREAS, returned papers concerning an attempt to unlawfully impose a contract, imposes upon My Right of Privacy; and

WHEREAS, My Privacy is a Constitutionally secured Right; and

THEREFORE, returned papers concerning an attempt to unlawfully impose a contract, are harassment and a public nuisance.

Second:

WHEREAS, the "CITY OF _____ MUNICIPAL COURT" (sic) is attempting to use a form of money inimical to public welfare according to the standard set by the _____ Constitution, of November 9, 1857, Article XI, Section 1, said Article continuing to today, and, the Constitution for the united states of America, at Article 1,Section 10; and

THEREFORE, the threatened unlawfully imposed contract is contra bonos mores.

Third:

WHEREAS, returned papers contain the corporate name: "STATE OF _____", which terminology, to Me, is vexatious as I know that anything which is "OF" something is not the thing itself, that the word "OF" has about it the meaning of "belonging to" or "coming from", and is therefore sorely confusing and is obviously not an entity which has any lawful standing at law; and

WHEREAS, returned papers contain the extraneous numbers "_____", yet showing no lawful day, month, or year, which terminology to Me is confusing, for the reason that I reckon time in years of Our Messiah, Jesus, The Christ, but not by any mark of the beast number alleged as assigned to Me by any one or any person; and

WHEREAS, returned papers contains the meaningless numbers and letters of No.___, ___, ___, said numbers and letters being sorely vexatious as these numbers appeared on papers handed me and which were immediately refused for good and lawful cause and said papers are now "dead" for any commercial or other purpose, and, therefore, referencing these numbers can only have been done for malicious, capricious, arbitrary and immoral purposes; and

WHEREAS, provisions of the peoples moral law forbids Me use of the corporate STATE OF ____ since it has no lawful standing; and

WHEREAS, provisions of the peoples moral law forbids Me use of said numbers and papers and said reckoning of time; and

THEREFORE, returned papers contain scandalous matter all to My harm.

Fourth:

WHEREAS, pursuant to The Political Code of_____, approved the First Day of May in the Year Eighteen Hundred Sixty Five A.D., previously mentioned "CITY OF _____ MUNICIPAL COURT" (sic), a created de facto legal-a corporation and its agent the "PERSON OF _____" are legal persons subject to the jurisdiction of this state as are DEPUTY _____, _____ COUNTY SHERIFF'S OFFICE, P.O. BOX ____, ____, ____, ____; and

Fifth:

WHEREAS, I have no contract with, and "_____" and _____ were both personally served with "ACTUAL AND LAWFUL CONSTRUCTIVE NOTICE" of the fact that I have no contract with the STATE OF _____, and I have no contract with you, and neither the STATE OF _____ nor you have a valid power of attorney to act for me in any manner whatsoever, yet you, in violation of the law, in contravention of the public morality and the peace of the community and the tranquility of We the People, did knowingly enter a plea of "not guilty" on my behalf in some manner which is not within your power or scope of any assumed or alleged authority. This act you performed without any lawful authority and in addition, if you were to have some actual authority over said matter, which you do not, your action constitutes practicing law from the bench, an act which is punishable by a multitude of means.

Sixth:

WHEREAS, _____, ____ COUNTY SHERIFF'S OFFICE and your agents in the _____ COUNCIL including but not limited to _____, CITY ATTORNEY, have threatened me, a Citizen of the republic of_____ with arrest, incarceration, impoundment of my vehicles, and liens against my property because of a knowingly illegal action on your part: _____ code atl33.080 specifically prohibits such actions, even if you had authority to act against me, which you do not.

Now, therefore:

I am returning all of your papers, and shall, henceforth, exercise My Right of Avoidance; for the reason: they are irregular, unauthorized, defective upon their face and utterly void, malicious, slanderous and libelous, and are, herewith, abated as a public nuisance. There appear to be no factors which would warrant adjustment of the Abatement, due to a Conflict of Law.

Chapter Three:

Ordering Clauses

Pursuant to The Code of Civil Procedure: of ____, promulgated on the Thirteenth day of December, in the Year of Our Messiah, Jesus, The Christ, Nineteen Hundred Eighty, ____, wherein it does say, that: "'Judgement' as used in these rules is the final determination of the rights of parties in an action; judgment

includes a decree and a final judgment entered pursuant to section B or G of this rule. 'Order' as used in these rules is any other determination by a court or judge which is intermediate in nature."

Said "CITY OF _____ MUNICIPAL COURT" (sic), a created de facto legal fiction, possibly a corporation and its agent, the "PERSON OF _____", (sic) shall abate the matter of "CITATIONS & FORM LETTERS" as referenced above, or file a written response within thirty (30) calendar days of the release of the Non-statutory Abatement, showing why the Abatement should not be imposed. Any and all written response must include a detailed factual statement and supporting documentation. Failure to respond in the time prescribed, herein, will result in a Default and default Judgment and subject Defendants to Civil and/or liabilities in pursuance of International Law and The Law of Nations.

All remittance of this instant matter should be marked with the Court Docket number, and mailed to the following location:

[First Middle, Last Name], sui juris [Address]

Any other alleged remittance from you, not marked exactly as indicated above, will be returned to you unopened and marked "NO SUCH ENTITY," or "DECEASED PERSON", and so shall it be done without obligation on My part and without recourse to Me on your part.

Wherefore;

Until this Conflict of Law is resolved, I wish you to do the following, to wit;

First:

Obtain process issued, under seal, from a Court appertaining to a bona fide _____ Judicial Department; and

Second:

That said process be based on sworn Oath or Affirmation from a competent Witness or Damaged Victim; and

Third:

That said process bear My full Christian Appellation in upper and lower case letters, and in addition, thereto, sui juris, and, must be handled and personally served upon Me by a Marshall for the Common Law Supreme Court for _____. There is no need for **Me** to communicate until process is legally served.

I, [First Middle, Last Name], sui juris, a Private Christian, a Free and Natural person, will, henceforth, maintain My Right of Privacy and exercise My Right of Avoidance and stand upon the grounds set out above.

Sealed by the voluntary act of My own hand on this ____ day of the ___ month in the Year of Our Savior The Messiah Jesus The Christ, nineteen-hundred ninety-__, Anno Domini, in the Two-hundred and _____ year of the Independence of our great nation.

With Explicit Reservation of All Rights, Without Prejudice

Attachment: Original papers of:

In the matter of: _____ Uniform Citations and Complaint Summon(s) re: Dated: _____, No.____, ____, ____, apparently sent to "[FIRST MIDDLE INITIAL LAST]" (sic); which citation bears no lawful signature, which citation bears no seal of a real court; which Citation No._____ alleges that "failure to carry or present a license" is a "crime," not an infraction.

In the matter of: Form letter re: Dated: __ October, ___alleging a NOTICE TO APPEAR (sic), alleging "DOCKET #: No.____, (sic), alleging "$332.00" fine/bail (sic), apparently sent to "[FIRST MIDDLE INITIAL LAST]" (sic); alleging "ARREST" (sic), which form letter bears no lawful signature, which form letter bears no seal of a real court;

In the matter of: Form letter re: Dated: _____ alleging a NOTICE TO APPEAR (sic), alleging "DOCKET #: _____ (sic), alleging "$____" (sic), apparently sent to "[FIRST MIDDLE INITIAL LAST]" (sic); alleging "ARREST" (sic), which form letter bears no lawful signature, which form letter bears no seal of a real court;

Common Law supreme court for _____ (_____ County)

[First Middle, Last Name], sui Juris) Docket Number: _____

Verification

IN WITNESS, Whereof, knowing the law of bearing false witness before God and men, I solemnly affirm, that,! have read the annexed Non-statutory Abatement and know the contents thereof, that the same is true of my own knowledge, except as to the matter which are therein stated on my information or belief, and as to those matters, I believe them to be true, materially correct, complete and certain, relevant and not misleading; the truth, the whole truth and nothing but the truth, so help me God.

Scaled by the voluntary act of My own band On this, the eighth Day of the First Month in the Year of Our Messiah, Jesus, the Christ, One Thousand Nine Hundred Ninety-Six..

L.S._____

With Explicit Reservation of All Rights, Without Prejudice

Let this document stand as the truth before God Almighty, and let it be established before men accordingly as the Scriptures saith: '... In the mouth of two or three witnesses shall every word be established."—2 Corinthians 13:1

WITNESSES: WITNESSES:

MOTION FOR DECLATATORY JUDGMENT
by
Dan Meador

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Dan Meador, et al, Plaintiffs,	]	Case No. 97-CV-33-H
Vs.	]	Authority: 29 USC §§ 2201 & 2202
H. Dale Cook, et al, Defendants.	]	

MOTION FOR DECLATATORY JUDGMENT

Now comes Dan Meador, Sui Juris, a Citizen of Oklahoma state, one of the Union of several States party to the Constitution of the United States, to petition the court for declaratory judgment under authority of 28 USC §§ 2201 & 2202.

To one degree or another, matters at issue have been addressed in pleadings entered into various controversies in the United States District Court, Northern District of Oklahoma by one or more of the complaining parties, with attorneys in the office of the United States Attorney for the Northern District of Oklahoma serving in plaintiff or defense posture, since approximately October 1995. The cases have included a 1995 criminal indictment against the Moores and Mr. Gunwall, 1996 indictments against the Moores, Mr. Gunwall and Mr. Meador, and the instant matter, the case having been filed in the Tulsa County district court. State of Oklahoma, then removed to the United States District Court for the Northern District of Oklahoma. Pleadings addressing matters relating to United States District Court venue, jurisdiction, etc., application of law, the character of the Internal Revenue Service, the necessity for there being a taxing statute which identifies the service, transaction or object of tax, particulars concerning the legitimacy of documents, and a multitude of other pertinent matters have been entered into each case. To date, attorneys in the office of the United States Attorney for the Northern District of Oklahoma have evaded core constitutional questions, have failed to address the character and jurisdiction of the Internal Revenue Service, application of Internal Revenue Code taxing authority, etc., in all forums, but instead have relied on accommodation of judicial officers in the United States District Court and other courts. Of particular significance, counsel for the defendants and other attorneys in the office of the United States Attorney for the Northern District of Oklahoma have failed and refused to produce documentation necessary to establish United States plenary jurisdiction in Tulsa County, Washington County, and Kay County, Oklahoma, one of the several States party to the Constitution of the United States.

In order to resolve the long-standing and continuing controversy, it is necessary to petition the court for declaratory judgment which determines rights and legal relationships, application of law, and facts which may be judicially determined. The relief sought in the instant matter is remand of the case to the Tulsa County district court, where the trial of causes may be conducted in compliance with provisions of Article III § 2.3 of the Constitution of the United States and under such provisions of Oklahoma fundamental law as are applicable.

Matters for judicial declaratory judgment are set out as averments, as follows:

1. The United States District Court for the Northern District of Oklahoma, as opposed to the district court of the United States created under chapter 5 of Title 28 of the United States Code, is an Article IV territorial court of the United States which does not have judicial authority relating to the Union of several States and the people at

large as conveyed in Article III of the Constitution of the United States.

2. United States District Court authority extends only to outer boundaries of lands where the United States has properly secured jurisdiction within one of the several States in compliance with provisions for establishing United States jurisdiction as set out in 40 USC § 255; (1) the United States must acquire title to land, (2) the State legislature must cede jurisdiction, and (3) the United States must formally accept jurisdiction, with the statutory requirement stipulating, "Unless and until the United States has accepted jurisdiction ... it shall be conclusively presumed that no such jurisdiction has been accepted."

3. The statutory-legislative Article IV United States District Court imposes bills of attainder whenever it deprives the de jure American people of life, liberty, or property, said bills of attainder prohibited in Article I, Sections 9 & 10 of the Constitution, and contrary to substantial due process assurances of the Fifth Amendment to the Constitution of the United States.

4. Removal authority articulated in 28 USC § 1346(b) is vested in the Article HI district court of the United States, not the Article IV United States District Court (definitions, 28 USC § 451; text of § 1346(b)).

5. The removal may be made when the Attorney General certifies that the officer or employee was performing within the lawful scope of his duties (28 USC § 1346(b)), and such certification must "conclusively establish scope of office or employment for purposes of removal" (26 USC § 2679(d)(2)).

6. In the event that said certification does not conclusively demonstrate that said officer or employee of the United States was performing within the scope of his lawful duties, "the action or proceeding shall be remanded to the State court." (28 USC § (d)(3))

7. There is no authorization at 28 USC § 1346(b) or in the Federal Tort Claims Act for the "United States" to serve as substitute defendant for actors or agents of the "United States of America".

8. The Administrative Tort Claims Act is an administrative law act, it is not a judicial act which falls in the scope of the "arising under" clause, cognizable as "law or equity," at Article III § 2.1 of the Constitution of the United States.

9. The United States, via the United States District Court, does not have general jurisdiction in Kay County, Washington County, or Tulsa County, Oklahoma, but may exercise authority only with respect to lands in any of these counties where the United States has acquired jurisdiction in compliance with provisions established by statute in 40 USC § 255 and Oklahoma cession laws, particularly with respect to 80 O.S. §§ 1, 2 & 3 (see also, 18 USC § 7(3)).

10. The "United States", not the "United States of America", is authorized to acquire lands in Oklahoma and other Union states party to the Constitution of the United States (40 USC § 255; Oklahoma cession laws, 80 O.S. §§ 1, 2 & 3).

11. There is no proof of United States jurisdiction in record either in the instant matter or in the Moore-Gunwall or Meador cases, supra, prosecuted in the United States District Court for the Northern District of Oklahoma, with the "United States of America" being the prosecuting party of interest.

12. The "United States", not the "United States of America", is authorized and named as plaintiff in civil matters at 28 USC § 1345, and defendant at 28 USC § 1346, and where criminal matters are concerned, the injured or prosecuting party at 18 USC § 2.

13. United States magistrate judges are former national park and other commissioners (28 USC § 631-639) who are authorized to hear misdemeanor cases in United States jurisdiction (18 USC § 3401), within the framework of regulations which utilize the United States magistrate system (28 CFR, Part 52.01 et seq., 32 CFR, Part 1290.1 et seq., and 43 CFR, Part 9260.0-1), and are not authorized even to take pleas in felony matters (Rule 5(c), Fed.R.Cr.P.).

14. Summonses and warrants issued by the United States District Court may be executed only in United States jurisdiction (Rule 4(d)(2), Fed.R.Cr.P.).

15. The Federal Bureau of Investigation is an administrative agency in the Department of Justice, with authority to investigate Title 18 U.S.C. crimes committed by officers and agents of United States Government (notes, 28 USC § 531, § 535).

16. Civilian Federal law enforcement agencies have general enforcement authority in the

District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands (28 CFR, Part 65.70(d); P.L. 98-473 of Oct. 12, 1984, Sec. 609N(3), 98 Stat. 2104).

17. The United States may exercise general police powers in the Union of several States party to the Constitution, by way of the militia, only in the event of invasion or civil uprising (Article I § 8.15 & Article IV § 4, Constitution of the United States).

18. The Internal Revenue Service, successor of the Bureau of Internal Revenue (T.O. 150-29, 1953), is an agency of the Department of the Treasury, Puerto Rico, operating in conjunction with Puerto Rico Trust #62 (Internal Revenue) (see 31 USC § 1321 & 26 CFR, Part 301.7514-l(a)(2)(v)), and has jurisdiction only in Puerto Rico, the Virgin Islands, American Samoa, Guam, and other authorized areas of the world outside the continental United States (E.O. 10289, first issued Sept. 17, 1951, 16 F.R. 9499, last revised by E.O. 11825, Sept. 9, 1987 via E.O. No. 102608, 52 F.R. 34617; T.D.O. 150-42 (1956); 26 USC § 7701(a)(12)(B)).

19. The "1040" number does not designate or identify an Internal Revenue Code statute which identifies the service, transaction or object of any given tax prescribed in the Internal Revenue Code.

20. The "1040" tax reporting form is a voluntary form used to secure special refunds (26 CFR, Part 601.401(d)), and the form has no legal effect as it does not meet Paperwork Reduction Act requirements for an Office of Management and Budget number, does not disclose whether information requested is voluntary, necessary to secure a benefit, or mandatory, and does not reflect an expiration date (44 USC §§ 3501 et seq.).

21. Income tax prescribed in subtitle A of the Internal Revenue Code of 1954 (Vol. 68A, Statutes at Large), as amended in 1986 and since, is premised on the Public Salary Tax Act of 1939, and is mandatory only for officers, agents and employees of the United States, and officers of corporations, as defined at 26 USC § 3401(c) & (d).

22. The original "Income Tax" implemented approximately with ratification of the Sixteenth Amendment in 1913 was repealed via the Internal Revenue Act of November 23, 1921.

23. The present so-called "income tax" prescribed in Subtitle A of the Internal Revenue Code of 1954 is an excise tax against privileges and benefits derived from government employment, with "wages" and other United States source incomes & providing the measure of the tax, they are not the object of the tax. (Congressional Record - House, March 27, 1943; 26 CFR, Part 31.3101-1)

24. Paymasters and other designated agents of Government agencies are the "persons liable" for withholding, reporting and paying taxes prescribed in subtitles A & C of the Internal Revenue Code (26 CFR, Parts 31.3403-1, 31.3404-1, & 601.401).

25. Internal Revenue Code Subtitle F administrative and judicial authority are not effective until Title 26 of the United States Code is enacted as positive law (26 USC § 7851(a)(6)), and said Title 26 has not been enacted as positive law (26 USC § 7806(b)), so Subtitle F statutes such as § 7212 have no legal or lawful effect.

26. There are no general application legislative regulations published in the Federal Register relating to any Title 18, United States Code offense charged in United States of America v. Kenney F. Moore, et al. Case #96-CR-82-C, or United States of America v. Dan Leslie Meador, Case #96-CR-l 13-C (18 USC §§ 2, 371, 1341, 1503 & 1504; see Parallel Table of Authorities and Rules, located in the Index volume to the Code of Federal Regulations, authorized at 44 USC § 1510 & 1 CFR, Part 8.5).

27. The corpus of both the Moore-Gunwall and Meador cases prosecuted in the United States District Court for the Northern District of Oklahoma (96-CR-82-C & 96-CR-l 13-C), was alleged interference with administration of United States internal revenue laws, with 26 USC § 7212(a) being the key statute, this statute being in Subtitle F of Title 26, United States Code, said statute having no legal or lawful effect until Title 26 of the United States Code is enacted as positive law (26 USC § 7851(a)(6)).

28. The only legislative regulations published in the Federal Register in compliance with the Federal Register Act at 44 USC § 1505 for "interfering with administration of internal revenue laws" at 26 USC § 7212(a), are under Bureau of Alcohol, Tobacco and Firearms administration (27 CFR, Parts 170,270,275,285,290, 295 & 296) (charge in United States of America v. Kenney F. Moore, et al. Case # 96-CR-82-C).

29. So far as the Continental United States is concerned (Union of 50 States), Congress has constitutionally delegated authority to prescribe punishment for counterfeiting securities and current coin of the

United States (Art. I § 8.5, U.S. Constitution), treason (Art. in § 3.2, U.S. Constitution), and variously in Amendments promulgated since the Civil War, for prosecution of civil and voting rights violations.

30. The Separation of Powers Doctrine, framed in the Tenth Amendment to the Constitution of the United States, and Article n of the Articles of Confederation, prohibits the United States from exercising powers not delegated by the Constitution.

31. At Art. III § 2.3, the Constitution of the United States provides that crimes will be tried by jury in the State where the alleged offense arises except when not within jurisdiction of any given State.

32. None of the alleged offenses in United States of America v. Kenney F. Moore, et al. Case #96-CR-82-C, or United States of America v. Dan Leslie Meador, Case #96-CR-113-C (see listing in items numbered 14 & 15), qualifies as counterfeiting securities or current coin of the United States, treason, or voting or civil rights violations.

33. The "United States of America" is representative of (a) the President as Commander-in-Chief of the military in the Virgin Islands and Puerto Rico, or (b) the "Central Authority" or "Competent Authority" in the framework of private international law (28 CFR, Part 0.64-1), such law administered in United States maritime jurisdiction.

34. The "United States of America" is not cognizable as a constitutionally authorized party competent to prosecute crimes against the de jure American people in the Union of several States party to the Constitution.

35. The second paragraph of 18 USC § 3231 preserves authority of the laws and courts of the Union of several States party to the Constitution of the United States.

36. Both Moore, et al and Meador cases, supra, were maritime actions prosecuted in legislative-admiralty courts of the United States, with all named and unnamed defendants where the instant matter is concerned being actors in support of such actions (26 USC § 7327 > 26 CFR, Part 403 > 33 CFR, Part 1.07).

37. General application regulations published in the Federal Register which authorize removal from courts of the several States under authority of 28 USC § 1346(b) relate only to Department of Defenses civil and military personnel in the framework of their respective lawful duties, and prisoners who seek administrative tort remedies for being deprived of access to legal material and counsel (28 CFR, Part 543 & 32 CFR, Parts 536 & 842).

By my signature, under provisions of 28 USC § 1746(1), I attest that to the best of my current knowledge and understanding, all matters of law and fact set forth herein are accurate and true.

Dan Meador Date
P.O. Box 2582
Ponca City, Oklahoma 74602
405/765-1415; FAX 405/765-1146

Notice of Service

I attest that on the date this instrument is filed, a true and correct copy will be hand delivered to the office of the United States Attorney for the Northern District of Oklahoma, located at the Federal Courthouse in Tulsa, Oklahoma, for counsel for the defendants, Ms. McClanahan.

Dan Meador Date
P.O. Box 2582
Ponca City, Oklahoma 74602
405/765-1415; FAX 405/765-1146

3. Movement Manifestos

The Citizens Rule Book [62]

JURY HANDBOOK

LINCOLN said "Study the Constitution!"

"Let it be preached from the pulpit, proclaimed in legislatures,

and enforced in courts of justice."

RIGHTS COME FROM GOD,

NOT THE STATE!

"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe."

John Adams,
Second President of the United States

Section I
A HANDBOOK FOR JURORS

Jury Duty!

The purpose of this information if to revive, as Jefferson put it, "The Ancient Principles." It is not designed to promote lawlessness or a return to the jungle. The "Ancient Principle" refer to the Ten Commandments and the Common Law. The Common Law is, in simple terms, just plain common sense and has its roots in the Ten Commandments.

In 1776 we came out of **BONDAGE** with **FAITH, UNDERSTANDING** and **COURAGE.** Even against great odds, and with much bloodshed, we battled our way to achieve **LIBERTY. LIBERTY** is that delicate area between the force of government and **FREEWILL** of man. **LIBERTY** brings **FREEDOM** of choice to work, to trade, to go and live wherever one wishes; it leads to **ABUNDANCE. ABUNDANCE,** if made an end in itself, will result in **COMPLACENCY**, which leads to **APATHY. APATHY** is the "let George do it" philosophy. This always brings **DEPENDENCY.** For a period of time, dependents are often not aware they are dependent. They delude themselves by thinking they are still free - "We never had it so good." - "We can still vote, can 't we?" Eventually abundance diminishes and **DEPENDENCY** becomes known by its true nature: **BONDANGE!!!**

There are few ways out of bondage. Bloodshed and war often result, but our founding fathers learned of a better way. Realizing that a **CREATOR** is always above and greater than that which He creates, they established a three vote system by which an informed Citizenry can control those acting in the name of government. To be a good master you must always remember the true "pecking order" or chain of command in this nation:

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[62] Reprinted with permission of the Author, Matthew Olson.

1. **GOD** created man...

2. Man (that's you) created the Constitution

3. The Constitution created government ...

4. Government created corporations ... etc.

The base of power was to remain in **WE THE PEOPLE** but unfortunately, it was lost to those leaders acting in the name of government, such as politicians, bureaucrats, judges, lawyers, etc.

As a result America began to function like a democracy instead of a **REPUBLIC.** A democracy is dangerous because it is a one-vote system as opposed to a Republic, which is a three-vote system. Three votes to check tyranny, not just one. American Citizens have not been informed of their other two votes.

Our first vote is at the polls on election day when we pick those who are to represent us in the seats of government. But what can be done if those elected officials just don't perform as promised or expected? Well, the second two votes are the most effective means by which the common people of any nation on earth have ever had in controlling those appointed to serve them in government.

The second vote comes when you serve on a Grand Jury. Before anyone can be brought to trial for a capital or infamous crime by those acting in the name of government, permission must be obtained from people serving on the Grand Jury! The *Minneapolis Star and Tribune* in the March 27th 1987 edition noted a purpose of the Grand Jury this way: "A grand jury's purpose is to protect the public from an overzealous prosecutor."

The third is the most powerful vote; this is when you are acting as a jury member during a courtroom trial. At this point, **"the buck stops"** with you! It is in this setting that each **JUROR** has **MORE POWER** than the President, all of Congress, and all of the judges combined! Congress can legislate (make law), the President or some other bureaucrat can make an order or issue regulations, and judges may instruct or make a decision, but no **JUROR** can ever be punished for voting "Not Guilty!" Any **JUROR** can, with impunity, choose to disregard the instructions of any judge or attorney in rendering his vote. If only one **JUROR** should vote "Not Guilty" for any reason, there is no conviction and no punishment at the end of the trial. Thus, those acting in the name of government must come before the common man to get permission to enforce a law.

YOU ARE ABOVE THE LAW!

As a **JUROR** in a trial setting, when it comes to your individual vote of innocent or guilty, you truly are answerable only to **GOD ALMIGHTY.** The First Amendment to the Constitution was born out of this great concept. However, judges of today refuse to inform **JURORS** of their **RIGHTS.** The *Minneapolis Star and Tribune* in a news paper article appearing in its November 30th 1984 edition, entitled: **"What judges don't tell the juries"** stated:

> "At the time of the adoption of the Constitution, the jury's role as defense against political oppression was unquestioned in American jurisprudence. This nation survived until the 1850's when prosecutions under the Fugitive Slave Act were largely unsuccessful because juries refused to convict."
>
> "Then judges began to erode the institution of free juries, leading to the absurd compromise that is the current state of the law. While our courts uniformly state juries have the power to return a verdict of not guilty whatever the facts, they routinely tell the jurors the opposite."
>
> "Further, the courts will not allow the defendants or their counsel to inform the jurors of their true power. A lawyer who made—Hamilton's argument would face professional discipline and charges of contempt of court."
>
> "By what logic should juries have the power to acquit a defendant but no right to know about the power? The court decisions that have suppressed the notion of jury nullification cannot resolve this paradox."
>
> "More than logic has suffered. As originally conceived, juries were to be a kind of safety valve, a way to soften the bureaucratic rigidity of the judicial system by introducing the common sense of the community. If they are to function effectively as the 'conscience of the community, 'jurors must be told that they have

the power and the right to say no to a prosecution in order to achieve a greater good. To cut jurors off from this information is to undermine one of our most important institutions."

"Perhaps the community should educate itself. Then Citizens called for jury duty could teach the judge a needed lesson in civics."

This information is designed to bring to your attention one important way our nation's founders provided to insure that you, (not the growing army of politicians, judges, lawyers, and bureaucrats, rule this nation. It will focus on the true power you possess as a **JUROR,** how you got it, why you have it, and remind you of the basis on which you must decide not only the facts placed in evidence but also the validity or application of every law, rule, regulation, ordinance, or instruction given by any man seated as a judge or attorney when you serve as a **JUROR.**

One **JUROR** can stop tyranny with a **"NOT GUILTY VOTE!"** He can nullify bad law in any case, by **"HANGING THE JURY!"**

I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I should do and, with the help of God, I will do!

Everett Hale

The only power the judge has over the JURY is their ignorance!

"WE THE PEOPLE," must relearn a desperately needed lesson in civics.

The truth of this question has been answered by many testimonies and historical events. Consider the following:

JURY RIGHTS

"The jury has a right to judge both the law as well as the fact in controversy."

John Jay, 1st Chief Justice
United States supreme Court, 1789

"The jury has the right to determine both the law and the facts."

Samuel Chase,
U.S. supreme Court Justice,
1796, Signer of the unanimous Declaration

"the jury has the power to bring a verdict in the teeth of both law and fact."

Oliver Wendell Holmes,
U.S. supreme Court Justice, 1902

"The law itself is on trial quite as much as the cause which is to be decided."

Harlan F. Stone, 12th Chief Justice
U.S. supreme Court, 1941

"The pages of history shine on instance of the jury's exercise of its prerogative to disregard instructions of the judge ..."

U.S. vs Dougherty, 473 F 2nd 113, 1139, (1972)

LAW OF THE LAND

The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for a law which violates the Constitution to be valid. This is succinctly stated as follows:

"All laws which are repugnant to the Constitution are null and void."

Marbury vs Madison, 5 US (2 Cranch) 137, 174, 176, (1803)

"Where rights secured by the Constitution are involved, there can
be no rule making or legislation which would abrogate them quot;

Miranda vs Arizona, 384 US 436 p. 491.

"An unconstitutional act is not law; it confers no right; it imposes no duties;
affords no protection; it creates no office; it is in legal contemplation, as inoperative
as though it had never been passed."

Norton vs Shelby County 118 US 425 p. 442

"The general rule is that an unconstitutional statute,
though having the form and the name of law, in in reality no law,
but is wholly void, and ineffective for any purpose; since unconstitutionality dates
from the time of its enactment, and not merely from the date of the decision so branding it.

No one is bound to obey an unconstitutional law
and no courts are bound to enforce it."
16th American Jurisprudence 2d, Section 177
late 2nd, Section 256

A SUMMARY OF

THE TEN COMMANDMENTS

The **TEN COMMANDMENTS** represent **GOD'S GOVERNMENT OVER MAN! GOD** commands us for our own good to give up wrongs and not rights! **HIS** system always results in **LIBERTY** and **FREEDOM!** The Constitution and the Bill of Rights are built on this foundation, which provides for punitive justice. It is not until one damages another's person or property that he can be punished. The Marxist system leads to bondage and **GOD'S** system leads to **LIBERTY!** Read very carefully:

1. Thou Shalt have no other gods before Me. **2. Thou shalt not make unto thee any graven image.** **3. Thou shalt not take the name of the Lord thy God in vain.** **4. Remember the Sabbath to keep it Holy.** **5. Honor thy father and mother.**	**6. Thou shalt not murder.** **7. Thou shalt not commit adultery.** **8. Thou shalt not steal.** **9. Thou shalt not bear false witness.** **10. Thou shalt not covet.**

Directly above the Chief Justice's chair is a tablet signifying the **TEN COMMANDMENTS** When the Speaker of the House in the U.S. Congress looks up, his eyes look into the face of Moses.

"The Bible is the Book upon which this Republic rests."

Andrew Jackson, Seventh President of the United States

"The moral principles and precepts contained in the Scriptures ought to form the basis of all our civil constitutions and laws. All the miseries and evils which men suffer from, vice, crime, ambition, injustice, oppression, slavery, and war, proceed from the despising or neglecting the precepts contained in the Bible."

-Noah Webster

A SUMMARY OF

THE COMMUNIST MANIFESTO

The Communist Manifesto represents a misguided philosophy, which teaches the Citizens to give up their **RIGHTS** for the sake of the "common good," but it always ends in a police state. This is called preventive justice. Control is the key concept. Read carefully:

1. **Abolition of private property.**
2. **Heavy progressive income tax.**
3. **Abolition to all rights of inheritance.**
4. **Confiscation of property of all emigrants.**
5. **A Central bank**
6. **Government control of Communications and Transportation**
7. **Government ownership of factories and agriculture.**
8. **Government control of labor.**
9. **Corporate farms, regional planning.**
10. **Free education for all children in government controlled schools.**

GIVE UP RIGHTS

FOR THE "COMMON GOOD"?

When the people fear the government you have tyranny; when the government fears the people, you have liberty.

Politicians, bureaucrats and especially judges would have you believe that too much freedom will result in chaos. Therefore, we should gladly give up some **RIGHTS** for the good of the community. In other words, people acting in the name of government, say we need **more laws** and more **JURORS** to enforce these laws - even if we have to give up some more **RIGHTS** in the process. They believe the more laws we have, the more control, thus a better society. This theory may sound good on paper, and apparently many of our 'leaders' think this way, as evidenced by the thousands of new laws that are added to the books each year in this country. But, no matter how cleverly this Marxist argument is made, the hard fact is that whenever you give up a **RIGHT** you lose a **"FREE CHOICE"!**

This adds another control. Control's real name is **BONDAGE!** The logical conclusion would be, if giving up some **RIGHTS,** produces a better society, then by giving up all **RIGHTS** we could produce the perfect society. We could chain everybody to a tree, for lack of **TRUST.** This may prevent a crime, but it would destroy **PRIVACY,** which is the heartbeat of **FREEDOM!** It would also destroy **TRUST** which is the foundation for **DIGNITY.** Rather than giving up **RIGHTS,** we should be giving up wrongs! The opposite of control is not chaos. More laws do not make less criminals! We must give up wrongs, not rights, for a better society! William Penn of the British House of Commons, once proclaimed, ***"Necessity is the plea for every infringement of human liberty; it is the argument of tyrants; it is the creed of slaves."***

INALIENABLE, (UNALIENABLE) OR NATURAL RIGHTS!

NATURAL RIGHTS ARE THOSE RIGHTS such as **LIFE** (from conception), **LIBERTY** and the **PURSUIT OF HAPPINESS** e.g. **FREEDOM** of **RELIGION, SPEECH, LEARNING, TRAVEL, SELF-DEFENSE, ETC.** Hence laws and statutes which violate NATURAL RIGHTS, though they have the color of law, are not law but imposters! The U.S. Constitution was written to protect these NATURAL RIGHTS from being tampered with by legislators. Further, our forefathers also wisely knew that the U.S. Constitution would be utterly worthless to restrain government legislators unless it was clearly understood that the people had the right to compel the government to keep within the Constitutional limits.

In a jury trial the real judges are the JURORS! Surprisingly, judges are actually just referees bound by the Constitution!

Lysander Spooner in his book *Essay on the Trial by Jury* wrote as follows:

> "Government is established for the protection of the weak against the strong. This is the principal, if not the sole motive for the establishment of all legitimate government. It is only the weaker party that lose their liberties, when a government becomes oppressive. The stronger party, in all governments are free by virtue of their superior strength. They never oppress themselves. Legislation is the work of the stronger party; and if, in addition to the sole power of legislation, they have the sole power of determining what legislation shall be enforced, they have all power in their hands, and the weaker party are the subjects of an absolute government. Unless the weaker party have a veto, they have no power whatever in the government and ... no liberties - The trial by jury is the only institution that gives the weaker party any veto power upon the power of the stronger. Consequently it is the only institution that gives them any effective voice in the government, or any guaranty against oppression."

JURY TAMPERING? A JURY'S Rights, Powers and Duties:

The Charge to the **JURY** in the First **JURY** Trial before the Supreme Court of the United States illustrates the TRUE POWER OF THE **JURY.** In the February term of 1794, the supreme (Supreme is not capitalized in the Constitution, however Behavior is. Art. Ill) Court conducted a **JURY** trial and said: "...it is presumed, that the juries are the best judges of facts; it is, on the other hand, presumed that the courts are the best judges of law. But still both objects are within your power of decision."

> "You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy."
>
> State of Georgia vs. Brailsford, et al, 3 Dall 1

> "The **JURY** has an unreviewable and unreversible power - to acquit in disregard of the instructions on the law given by the trial judge ..." (emphasis added)
>
> U.S. vs Dougherty, 473 F 2nd 1113, 1139, (1972)

Hence, **JURY** disregard to the limited and generally conviction-oriented evidence presented for its consideration, and **JURY** disregard for what the trial judge wants them to believe is the controlling law in any particular case (sometimes referred to as **"JURY** lawlessness "{jury lawlessness means willingness to nullify bad law}) is not something to be scrupulously avoided, but rather encouraged. Witness the following quotation from the eminent

legal authority above mentioned:

> "Jury lawlessness is the greatest corrective of law in its actual administration. The will of the state at large imposed on a reluctant community, the will of a majority imposed on a vigorous and determined minority, find the same obstacle in the local **JURY** that formerly confronted kings and ministers." (emphasis added)
>
> Dougherty, cited above, note 32 at 1130

The Right of the JURY

to be Told of Its Power

Almost every **JURY** in the land is falsely instructed by the judge when it is told it must accept as the law that which is given to them by the court, and that the **JURY** can decide only the facts in the case. This is to destroy the purpose of a Common Law **JURY,** and to permit the imposition of tyranny upon the people.

> "There is nothing more terrifying than ignorance in action."
>
> Goethe - engraved on a plaque at the Naval War College

> "To embarrass justice by a multiplicity of laws, or to hazard it by confidence in judges, are the opposite rocks on which all civil institutions have been wrecked."
>
> Johnson - engraved in the Minnesota State Capitol
> Outside the supreme Court Chambers

> "... The letter killeth, but the spirit giveth life."
>
> II Corinthians 3 vs 6

> "It is error alone which needs the support of government. Truth can stand by itself."
>
> Thomas Jefferson

The **JURY'S** options are by no means limited to the choices presented to it in the courtroom.

> "The jury gets its' understanding as to the arrangements in the legal system from more than one voice. There is the formal communication from the judge'. There is the informal communication from the total culture - literature, current comment, conversation; and, of course, history and tradition."
>
> Dougherty, cited above, at 1135.

LAWS, FACTS AND EVIDENCE!

Without the power to decide what facts, law and evidence are applicable. **JURIES** cannot be a protection to the accused. If people acting in the name of government are permitted by **JURORS** to dictate any law whatever, they can also unfairly dictate what evidence is admissible or inadmissible and thereby prevent the **WHOLE TRUTH** from being considered. Thus if government can manipulate and control both the law and evidence, the issue of fact becomes virtually irrelevant. In reality, true **JUSTICE** would be denied leaving us with a trial by government and not a trial by **JURY!**

HOW DOES TYRANNY BEGIN?

WHY ARE THERE SO MANY LAWS?

Heroes are men of glory who are so honored because of some heroic deed. People often out of gratitude yield allegiance to them. Honor and allegiance are nice words for power! Power and allegiance can only be held rightfully by trust as a result of continued character.

When people acting in the name of government violate ethics, they break trust with **"WE THE PEOPLE."** The natural result is for **"WE THE PEOPLE"** to pull back power (honor and allegiance).

The loss of power creates fear for those losing the power. Fearing the loss of power, people acting in the name of government often seek to regain or at least hold their power. Hence, to legitimatize their quest for control, laws and force are often instituted.

Unchecked power is the foundation of tyranny. It is the **JUROR'S** duty to use the **JURY ROOM** as a vehicle to stem the tide of oppression and tyranny: To prevent bloodshed by peacefully removing power from those who have abused it. The **JURY** is the primary vehicle for the peaceable restoration **of LIBERTY, POWER AND HONOR TO "WE THE PEOPLE!"**

YOUR VOTE COUNTS!

Your vote of **NOT GUILTY** must be respected by all other members of the **JURY** - it is the **RIGHT** and the **DUTY** of a **JUROR** to **Never, Never, NEVER** yield his or her sacred vote - for you are not there as a fool, merely to agree with the majority, but as an officer of the court and a qualified judge in your own right. Regardless of the pressures or abuse that may be heaped on you by any other members of the **JURY** with whom you may in good conscience disagree, you can await the reading of the verdict secure in the knowledge you have voted your own conscience and convictions - and not those of someone **else. YOU ARE NOT A RUBBER STAMP!**

By - what logic do we send our youth to battle tyranny on foreign soil, while we refuse to do so in our courts? Did you know that many of the planks of the "Communist Manifesto" are now represented by law in the U.S.? How is it possible for Americans to denounce communism and practice it simultaneously?

The JURY judges the Spirit, Motive and Intent of both the law and the Accused, whereas the prosecutor only represents the letter of the law.

Therein lies the opportunity for the accomplishment of **"LIBERTY** and **JUSTICE** for **ALL."** If you, and numerous other **JURORS** throughout the State and Nation begin and continue to bring in verdicts of **NOT GUILTY** in such cases where a **man-made** statute is defective or oppressive, these statutes will become as ineffective as if they had never been written.

> *"If ye love wealth better than liberty, the tranquility of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or your arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that ye were out countrymen."*
>
> Samuel Adams

Section II

GIVE ME LIBERTY OR GIVE ME DEATH!
PATRICK HENRY SHOCKED!

Young Christian attorney Patrick Henry saw why a JURY of PEERS is so vital to FREEDOM! It was March 1775 when he rode into a small town of Culpepper, Virginia. He was totally shocked by what he saw! There, in the middle of the town square was a minister tied to a whipping post, his back laid bare and bloody with the bones of his ribs showing. He had been scourged mercilessly like JESUS, with whips laced with metal.

Patrick Henry is quoted as saying: "When they stopped beating him, I could see the bones of his rib cage. I turned to someone and asked what the man had done to deserve such a beating as this."

SCOURAGED FOR NOT TAKING A LICENSE!

The reply given him was that the man being scourged was a minister who refused to take a license. He was one of twelve who were locked in jail because they refused to take a license. A license often becomes an arbitrary control by government that makes a crime out of what ordinarily would not be a crime. IT TURNS A RIGHT INTO A PRIVILEGE! Three days later they scourged him to death.

This was the incident which sparked Christian attorney Patrick Henry to write the famous words which later became the rallying cry of the Revolution. "What is it that Gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it. Almighty God! I know no what course others may take, but as for me, GIVE ME LIBERTY OR GIVE ME DEATH!" Later he made this part of his famous speech at Saint John's Episcopal Church in Williamsburg, Virginia.

JURY OF PEERS

Our forefathers felt that in order to have JUSTICE, it was obvious that a JURY of "PEERS" must be people who actually know the defendant. How else would they be able to judge motive and intent?

"PEERS" of the defendant, like the rights of the JURY have also been severely tarnished. Originally, it meant people of "equals in station and rank." (Black's Law Dictionary, 1910), "freeholders of a neighborhood," (Bouvier's Law Dictionary, 1886), or a "A companion; a fellow; an associate." (Webster's 1828 Dictionary of the English Language).

WHO HAS THE RIGHT TO SIT ON A JURY?

Patrick Henry, along with others, was deeply concerned as to who has a right to sit on a JURY. Listen to our forefather's wisdom on the subject of "PEERS".

MR. HENRY

> "By the bill of rights of England, a subject has a right to a trial by his peers. What is meant by his peers? Those who reside near him, his neighbors, and who are well acquainted with his character and situation in life."
>
> Patrick Henry,
> (Elliont. *The Debates in the Several State Conventions on the Adoption of the Federal Constitution,* 3:579).

Patrick Henry also knew that originally the JURY of PEERS was designed as a protection for Neighbors from outside governmental oppression. Henry states the following,

> "Why do we love this trial by jury? Because it prevents the hand of oppression from cutting you off ... This gives me comfort - that, as long as I have existence, my neighbors will protect me."
>
> Elliot, 3:545, 546

MR. HOLMES

Mr. Holmes, from Massachusetts, argued strenuously that for JUSTICE to prevail, the case must be heard in the vicinity where the fact was committed by a JURY of PEERS,

> "... a jury of the peers would, from their local situation, have an opportunity to form a judgment of the *CHARACTER of* the person charged with the crime, and also to judge of the *CREDIBILITY of the* witnesses."
>
> Elliot, 2:110.

MR.WILSON

Mr. Wilson, signer of "The unanimous Declaration," who also later became a supreme Court Justice, stressed the importance of the JUROR'S knowing personally both the defendant and the witnesses.

> "Where jurors can be acquainted with the characters of the parties and the witnesses - where the whole cause can be brought within their knowledge and their view -1 know no mode of investigation equal to that by a trial by jury: they hear every thing that is alleged; they not only hear the words, but they see and mark the features of the countenance; they can judge of weight due to such testimony; and moreover, it is a cheap and expeditious manner of distributing justice. There is another advantage annexed to the trial by jury; the jurors may indeed return a mistaken or ill-founded verdict, but their errors cannot be systematical."
>
> Elliot, 2:516.

FREEDOM FOR WILLIAM PENN

> "The people who are not governed by GOD will be ruled by tyrants."
>
> *William Penn*

Edward Bushell and three fellow **JURORS** learned this lesson well. They refused to bow to the court. They believed in the absolute power of the **JURY,** though their eight companions cowered to the court. The four **JURORS** spent nine weeks of torture in prison, often without food or water, soaked with urine, smeared with feces, barely able to stand, and even threatened with fines, yet they would not give in to the judge. Edward Bushell said, "My liberty is not for sale," though he had great wealth and commanded an international shipping enterprise. These "bumble heads", so the court thought, proved the power of the people was stronger than any power of government. They emerged total victors.

THE FIRST AMENDMENT

The year was 1670, and the case Bushell sat on was that of William Penn, who was on trial for violation of the "Conventicle Act." This was an elaborate Act which made the Church of England the only legal church. The Act was struck down by their not guilty vote. **Freedom of Religion** was established and became part of the English Bill of Rights and later it became the First Amendment to the Constitution of the United States. In addition, the **Right to**

peaceful assembly was founded. Freedom **of Speech,** and also **habeas corpus.** The first such writ of habeas corpus ever issued by the Court of Common Pleas was used to free Edward Bushell. Later this trial gave birth to the concept of **Freedom of the press.**

Had Bushell and his colleagues yielded to the guilty verdict sought by the judge and prosecutor. William Penn most likely would have been executed, as he clearly broke the law.

HE BROKE THE LAW!

Then there would have been no Liberty Bell, no Independence Hall, no city of Philadelphia, and no state called Pennsylvania, for young William Penn, founder of Pennsylvania, and leader of the Quakers, was on trial for his life. His alleged crime was preaching and teaching a different view of the Bible than that of the Church of England. This appears innocent today, but then, one could be executed for such actions. He believed in freedom of religion, freedom of speech and the right to peaceful assembly. He had broken the government's law, but he had injured no one. Those four heroic **JURORS** knew that only when actual injury to someone's person or property takes place is there a real crime. No law is broken when no injury can be shown. Thus there can be no loss or termination of rights unless actual damage is proven. Many imposter laws were repealed as a result of this case.

IT IS ALMOST UNFAIR!

This trial made such an impact that every colony but one established the jury as the first liberty to maintain all other liberties. It was felt that the liberties of people could never be wholly lost as long as the jury remained strong and independent, and that unjust laws and statutes could not stand when confronted by conscientious **JURORS. JURORS** today face an avalanche of imposter laws. **JURORS** not only still have the power and the **RIGHT,** but also the **DUTY,** to nullify bad laws by voting "not guilty". At first glance it appears that it is almost unfair, the power **JURORS** have over government, but necessary when considering the historical track record of oppression that governments have wielded over private Citizens.

JEFFERSON'S WARNINGS!

In 1789 Thomas Jefferson warned that the judiciary if given too much power might ruin our REPUBLIC, and destroy our **RIGHTS!**

> "The new Constitution has secured these [individual rights] in the Executive and Legislative departments; but not in the Judiciary. **It should have established trials by the people themselves, that is to say, by jury."** (emphasis added)

> "The Judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric ..." (1820)

> "... the Federal Judiciary; an irresponsible body (for impeachment is scarcely a scarecrow), working like gravity by night and by day, gaining a little to-day and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one .... when all government. **In little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government which we separated."** (1821) (emphasis added)

> "The opinion which gives to the judges the right to decide what laws are constitutional and what not, not only for themselves in their own sphere of action, but for the legislative and executive also in their spheres, would make the judiciary a despotic branch."

> "... judges should be withdrawn from the bench whose erroneous biases are leading us

to dissolution. It may, indeed, injure them in fame or fortune, but it saves the Republic ..."

Section III

INDEX TO THE

ORIGINAL DOCUMENTS

GENERAL INDEX TO:
THE UNANIMOUS DECLARATION

I. Need to dissolve certain political relationships.

II. Need to assume powers which God entitles man.

III. Declaring separation from unjust government.

IV. Self-evident truths elaborated.

A. All men are created equal.

B. God our Creator gives to each unalienable Rights

1. Life, Liberty, Happiness, property, safety, respect, privacy, etc.

C. The purpose of government is to protect the weak from the strong.

D. Right and duty to abolish bad government.

1. Fact: The Revolution was not out of rebellion by the colonies, but rather England rebelled against God's Law by repeated injuries of usurpation and tyranny. The young colonies were forced to defend themselves against the King's tyranny.

a. eg. Bad laws, bad courts, police state (swarms of soldiers), taxes without consent, deprived of trial by jury, deporting people for trial. England declared the colonies out of their protection, rights of individuals plundered.

b. The colonies repeatedly petitioned England, but only received repeated injury.

c. England was warned from time to time.

d. England was deaf to the voice of justice.

V. The colonies appealed to God, the Supreme Judge of the world.

VI. The colonies right to be free and independent.

VII. Under the protection of God they pledged their lives, fortunes and honor.

GENERAL INDEX TO:
CONSTITUTION OF THE UNITED STATES

Preamble: The people hold the power, "We the people...in order to form a more perfect union...and secure the blessings of liberty..."

ARTICLE I

SECTION:

1. **Legislative powers.**
2. House of representatives; qualification of members; apportionment of representatives and direct taxes; census; first apportionment; vacancies; officers of the house; impeachments.
3. Senate: classification of senators; qualifications of; vice president to preside; other officers; trial of impeachments.
4. Election of members of congress; time assembling of congress.
5. Powers of each house; punishment for disorderly behavior; journal; adjournments.
6. Compensation and privileges; disabilities of members.
7. Revenue bills; passage and approval of bills; orders and resolutions.
8. General powers of congress; borrowing of money; regulations of commerce; naturalization and bankruptcy; money; weights and measures; counterfeiting; post offices; patents and copyrights; inferior courts; piracies and felonies; war; marquee and reprisal; armies; navy; land and naval forces; calling the militia; District of Columbia; to enact laws necessary to enforce the Constitution.
9. Limitations of congress; immigration; writ of habeas corpus; bills of attainder and ex post facto laws prohibited; direct taxes; exports not to be taxed; interstate shipping; drawing money from the treasury; financial statements to be published; titles of nobility and favors from foreign powers prohibited.
10. Limitations of the individual states; no treaties; letters of marque and reprisal; no coining of money; bills of credit; not allowed to make any Thing but gold and silver Coin a tender in payment of debts; no bills of attainder; ex post facto Law or law impairing the obligation of contracts; no titles of nobility; state imposts and duties; further restrictions on state powers.

ARTICLE II

SECTION:

1. **Executive powers;** electors; qualifications; vacancy; compensation and Oath of the president.
2. Powers and duties of the president, making of treaties; power of appointment.
3. Other powers and duties.
4. All government officers are liable to impeachment.

ARTICLE III

SECTION:

1. **Judicial powers;** all judges must have good Behaviour to stay in office; compensation not to be diminished.
2. Jurisdiction of federal courts and Supreme Court; trials for crimes by jury except impeachment.
3. Treason defined; trial for and punishment.

ARITICLE IV

SECTION:

1. **Message to the states;** each state is to give full faith and credit to public acts and records of other states.
2. Citizens of each state shall be entitled, fleeing from justice.
3. Admission of new states, power of congress over territories.
4. Republican form of government guaranteed to every state; protection from invasion or domestic violence.

ARTICLE V

SECTION:

1. **Amending the Constitution.**

ARTICLE VI

SECTION:

1. **National obligations;** Public debt; Constitution to be the supreme Law of the land; Constitutional Oath of office; no religious test required.

ARTICLE VII

SECTION:

1. **Ratification of the Constitution;** George Washington signs as a Twelfth indi, the highest rank in Saxon government, e.g. He was the equal of 1200 King Georges, or you, as a juror, are equal to 1200 presidents, congressmen or judges, local, federal or the supreme Court.

GENERAL INDEX TO:
THE BILL OF RIGHTS
and Amendments

PREAMBLE:

Limiting the federal government: An expressed desire to prevent abuse of federal powers!

ARTICLES - COMMON LAW

I. Religious freedom, both to an establishment as well as the free exercise thereof; freedom of speech, press; right of petition.

II. Right to bear arms.

III. Quartering of soldiers.

IV. The right to privacy and security against unreasonable searches and seizures: search warrants.

V. Grand Jury, double jeopardy, no one must witness against himself, no loss of life, liberty or private property without due process.

VI. Speedy and public trials, impartial jury; nature and cause, right to confront; compulsory witnesses, assistance of Counsel - (note: does not say attorney.)

VII. Right to trial by jury according to the rules of common law - (note: Ten Commandments are the foundation of Common Law.)

VIII. Excessive bail, fines, punishment etc. prohibited,

IX. Rights beyond Bill of Rights belong to the people.

X. Undelegated powers belong to the people unless given by the people to the states. Articles I-X were proposed September 25th, 1789, and ratified December 15th, 1791.

AMENDMENTS - EQUITY LAW

XI Restriction of judicial powers, proposed March 5th 1794, adopted January 8th, 1798.

XII Manner of electing the president and vice president, proposed December 12th 1803, adopted September 25th, 1804.

XIII Slavery and involuntary servitude prohibited, took effect * December 18th 1865.

XIV. Citizenship and status defined, privilege of 2nd, 3rd, or whatever status of citizenship one selects for oneself, as opposed to Freeholder with full sovereign rights: apportionment of representatives; who is prohibited from holding office; public debt. CAUTION: There is serious doubt as to the legality of this amendment because of the manner of ratification which was highly suspect. At least 10 States were held by force of arms until the proper authorities agreed to vote for this amendment. An excellent overview of this was written by the Utah Supreme Court - 439 Pacific Reporter 2nd Series pgs. 266-276, and for a more detailed account of how the 14th amendment was forced upon the Nation see articles in 11 S.C.L.Q. 484 and 28 Tul. L. Rev. 22, took effect July 28th, 1868.

XV. Non Freeholders given right to vote, took effect March 30th, 1870.

XVI Income tax, took effect February 25th, 1913. Possible only four States ratified it properly.

XVII Direct elections of senators; electors; vacancies in the senate, took effect May 31st, 1913. This moved us from a complete Republic to a simple republic much like the style of government of the Soviet Union. States rights were lost and we were plunged headlong into a democracy of which our forefathers warned was the vilest form of government because it always ends in oppression.

XVII. Prohibition of liquor traffic, took effect January 29th, 1920.

XIX Voting for women, took effect August 27th, 1920.

XX. Terms of the president, vice president, senators and representatives; date of assembling of congress, vacancies of the president, power of the congress in presidential succession, took effect February 6th, 1933.

XXI. Eighteen Article (Prohibition) repealed, took effect December 5th, 1933.

XXII. Limits of the presidential term, took effect March 1st, 1951.

XXIII. Electors for the District of Columbia, took effect April 3rd, 1961

XXIV. Failure to pay any tax does not deny one the right to vote, took effect February 23rd, 1964.

XXV. Filling the office of the president or vice president during a vacancy, took effect February 23rd, 1967.

XXVI. Right to vote at 18, took effect July 5th 1971.

*Took effect is used as there is a great deal of suspicion as to the nature of these amendments (common law vs. equity), also whether these last 16 Amendments are legal, how many were ratified correctly, do they create a federal constitution in opposition to the original, etc. For further studies a good place to begin is with the article by the Utah Supreme Court on the 14th Amendment. 439 Pacific Reporter 2d Series, pgs. 266-276, and Senate Document 240.

JURY: ... *Petty Juries,* consisting usually of twelve men, attend courts to try matters of fact in civil causes, and to decide both the **law** and the **fact** in **criminal prosecutions.** The decision of a petty jury is called a *verdict.*. American Dictionary of the English Language by Noah Webster 1828

PROCLAIM LIBERTY! Inscribed on our hallowed LIBERTY BELL are these words "Proclaim LIBERTY Throughout all the Land unto all the Inhabitants Thereof."

Lev. XXV X

"Government is not reason; it is not eloquence; it is force! Like fire, it is a dangerous servant and a fearful master."

George Washington

"Woe to those who decree unjust statutes and to those who continually record unjust decisions, to deprive the needy of justice, and to rob the poor of My people of their rights ..."

Isaiah 10 vs. 1-2

"My people are destroyed for the lack of knowledge ...."

Hosea 4 vs. 6.

"The only thing necessary for evil to triumph is for good men to do nothing."

Edmund Burke 1729-1797

"If My people which are called by My name, shall humble themselves, and pray, and seek My face, and turn from their wicked ways; then will I hear from Heaven, and will forgive their sins, and will heal their land."

II Chronicles 7 vs. 14

"We must obey GOD rather than men."

Acts 5:29

THE COMMON LAW: THE NEW PATRIOT "RELIGION [63]

When studying the law and principles of property in law school, a student quickly learns that the Norman conquest of England at the Battle of Hastings in 1066 is the primary foundation for this field of law. With this conquest, the feudal system of land tenures was crudely established. Under this system, there was no real ownership of land and occupation of real property was at the sufferance of the king. English society of that day and age when a bastard sat on the throne was governed more by brute and raw power than anything else, and peasants were little more than expendable slaves. The legal principles of real property as well as some of the other fields of law which we have today arise from the gradual and evolutionary erosion of feudalism. That which happened over a period of several hundred years was the slow development of freedom and rights to property extracted begrudgingly from absolute monarchs, who incidentally considered themselves as possessing a degree of divinity.

In fact, the real history of the development of English common law reveals a pitched battle of a people, both commoners as well as nobility, seeking and eventually securing freedoms from an absolutist system. King John practiced tyranny so oppressively it engendered a rebellion among the nobility. To remedy that oppression, he was forced to sign Magna Charta at the point of swords on the fields of Runnymede in 1215. However, this magnificent document, a fundamental charter of certain liberties, was periodically assaulted by many English monarchs in the ensuing centuries and each assault required subsequent generations to repel tyranny in an effort to regain freedom. From this history flows the common law. The common law was never a set of fixed and defined legal principles but was instead a body of law, frequently unwritten, which was in constant development.

To gain an understanding of the development of the common law, it would be very beneficial to read such works as Winston Churchill's *History of the English Speaking Peoples,* to be followed by a study of Sir Edward Coke's *Institutes of the Laws of England* and finally a review of Sir William Blackstone's *Commentaries on the Laws of England.* One of the major features of the common law was the rights and privileges of the monarch. Under the common law, the "King could do no wrong," which is a tyrannical and anti-freedom concept that today manifests itself in the principle of governmental immunity. Further, one principle of the common law was that an individual could defame the king and his ministers merely by stating something bad about them; the truth was not a defense.

In truth, the common law is just another institution which we have inherited from history, and we have not adopted the entirety of the common law, only parts of it. This is not to say that the common law has no meaning and should not be respected. To the contrary, several fields of the common law demonstrate magnificent legal principles developed over hundreds of years and they embody the wisdom of great and influential men. The common law became over time such a powerful institution that its influence manifests itself today. The common law should be studied for its timeless and beneficial legal principles and profound wisdom, but it should not be "lionized."

In fact, there are large parts of the common law which should be utterly rejected. As mentioned above, one principle of the common law was that the "King could do no wrong." This common law principle prevented any form of redress when someone was injured by the actions of the king or his ministers. Notwithstanding and contrary to the First Amendment's petition and redress clause, this ugly common law principle, which certainly does not emanate from the Bible (unless you are a devotee of the divine rights of kings), has been adopted by American courts so that today if you are injured by government, you have no right to sue absent a waiver of the divine rights of government. Further, if we followed the common law today. Rush Limbaugh and most other "right-wing" radio show hosts, including myself, would be in jail because we have been less than kind to "King Billary."

In the freedom movement today, the "common law" has been greatly romanticized and elevated to a religion. There are lots of "common law" advocates traveling around the country promoting the belief that the common law is premised upon the Bible, which consequently causes the attendees at such meetings to perceive the common law almost as a religion. It is not denied that the Bible's influence had an effect upon the common law. However, God condemns kings and commands that there be no king but Him. Yet, the common law was inextricably bound

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[63] Reprinted with permission of the author, Larry Becraft.

to a monarch. Those who claim a Biblical origin for the common law are very ignorant of its history.

Circulating today through patriot circles is a belief regarding "common law" names. The advocates of this position claim that "Christian" names arise from the common law and the proper designation of a "Christian" is as follows: "John Robert, Jones." But again, history reveals this to be nothing more than another patriot myth.

Pursuant to this argument, one need only look at history to find countless examples of Englishmen who wrote their names with a comma just before their "Christian" name - If this were true, then why do we have in the history books the following names: Ivo Taillefer (the first Norman knight killed at the Battle of Hastings); Henry Plantagenet; Thomas Becket; Richard Coeur de Lion; Stephen Langton; John Balliol; Robert Bruce; William Wallace; Sir Walter Raleigh; Sir Thomas More; Henry Tudor; Guy Fawkes; Christopher Columbus; Martin Luther; Oliver Cromwell; Sir William Blackstone; Edward Coke; Thomas Locke; Francis Bacon; Captain John Smith; John Roife (husband of Pocahontas); John Winthrop; William Penn; Robert Walpole; John Law; William Pitt; Edmund Burke; General Thomas Gage; General William Howe; Benedict Arnold; Ben Franklin; Roger Sherman; George Washington; Thomas Payne; Patrick Henry; Ethan Alien; Sam Adams; John Adams; Thomas Jefferson; and Robert E. Lee. Of course, Henry VIII's reign was during this common law period, yet the names of his many wives, Anne Boleyn, Jane Seymour, Catherine Howard, and Catherine Parr, have never been punctuated in the manner described by these "common law" advocates. In fact, the closest "example" of this is "Mary Stuart, Queen of Scots," but please notice that even this example doesn't match what the proponents of this argument claim; under their theory, her name should have been "Mary, Stuart, Queen of Scots." In short, those who argue in this fashion simply cannot point to anything in history which supports their position; undoubtedly, this argument is nothing more than a recent invention.

If these advocates were correct, they could point to some authoritative work who proves their point. However, they did not even consult the typical encyclopedia such as Compton's Interactive Encyclopedia which is on disc. Here is what this work states regarding the origins of surnames:

Origin of Given Names

In English-speaking countries, and in other places as well, persons normally have two or three names: William Howard Taft, for instance. The first is called the given name, the name bestowed soon after birth. The second, or middle name, can come from any number of sources such as the mother's family name. The last, or family, name is called the surname.

In very early times each person had only one name. This was the given name, which might be received at the time of birth or later. In the Bible the prophetess Hannah gave birth to a son in answer to her prayer and named him Samuel, meaning "God hath heard." Among other Biblical names, Isaac means "laughter"; Isaiah means "salvation of Jehovah"; and Solomon means "prince of peace."

When society was organized in small tribal groups, this single given name was enough. As civilized communities grew, however, there were many people with the same name, and so people began to add some qualification. At first this was usually the name of the father. In the New Testament, for example, is found James the son of Zebedee. Another qualification was the name of a person's birthplace, as Joseph of Arimathea. These qualifications enabled people to distinguish one James or Joseph from another.

Among the Romans this practice developed into the use of family names, or surnames. In the early Roman Republic citizens had a forename and a second name, which was not a surname as it is known today. There were fewer than 20 forenames, among them Gaius, Marcus, Quintus, Publius, and Titus. These were used by one's closest associates and family members. The name that followed was hereditary in each group of families, or clan. Examples include Claudius, Fabius, Julius, Lucius, Tullius, and a few others. Because both types of names were restricted, some of the wealthier old families started using a hereditary name, called a cognomen. Thus Roman names eventually consisted of three parts, as in Marcus Tullius Cicero and Gaius Julius Caesar. Sometimes a famous Roman would earn what is today called a nickname: Publius Cornelius Scipio was called Africanus because of his successful war in Africa against Carthage.

How Family Names Arose in Western Europe

With the fall of the Roman Empire, surnames virtually disappeared. They did not appear again to any large extent until the late Middle Ages and did not develop in England until after the Norman Conquest in 1066. They started to become general only during the period of the Renaissance. In 1563 the Council of Trent speeded the adoption of surnames by establishing baptismal registers, which required the surname as well as the given name also called baptismal or Christian name.

Family names originated in a variety of ways. In England it became common to give surnames based on occupation. There were so many Johns, Roberts, and Thomases, with nothing to tell them apart, for example, that people began to refer to them as John the smith, Robert the miller, or Thomas the baker. Gradually these distinguishing names became fixed as family names, or surnames.

Other surnames that come from occupations include Carpenter, Taylor, Wright, Turner, dark (clerk). Cook, Carter, and Gardiner. There are so many surnames of Smith today because during the Middle Ages the name was used for all metalworkers, or smiters, which means "to beat." These included blacksmiths, who worked in iron; whitesmiths, who worked in tin; locksmiths, silversmiths, and goldsmiths.

Another common way of forming surnames came from the given, or Christian, name of the father. Such names are called patronymics, meaning "father names." Johnson is "John's son." Jones and Jennings are modified forms of the same name. Williams, Williamson, and Wilson all mean "the son of William."

In Spain the men of many cultured families also use the matronymic, or "mother name." The man's surname begins with the patronymic, which is then joined by the Spanish word y, meaning "and," to the matronymic. An example is the Spanish philosopher Jose Ortega y Gasset.

Names from Animals, Places, Appearances

Many surnames come from animals, largely because people in the Middle Ages used signs with pictures of animals instead of numbers to distinguish shops and inns. A person might become known as Lyon (lion) either because of his courage or because his shop sign carried the figure of a lion. Other familiar examples are Bull, Hart, Peacock, Fox, Badger, Lamb, and Stagg.

Other names are derived from where one lived or originated. Regions furnished such names as Scott, English, Irish, Ireland, and French. Topographic terms contributed Hill, Ford, Forest, Field, Lake, and Rivers. Some came from buildings such as Hall, House, Church, and Temple. From the directions came the names North, South, West, and East; and from the seasons. Winter and Summer.

Still other names came from an individual's appearance for example. Long, Short, and Little. The name Brown was probably given to a man because of his complexion or the color of his clothes. Others that perhaps were nicknames at first are Drinkwater, Doolittle, Lovejoy, and Shakespeare which really means "shake a spear." Some names came from familiar objects such as Foot, Starr, and Pepper.

Biblical characters and saints have furnished many surnames. From Elijah came Ellis and Elliot; from Matthew, Matthews and Mayo; from Andrew, Andrews and Anderson. Names of saints are common: Martin, Gregory, Lawrence, and Vincent.

Surnames in Other Languages

In most languages surnames are formed in much the same way as in English. Corresponding to the English suffix -son to denote "son of," the Scottish language uses the prefix Mac-, as in Macdonald. In Irish names the prefixes are 0'-, as in O'Brien, and Me- or Mac-; the Norman-French is Fitz-, (derived from the French fils), as in Fitzgerald; and the Welsh Ap-, as in Apowen, which is now simply Bowen.

The Russian suffix -ovich also means "son." The Russian name Ivanovich, or son of Ivan (John), corresponds to the

English Johnson. The Swedish suffix is -son; Danish and Norwegian, - sen. In Polish the suffix is - owski; in modem Greek, - opoulos. In China the surname appears first. In Mao Zedong (Tse-tung), for instance, Mao is the family name.

Modern Jewish Surnames

Because the Jewish people in Europe usually lived in compact, segregated communities, they did not need the identification of surnames. As they grew in number, however, various nations made laws compelling the Jews to adopt surnames. Austria led the way in 1787.

France followed in 1808, and Prussia in 1812. Some Jewish families took their surnames from personal names such as Jacobs, Levy, and Moses. Others formed surnames from place-names such as Hamburg, Frankfurt, and Speyer. The noted Rothschild family took its name from the red shield (rothen Schilde) used as a sign over their shop in Frankfurt am Main (see Rothschild Family).

Many Jewish families took poetical or colorful names such as Rosenberg (rose mountain), Gluckstein (luck stone), Rubenstein (ruby), and Goldenkranz (golden wreath). Animal names were also popular for example, Adier (eagle) and Hirsch (deer).

Middle and Hyphenated Names

A middle name, or the initial used for it, helps further to identify a person. The custom is relatively recent. The first president of the United States to use a middle name was John Quincy Adams.

Hyphenated names, such as James Foster-Lynch, usually perpetuate the surname (Foster) of some earlier branch of the family. They are more common in Europe than in the United States.

In Great Britain members of the peerage, or nobility, use only surnames as signatures. Lord Curzon and Viscount Montgomery are examples. Members of royalty sign only their given names. The reigning monarch adds the accession number such as Elizabeth II. On state papers the signature includes the Latin word for queen as the official title: Elizabeth II Regina. In both Britain and the United States, a person may change to any desired surname. Usually the person applies to a court of law for the change and then publishes it officially. The change may be made, however, through the use of common law by simply making the change and using the new name.

After marriage many women use the surnames of their husbands, though most artists and professional women go by their own names. People in the theater and in the arts often assume a "stage name" that they think more attractive or attention-getting than their own. Thus Frances Gumm became Judy Garland. To hide their identity, some writers adopt a pseudonym, Greek for "false name." The real name of the short-story writer 0. Henry was William S. Porter.

Style and Meaning in Given Names

Styles change in given names just as they do in clothing. In the 17th century, for example, some of the more learned people gave their children names that were pure Latin, or closely related, such as Primus for the first born. Among the children born on the Mayflower was Peregrine White, born in Plymouth harbor from the Latin peregrina (alien).

Most given names in Europe and in the United States have come down through the Christian church for example, John and Mary. Even such ancient Greek names as George and Dorothy and such Roman names as Martin and Anthony were preserved as names of saints and church leaders.

Many families continue given names from one generation to another. When a son is given the exact name of his father, the son becomes a junior; for example, Edward Scott Ross, Jr. When he, in turn, so names his son, the son's name is Edward Scott Ross III.

The popularity of certain names tends to run in cycles. Renewed popularity often arises from the name of a prominent figure. Naming a child for such a person tends to date the child in later years.

Many of the most common names originally had specific meanings. As in surnames, some have come from occupations, places, and personal characteristics. Others, many of Greek origin, have meanings less easy to discern. George, for example, means "earth-worker" (farmer); Theodore and Dorothy, "gift of God"; Philip, "lover of horses"; Stephen, "crown"; Alexander, "defending men"; and Margaret, "pearl."

Place-Names and Trade Names

In contrast to the relatively simple development of personal names, the origin of place-names is often a mystery. For every obvious place-name such as France, named after the Teutonic tribe of Franks there are hundreds that scholars are still trying to trace to their roots. The meaning of the name Chicago, for instance, is disputed "place of the skunk," "place of the wild onion," or just the Indian word for "great" or "powerful" are some of the possibilities.

The United States has some of the most poetic, simple, extravagant, and amusing place-names in the world. Many of them, such as New York, are merely adaptations of names in the Old World. Others for example, Pennsylvania (Penn's woods) were coined. Many, such as Denver, honor the surname of a pioneer. Some express longing and determination, such as New Hope. Others commemorate Biblical towns for instance, Berea and Nazareth.

Just as diverse are the trade names or trademarks invented by manufacturers to distinguish their products. Copyrights protect these names, but some trade names lose their individuality by common usage (see Trademark). Thus this theory completely fails to manifest itself within a common encyclopedia.

Did these proponents even consult authoritative works written by those who have studied this point in great detail? The following article recounts the history of surnames and is just simply pulled off a web page at "www.infokey.com/hon/origin.htm":

Generally, it is agreed and conceded that the organization of the surname, as we know it today, can be ascribed to the Norman race about 1120. The inspiration for this monumental event was not a whimsical cultural or spiritual happening, is was an economic necessity. And if you're going to consider "surnames" THIS IS WHERE IT ALL BEGAN throughout most of Europe. This is not an attempt to justify, excuse, criticize, praise or condemn the Norman race. It is a study of surname origins.

The Normans were primarily of Viking origin, descended from Duke Rollo and his Viking pirates, Rollo being a one time Jarl or Earl of Orkney who had been kicked out of northern Norway by the King. Rollo landed in northern France and claimed a chunk. From the mid 10th century, this new and ambitious race ravaged all Europe down to the tip of Sicily, quickly, thoroughly and effectively, despite (or because of) having been converted to Christianity. The powerful land hungry Normans spread themselves thinly but with great determination and ruthlessness. This was a feudal society. Family possessions, land acquisitions, required and acquired an urgently needed identity tag for posterity, a little more sophisticated than Tyson the Terrible, an actual Norman name of great renown, as we shall see. Heritable family ownership and dynasty continuity was paramount, and became the prime motivation for the surname, a tag which followed its own set of crude rules from its inception, and the protocols changed, became more refined, adapted on the fly. These emerging social, quasi legal rules were vital to domain ownership in this exploding feudal empire.

The Normans started seeding the British Isles about 1002, way before the Battle of Hastings, but the Anglo records are scanty. They're busy justifying a rather ordinary Saxon race with it's chronicles. A much more comfortable, albeit wimpy ancestry. Norman chronicles reveal much more. The islands to the north had already been devastated by the invading ripples of Danish and Norwegian Vikings who now held much of the land, particularly in the north of England. The Orkneys, Hebrides and the Isle of Man which had been well settled by the Vikings. Weak Saxon kings had found it more convenient to pay bounties and to demand hostages from the Viking marauders, buying short lived peace for the islands. But King Cnut was smart, in his own way. He also had Denmark and Norway to look after, and the Swedes were pounding on his back door. This King of Denmark and Norway left government in England to the Saxon Witan, the ruling body, suitably seeded with Danish Earls from the north. He milked the Saxons with kindness, and left them and the Witan, more or less, to their own devices, but very, very poor.

Now, the Normans of mainland France also cast their beady eyes on this island paradise so full of promise, an island base often envied and sullied by the Vikings. But, not wanting a direct confrontation with Cnut, a fellow Viking, they bided their time, and infiltrated with friendly implants. The surnaming system was already under way in Normandy. For instance, Robert Guiscard, the Norman who had conquered practically all of Italy, used the simple surname of Guiscard in 1045, this in addition to all his many other later titles, including Duke of Sicily. Other Norman houses followed suit in this simple identification of their patrimony, and though the prefix "de" frequently preceded the locative domain name, it would be eventually and attritionally be dropped as clumsy by most families. Some few even retained it until the 14th and 15th centuries but mostly for affectation and distinction. Some just blended the 'de' or 'd" into the surname, as in Defoe.

The table was set for the Norman invasion of England. The justifications, sometimes hotly argued, are not as important to surnames as the fact of it. One must wonder whether the Battle of Hastings was just a formality, a showcase of power. The Pope, recently having been saved from almost extinction by Norman Robert Guiscard in Rome, heartily favored a re-statement of the extension of the Holy Roman Empire northward and gave Duke William his blessing, and his papal ring. The Pope owed the Normans one.

The compact relationship between the Normans to the north and the Normans to the south in Italy has never really been fully explored. We do know that Duke William made several visits to Rome. Whether he met Guiscard, this dynamic Lord of all southern Italy, whose status was almost equal to that of Duke William, is not known but all signs point to a very close and friendly liaison. Guiscard actively recruited Barons from the north with very generous offers of land to help him control southern Italy and individual family relationships were strong. Amongst others, Roger Bigod's brother went south with the Riddels to Apulia and fought alongside Guiscard. Another Norman, Ansold de Maule of the Vexin, the seignor of Maul outside Paris and a rich Parisian magnate, also fought with Guiscard in Greece in 1081, possibly along with his two brothers, Theobald and William. The close relationship continued when Prince Tarentum (Guiscard's son, known as Mark Bohemond in the 1st Crusade) left his nephew Tancred in charge of Jeruselam, in 1100, under King Baldwin. Trancred, in turn, delegated command of Jerusalem to Bigod d'lge, nephew of Roger Bigod, the great northern Earl who was at the Conquest and received grants of 123 lordships in Essex and whose descendants played such a prominent role in the later Magna Carta at Runnemede. Similarly, some of the knights at the Conquest undoubtedly moved up from Italy to seize the opportunity for the land grab in England during or after the Conquest at Hastings although it must be admitted that Guiscard was creating lots of opportunities to the south.

Anyway, the presence of Innocent's papal banner at Hastings must have given King Harold a partial seizure. There can be no other excuse for he and his brother's inept and apathetic generalship at Hastings. Claims that he was surprised are nonsense; he was simply out maneuvered, probably by Norman treachery. He'd been waiting on the south coast through the long hot summer.

The timing of the invasion was impeccable. The long summer defense of the south coast by the shire fyrd (militia), was such that they had to depart their defensive positions to return to reap their autumn harvest. Strangely, the Norman monks of Fecamp had been parked on the cliffs near Hastings for some time. Nobody seemed to notice them. And significantly, Harold was otherwise preoccupied in a major action to the north at Stamford Bridge. Whether there was any grand Viking scheme, was anybody's guess. Handshakes are not usually recorded in history.

In essence, the Normans took over from Cnut, and the later King Edward the Confessor, himself half Norman, was a 26 year product of the Norman court at Rouen, carefully schooled in the Norman culture (son of Emma daughter of Duke Richard 1st Duke of Normandy). In the overall scheme of things, in the post-Conquest period, this intrusion left the Normans with almost as big an empire as the Romans 1000 years before, not controlled by insular, non fraternizing legions of well trained and disciplined warriors and walled cities, but by a system of 'hands on' feudal domain ownership, and, since King Malcolm Canmore of Scotland finally declared himself to be Duke William the Conqueror's man in 1072 after the Duke had ravaged as far north as the Forth, the Norman empire would stretch from the Orkneys to the tip of Sicily, later to Greece and Jerusalem.

This explosive Norman race, little more than a century old, was very unlike Cnut, who had just milked the land, and whose head was administratively elsewhere. The Normans, on the other hand, jealously ensured clear title and occupation of all it's conquered feudal domains. It found no joy in sharing government with the reigning Saxon Witan as Cnut did. Hence, the urgency of surnames, and hereditary entitlement of domains. This particular

phase of history found the Saxon influence considerably diminished, virtually landless, and many returned to the land as agricultural slaves, or camped around the walls of the great Norman castles for protection, small services and trade, and survival. The government and ownership of domains was, for all intents and purposes, Norman. The Witan was in abeyance, gone forever. In 1172, the same Norman conquest and ownership would also be so of Ireland when Strongbow, the Earl of Pemroke engineered the occupation of Leinster for Henry II. The seeding of lowland Scotland followed the same pre-Conquest Norman pattern. It would be 150 years after the Conquest before England would experience its first resident Norman King, the unfortunate King John, who lost his castle home and his rule over Normandy to the French and departed to England. So, during this crucial period which coincided with surname development, the Norman influence on surnames, ownership and title in Britain and throughout Europe (by 1072 they'd also beaten up the Fresians, the Germans (Emperor Otto of Germany was a nephew of the Norman King John in 1215) and even their friends and kin the Flemings) and surname became an organizational necessity in an emerging world of domain possessions, posterities and their hard fought physical and legal entitlements.

History then pursued its complex course. The Anglo/French rivalry still predominated. The Plantagenets took over from the Angevins and subsequent Kings of England gradually faded their Norman identity. After victories at Agincourt and Brecy the memory of Norman heritage gradually became misty, more proudly anglicized, an insular island outpost of independence. Edward III became King of France by marriage but ruled from his base in England. There was a growing compulsion in England to find a past less connected with their deadly adversaries across the Channel, the French, even though France frequently became a refuge for royalty in trouble. The legends of domestic history now came to the fore, as England sought its own historic heroes. King Arthur burst out of the closet of knightly chivalry in his shining armour, but strangely, a Briton not a Saxon. The Order of the Garter regained the dignity of knighthood and became the shining image of chivalry and honor. Henry VII even named his first born, Arthur, supporting his claimed relationship to this legendary ancestor. Mallory in Newgate prison, wove even more fantastic tales of Arthur's castles and his exploits in Mort d'Arthur, one of the first printed books that became a best seller. And Ireland dug up its own hero, Niall of the Nine Hostages with far more historic justification. Scotland adopted Kenneth MacAlpine. Then came the empire builders, incited by Elizabeth's Spanish Armada victory, and the outreach to the world and great riches. But England found its own inner turmoil. The monarchy lost it's grip, and Cromwell became Lord Protector and took over in the name of the people. Recovering, the Crown became Dutch, then German, and with Queen Victoria, reached its heyday. Meanwhile, the great adventure to the colonies, freedom from tyranny and search for opportunity, began to take shape.

For most surname research we are "indebted" to the many overly simplistic books written in the 19th century when the British class society reached its zenith. Even some of the Scottish chiefs abandoned their castles and built town residences in London, joining the galas and festivities of the worldly rich and famous. This was an era of great pomp and prestige. Britannia ruled the waves. The class society prevailed, and was pursued to almost absurd and ridiculous extremes. The search for surname identity followed class lines which perpetuated the establishment, the aristocracy, rank and position. Commoners were Saxons and Boozers, literally, which, of course, the latter surname had nothing to do with the Norman name Beuzie. Not wishing to follow the example of France, Britain almost idolized the Victorian monarchy, and wars were fought valiantly on her behalf, even, some say, WW I, long after she was dead. Meanwhile, the German aristocracy, the Russian, Hungarian, Spanish and Polish monarchies were a network of royal intermarriage. Even Italy, hitherto a conglomerate of city states, doges and nations, became unified under one King around 1870. France was an island republic enjoying a less stratified, but bloodied democratic administration after the revolution along with her very distant neighbor, the United States of America.

In this European environment, then, small wonder that authors and researchers of surname origins set out to be self serving and Saxon. It was difficult to explain that the Duke of Norfolk might have the surname Howard, along with his chauffeur in the same car and no discernible relationship at all. Not only difficult to explain, because probably both had a common Norman heritage from D'Acres, they didn't even look alike, mostly because observers preferred the differences rather than the similarities. So, except for the aristocracy and the titled, many of whom ironically claimed 800 year Norman pedigrees, surnames were more or less rationalized as a random gift to the commoner, a coincidence, an assumption, or a wild misinterpretation of some ancient ritualistic activity, many of which were explained with some very imaginative creations. The major anomaly of course, was the aristocracy's great delight in proving a Norman heritage.

It was more important during this Victorian period to keep the rank and file guessing, or to be misleading, than to examine historic reasons for surname development, whether they be racial, demographic, linguistic, economic or social. The upper class, and anyone who aspired thereto, needed to distance themselves from the cannon fodder. The playing fields of Eton and Harrow were not very level. They were tilted in favor of the ennobled, and the wannabees, whoever they were, and Lord knows, there are a lot of us. Additional to the class thing, other factors entered into the algorithm of surname analysis and research. National psyche played a big role. Continuing this denial of early Norman influence, what right minded commoner Brit would be proud to have a surname in England that was anything but WASP, Scot or Irish in origin. After 800 years feuding with those dastardly Frenchman across the Channel, including a 'hundred year war', who wanted to have a surname which could be remotely considered as being of Norman origin. Yet the best assumption is that so many are.

For instance, the surname Cartwright. On the surface, this name seems to be as basic Anglo trade-type-person as you could get. Yet at least two, possibly up to seven of the invaders of Britain in 1066 and later, were Norman nobles of the house of Carteret, Lords of Carteret in Normandy. Read it quickly, and it's not very far away, even now. Despite the fact that, then, it was probably pronounced Carterai. On paper, on a deed or charter, however, it could be read as Cartwright, or very close thereto. Coming full circle, descendants of early Boston settlers of the name around the turn of this century still pronounced the name Carteret, and some still do. What goes around comes around. From the ridiculous to *the* sublime, we have the name Twopenny, and lots of other pennies, including Moneypenny. Twopenny was ascribed to a trade name for a money changer, rather than the Norman Tupigne, and so also Magnapeigne, Norman surnames which settled in England and Scotland. And who could associate Taylor as a big Norman name, a hero at Hastings, Taillefer, instead of the obvious Saxon tradesperson? While a Norman origin is arguable, up to this point in time the Norman side of the argument has not been fully presented because of the fixation on a need for a Saxon origin, somehow remotely connected by distant mind-set to "King Arthur?", a person who receives scant mention in the Saxon Chronicle, (not that this many versioned document can be commended for its impeccable accuracy) and who found fame with early historian Geoffrey of Monmouth, and the Welsh Triads, legends of the Welsh race.

Unthinkable that a commoner name such as Cartwright or Carter could be associated with Norman nobility. Perish the thought. It was obviously a trade name, and Saxon to boot. However, if it was a trade name there are a few arguments "au contrair". We are reasonably agreed that surnames took shape progressively between 1020 and 1300. In England, trade occupations such as carters and cartwrights, were largely associated with the delivery of stone and other materials for the erection of Norman castles during that period. These castles were being demolished almost as fast as they were erected. This was by far the biggest 'industry' of the time if we remove agriculture and ship building. Wales is known for the highest saturation of castles (and their ruins) per square mile in the world. And the re-construction exercise provided the Normans with advanced architectural skills, in a big hurry. These many minor Saxon entrepreneurs, carters, etc., were mostly one man, one ox or, (unusually) horse operators, and generally landless, usually penniless, little above a slave. The Saxons of this time had a long way to go before any real recovery of lands was affected. Taxation caused a need for surname identification, but land rights, fishing rights, and their produce were much more tangible as taxable assets to the King. Taxation on services was much more complex and entrepreneurial, and an administrative problem which crossed many boundaries. The tax collector had not yet learned to effectively deal with the complexities of profit and loss. The Doomsday Book of 1086, the prime basis for taxation, was solely domain oriented and very focused on which Norman (90%) noble held English lands and other rights other than the King himself, or the Church.

Other goods being hauled by carters (under escort) at the time were the luxuries demanded by the wealthy Norman settlers, thus creating a new society in London, the importer/businessman, many of them Jewish, people who would scour the world for anything from spices to swords, tapestries to fexcotic wines, furnishings for the fine new Norman domains and arms for their personnel. Some say this expanding trade was the real inspiration for the first Crusade, largely a Norman effort. It is most likely that most of these 'carting' operators in this distribution network throughout England were still on a 'font' (first) name basis, and also most likely for them to have been lost in history as a genealogical chain. The larger businesses of haulage contractors did not arrive until centuries later. Perhaps, the only exception might be that when a cartage operator was brought before the courts, he might be described by his trade, but this was not usually the custom, since a trade was a poor identification, easily forged. In the absence of a surname, far better to describe the person as being from a town or village, but this identification would most usually only be used for court purposes. It would not have any relationship to a domain name, a jealously guarded entitlement of the Norman settler and his blood line, and any unauthorized use of that

name may diminish his entitlement, both to himself and his successors, and result in putting the offender to the gallows. And in 1170, according to the Justicair of England, 'every little knight in England had his seal" which protected those domain rights.

In reality, it is difficult to accept the simplistic explanation that services or trades played a very important role in the creation of surnames, if surnames went hand in glove with domain ownership for the King's taxation purposes. Of course, we cannot discount the later copy-cat evolution of surnames as a social custom but the acid test at this time was ownership of land, largely Norman, including a sizable contingent of Breton, Flemish and French. The very few nominal Saxons who retained their lands, usually had a strong Viking or Danish heritage, and had become allied to the Norman way of life in one way or another.

However, it should be remembered the seeding of England by Normans since the year 1000 could give many records a distortion by describing Doomsday(1086) holdings as being held by the 'the pre-Conquest holder" and actually still be Norman, or even Danish, rather than Saxon. But some of this carefully planned, what is now believed to be extensive pre-Conquest Norman recruitment backfired. For instance, before the Conquest, Edward the Confessor recruited Gilbert Tesson(Tyson) (note the use of the pre-Conquest family surname) one of the most powerful Barons of Normandy, and offered him the great barony of Ainwick in northern England which he accepted and brought with him many knights. It may be suspected that this was King Edward's method of neutralizing the influence of the two northern Earls, Edwin and Morcar. Ironically, by the time Hastings rolled around, Gilbert had switched allegiances, and fought alongside King Harold and his Saxons. He, Gilbert, and many of his knights were killed by his fellow Normans. This, however, did not prevent Gilbert's son William from later becoming the Lord of Ainwick and Malton, such was the power of this family who were distant kin of Duke William. Meanwhile, in Normandy, the head of the family, Ralph Tesson, aging scion of the family, which is said to have at one time held l/3rd of the Duchy of Normandy, was represented at Hastings by his son Ralph Tesson n, with his large company of knights, and the latter may not have survived the battle either. Brother against brother. His, Ralph Tesson's, considerable English domains in York, Lincoln and Nottingham granted by Duke William, eventually went to Ralph Tesson's young grandson, Gilbert, through his son, Ralph Tesson II. His grandson became known as Ralph Tesson III despite whatever surname he had used in the meantime.

Here we find the beginning of a crude Norman surnaming protocol. This protocol, by a quantum space/time leap, would be adopted by upper class North Americans in the 19th century. The immediate descendent was never allowed to use the scion's surname during his life time. This might jeopardize the old man's rights to his crown jewels and estates. So, Ralph Tesson must have been alive at the Conquest and shortly thereafter, but he must have been a very old man. His son added the numeric II. The grandson, the III. All with the continuity of the same surname but distinguishable one from another. This was a far better procedure than the Fitz protocol which we will discuss later, and which was also used by some Norman families of the time. The Normans even introduced the Sr. and Jr. suffix to distinguish father and son but it was not popular.

Many have questioned the disproportionate distribution of surnames. So how, you might ask, and why, did there get to be so many Carters or Cartwrights in this present day world of ours? Why shouldn't the Plunks, and many other 'one-off surnames' be right up there with them? Why the disproportionate representation? And this is the 64K question everybody wants to avoid. We can call it inexplicable, accidental human evolution, and leave it at that. In the interests of the equality of the human race, and the complete anonymity of humanity, perhaps we should leave it right there. On the other hand, the differentials might be important to our genetic composition. Theoretically, one person living at the time of the Conquest, over thirty generations, could produce millions of descendants of the same surname and, although we are not suggesting this happened in any ordered fashion, the possibility exists. Robert the Bruce of Scotland (Norman heritage) was a good example of the latter. He is said to have had 28 children on the right side of the blanket, as they say, and an equal number 'outside the blanket'. His descendants are said to number over two million but, obviously, not necessarily all of the surname Bruce.

On the other hand, it is equally preposterous to claim a single source origin for all surnames. Even O'God, (maybe Irish) George Bums, changed his Jewish name to Bums. But let's not throw out the baby with the bathwater with this and other glaring, well publicized examples. Two of the first identifiable relics of surname association was the family seal (the knight's legal bank card) and the Coat of Arms. The latter was recorded for posterity much more than the former. For the sake of simplicity, let's consider the surviving Coat of Arms for the family name Stapleton, for instance, a reasonably common surname which reveals over 30 Coat of Arms registered to different people of

that surname, different branches of the family name throughout history. All but two carry the main theme device, a silver field charged with a black lion rampant. This 800 year historical time span of the surname records would have been a huge demographic phenomena of random coincidence if purely accidental. Foreign intruders into the surname over this 800 year period would surely have been expected to have a been strongly represented by "foreigners". Burns - like renegades who changed their name to Stapleton. So let's consider this surname Stapleton. Nowadays it seems like a very ordinary surname which thousands enjoy. It was big in the 14th and 15th centuries, Barons, Lords, knights, and the like, but all that's passed into history. Few remember, or care to. Nevertheless, maybe there is a much stronger argument for kinship within a family surname than we care to acknowledge.

As mentioned previously, modern research is proving we have more identifiable differentials in the genetic blueprint in general than we have similarities, or equalities. In fact, one of the prime objectives in genetic research and the DNA is to isolate these differences. The larger question is "Are these differentials governed more closely with "family name" relationships, history and origins than we care to admit?" Even in the 19th century, one author, perhaps more of a maverick than the rest, did become curious about the obvious population differences in surnames. He ran a check with the Public Records Office and found the top fifty most populous surnames. He found that from the earliest records, a century before, these surnames had a growth rate that far exceeded the average for the population growth for the whole country. This growth rate was carried consistently from year to year by family surnames. The narrow time frame, the number in the sample, mostly eliminated the possibility of the assumption of a surname for any particular or peculiar reason.

How do we explain the gross variations in the populations of different surnames? Leaving Smith and Schmidt out of the discussion for a moment, other surnames have growth rates far in excess of national averages. Incidentally, even the Smiths, who have been clocked with a 38% annual growth rate, doesn't make sense. In those olden days the Fanner outnumbered the Smiths about ten to one. With apologies, what happened to those Farmer guys? Here was a trade name which bit the dust. Many other surnames die on the vine, and have been doing so for centuries, ever since surnames came into being. And there are other people who, when on vacation, open the hotel phone book in a compulsive search to find another of the same name. Or, we could close our eyes, chalk it down to accidental marital relationships, and leave it at that. Possibly we could suggest that there may be more to this genetic blueprint than meets the eye. Maybe it carries an innate compulsion to procreate which is a variable within each surname. Once we admit this, however, we get beyond the mere physical composition of the genetic blueprint, genetic codes and the DNA as a one dimensional flat profile. We now have to admit that the surname carries with it many more intangibles than the straight physical blueprint of the human body, and we open a can of worms which would not be socially acceptable, not even for a sly peek at this point in time. Perhaps, some time in the not too distant future, there'll no such thing as a generic drug, and that each will be tailor-made to one's own genetic line and eliminate many of the sometimes dangerous side effects of the generic prescription drug.

The "family name" commonality suggestion becomes almost imponderable. It deals with genetic survival rates baked into the genetic blueprint, and the impact of the environment. The plagues, the pox, cholera, and bunch of other deadlies, including the soldier's deadly enemy, dysentery, have hammered away at the human race. Pandemics from the first known big plague in Athens in 400 B.C, to the English historian Bede's reported plague of England about 440 A.D when he states "There were not enough living to bury the dead", to the Justinian plagues of the 542 which started in Constaninople and took 5 years to reach England in 547, killing fields all the way, to the 9th century devastation in England and Europe, and to the Black Death of 1348, the sweating disease of the early 1500's, the 1665 plague which devastated London, and thousands of other lesser ripples barely recorded in history, plagues which caused 1000 villages in the midlands of England to be ploughed over, and which have pruned and refined the human race. Lesser waves of the pestilences eroded perhaps many more of the human race. Some of these pandemics killed as much as one third of the world's population at the time, particularly the Justinian event. The 1918 flu bug was no slouch either, it killed well over 20 million in the U.S. But these ancient pestilences hit the poor the hardest. They had no place to run, no place to hide. The wealthy, even moderately well heeled, moved ahead of the pestilences. They let the castle portcullis down, and nobody entered. They built barges on the rivers, and took the gang plank away. They moved to 'clean villages' and quarantined, a practice started in Italy in the 15th century. Some of the pestilences had different blends, grew stronger, endemics which returned with even more power, and survival almost became synonymous with the strength of their immunity and the degree of a person's wealth. Antonia Eraser's well-written and excellently researched "The Weaker Vessel" is recommended and gives a clearer, more detailed picture of 15th, 16th and 17th century hysteria. It describes the

desperate drive to produce heirs at all costs, and, one suspects, even to the implied murder of an infertile wife, not just by Henry VIII, but by lesser lights. The fertile woman became a baby factory from the age of 15 through 38 or so 'enjoying' an annual pregnancy ritual. Very few landowners relished the idea of their estates reverting back to the King. Survival, then, was to slip through the mini-mesh screen of life pestilential hazards, and produce a line of winners. And there, we'll leave you with that thought. You piece it together. Those of you who are still amongst us can stand up and salute the innate strengths of your ancestors. We made it here at this time. Millions, billions, didn't, exponentially.

Anyway, back to the subject at hand. If these Normans handed us the surnaming protocols and played such a prominent role in our surviving Anglo and European races, we'd better understand a bit more about them, the Normans, that is, even at the risk of repetition. Unlike the previous Viking bounty hungry marauders who flitted around the oceans with fleets of up to one hundred ships, stinging here, ravaging there, wintering, gathering treasures which would help them gain power in their home domains, the Normans had achieved a new territory, converted Vikings who had firmly planted their roots in northern France. They became skilled military commanders who did not confine themselves to naval warfare and allied strategies, although these basic skills never left them. On land they were as dangerous as they were on the sea. They developed a hierarchical network of top down intermarriage, betrothals and cross pollination which always seemed to work to their advantage.

As we have said, the Norman seeding of Britain took place over 50 years or more from about 1000 A.D. Elaborating, perhaps one of the most significant early seeds was Emma. Emma was the daughter of Richard 1st, Duke of Normandy, born 986. When fellow Viking and ex-pirate. King Of England, Denmark and Norway, Cnut (Canute) ascended the throne he was 'persuaded' to take Emma as his wife and Queen of England in 1017. He was only 21, she, a 31 year old 'veteran', and already had three children by her first husband, Aethelred of England, a weak King, probably totally dominated by Emma, and who had died the previous year. One of those children was the future King of England, Edward the Confessor. Both he and Alfred went off to Normandy, an investment in futures.

Emma had commenced the seeding of England with Normans in 1002, by inviting Hugh, a Norman adventurer, and endowed him with the city and castle of Exeter. There followed many more examples which can be found in the Norman chronicles. At this time Emma must only have been a young girl of 16, but she was a Norman who knew where she was going. Although Cnut, her new husband was a tyrant (he extracted the huge sum of 80,000 pounds from the Saxon people in his first year of reign) his new wife was even more ruthless.

Emma continued her Norman ways. During the reign of Cnut, and her son Harthacnut, she had amassed many estates and domains and held a fair chunk of the English treasury. When Harthacnut was having difficulty establishing his claim to the throne, her youngest son Alfred suddenly appeared on a visit from Rouen, Normandy. This didn't work out so well. Earl Godwin the leading Saxon Earl, decided enough Normans were enough. He trapped Alfred and his 600 mercenaries at Guildford, and that was the end of Alfy. Alfred had tried once before with the help of Robert, Duke of Normandy when they had gathered a fleet to invade England but got caught in a storm which washed them up in the Channel Islands. When Harthacnut was eventually crowned, Edward (the Confessor), Emma's other son, arrived from 26 years exile in Normandy but probably not with Emma's approval. Not all Normans got along with each other, either. Edward must have been Emma's least favored son. Harthacnut died. Following year Edward was crowned. 10 days after he received his "hallowing" of the English throne in Easter 1043, after Harthacnut's sudden and unaccountable death in June the previous year, marched from Gloucester to Winchester with his earls and relieved Emma of her and England's accumulated treasury and her lands. Not a very gracious act from one who was to be sanctified as England's only Saint/King. But Emma was allowed to live on in peace. Later, Edward, in an act repentance, restored some of her estates and a small pension. One of the last recruitments Emma made before her death in 1052, was one Adam de Brus (Bruce) in 1050 of the Castle of Brix in Normandy. His successor would eventually become King of Scotland. Although he officially and ostensibly 'attended' the Queen, he went to Scotland almost immediately. Nevertheless, he managed to get back to the Conquest and join his Norman father and elder brother, William, at Hastings, 16 years later. But the Bruce had already acquired estates and a significant presence in Scotland before the Conquest. And Emma, a Norman, had played a dominant role in English and Scottish history almost continuously for 50 years from the turn of the millennia, but receives scant mention in that history except as the mother and wife of Kings. Concomitantly, Margaret, King Malcolm Canmore of Scotland's queen, was of the same ilk and also recruited her Norman friends to Scotland.

Similarly, Edward the Confessor himself felt more comfortable with the Norman side of his house. As previously mentioned he had recruited Gilbert Tesson amongst others, including the Earl of Hereford. He recruited fellow Norman William of Jumieges as Bishop of London, one of the most influential clerical positions in all England and it should be noted that Stigand, Emma's man, became Archbishop of Canterbury in 1052, the year of Emma's death, against the wishes of the pope. The extent of this pre-Conquest Norman infiltration has been contested by historians. Some claim it to be minimal, others claim that Edward was active in recruitment but was careful not to offend the Saxon Witan, the governing council. Obviously, some infiltration took place but nobody can be sure of the extent except from isolated and representative references in the Norman chronicles. From the growing body of evidence the implantation was more than enough.

So now the banquet was set, the menu set in print to receive in England this massive invasion of Norman magnates, knights, freemen, and men-at-arms from Normandy who would receive domains granted by Duke William for their participation at the invasion of England and join the Battle of Hastings. Many of these Norman families and their followers had provided ships, horses, and all the military accoutrements necessary for the success of the venture, and they carried their greed with them in huge expectations of their domain rewards. At this point in time there is very little evidence of the existence of any surnaming procedures in Saxon or Danish England.

The Battle of Hastings is dealt with elsewhere on this web site. Our interest in this event in this context is only one of numbers. Modem students of history, calculating the size of the promontory which Harold and the Saxons chose to defend, shoulder to shoulder, and the depth of the available support platoons, the Saxon horde maxes out at about 10-12,000. The Normans, probably at something less, 8-10,000, including only about 20-25 house banners. After the victory, and with Harold suitably consigned to his place in history. Duke William and his fellow Normans, after wasting the Pevensay and Hastings area, moved eastward along the coast to Romney and Dover within the week, dismantled the castles and began to consolidate their bridgehead. Here he hesitates, calls for re-enforcements from over the channel (the numbers of reinforcements are questionable, but may be very significant in estimating the influence of Norman domain surnames in English (and Scottish history). Let's face it, if Duke William amassed an army of 40,000, a reasonable number, in his devastation of the north 3 years later it would mean that this force was 4 times larger than his Hastings army, unless, of course, the pre-seeding of pre-Conquest England had been larger than even the Norman chronicles claim. To mobilize reinforcements Duke William could repair his fleet to the west at Pevensay and return it to Rouen or St.Valery. This seems more likely, rather than start building a whole new fleet at Rouen which would have taken months, perhaps a year.

In the meantime, Duke William moved his army north to Canterbury, then settled into a holding pattern for a month before London, more than likely to await the reinforcements. Some say he was sick (may have been dysentery which caught up with him in 1087 in a horrible death which caused his mourners to depart the Abbey at Caen because of the stench) but that's less likely than merely waiting to size up the situation in London and his reinforcements to arrive. Two or three parties were jockeying for power in London, including the northern Earls Edwin and Morcar, even the mayor of London, and Edgar Atheling who'd already been nominated the new King by the London element.

Duke William made his move from Canterbury at the beginning of November. He wheeled his army to the west in a wide circling movement of London to Wallingford, north west of London then to the east, north of London, to Little Beckhamstead. Surrounded, the citizenry of London capitulated without resistance. Edwin and Morcar, however, had slipped away to the east and the coastal north. The Atheling also escaped north to York.

The bridgehead now included most of the home counties. William was crowned King of England and began the huge political task of measuring and negotiating rewards to the magnates of his invasion army, using Edward the Confessor's tax rolls as a base for the then current land values. His first cut at the division of spoils was a greedy one, which did not rest well with many Norman magnates who had made huge investments of ships and knights to the invasion fleet. He gave almost all of the land south of London to the coast, and as far west as Winchester, to Bishop Odo, his half brother, who became Earl of Kent, and his #2, head honcho of all England. His other half brother, the Count of Mortain, got most of the western counties of Cornwall, Somerset and Devon, after some loitering in front of Exeter castle with the pesky Welsh. The eastern counties held many of the Norman nobles who were champing at the bit for more lands to the north. Most of the treasures in the London archives went back to Normandy along with important hostages. To buy peace and loyalty amongst

his followers. Duke William began to realize he had to make many compromises to his own greed, vis-a-vis that of his Norman magnates. But he still had the whole of the north to dole out to his waiting barons in Suffolk, Norfolk and Lincolnshire.

William's plan of containment for England was very unlike that which grew attritionally in the Duchy of Normandy where principalities had emerged geographically and attritionally, enclaves which would become very powerful, and a constant challenge to central government. His new distribution plan for the occupation of England gave certain trusted magnates large territories but not absolute control. Each territory was seeded with lordships, either by chief-tenancy or under-tenancy, which were cross weaved by Earls, Barons or knights from distant territories, thus achieving a complex network of dispersed and diversified interests. Much land was given to the Church in the same fashion. The King himself held many of the strategic and valuable domains which were operated by trusted stewards, freemen or even men-at-arMs. He had introduced a spy network, which, in the event of disloyalty, the incumbent had to consider allegiances which might be very unfavorable to him if his treasonable activities became known. In this mad scramble for turf, it is inconceivable that William, burdened with jealous Norman magnates still under arms, would give much long term consideration to Saxons, who were about as low in the pecking order as they could be, unless of course, they had been adopted in marriage to the Norman element.

In the ensuing five years. Duke William set about implementing his plan. He gradually removed most of the remaining Saxon interests and by 1068 he had marched north from the home counties with his huge army as far as Wocestershire, Leicestershire, Staffordshire, Shropshire, Warwickshire, Derbyshire and Cheshire. In each county he installed his own Norman Earldoms, Sheriffs and Reeves. He was relatively kind to Chester, where, in a city of 400 houses, he reduced 200 to rubble and installed Hugh Lupus (Norman house of Avranches and his nephew) as Earl of Chester. Hugh Lupus brought with him from Lincolnshire many of his knights. They presumably brought with them some of their newly adopted domain names. Hence, we find villages renamed in Cheshire with villages in Lincolnshire such as Irby, Croxton, etc. He also installed Roger de Montgomery as Earl of Shropshire and established many other Earldoms. After his wastage he planted the border of Scotland with trusted Norman families who gave us many notable reiver surnames today such as Cummings, Bruce, Nixon, Armstrong, Elliot, Graham, etc.

Duke William wasted the north it is said with an army of 40,000, mostly Norman and some few converted Saxon and Breton mercenaries. These were the reinforcements which swarmed over the channel in the post-Conquest period. He then built his own castles. From 1069 to 1070 he burned, raped and pillaged Yorkshire, Lancashire, Durham, Northumberland and Cumbria, leaving little of value standing, with some strategic exceptions which were garrisoned by Normans, Bretons and mercenaries. To Count Alan of Brittany he gave much of Yorkshire. In 1072, he marched north into Scotland to the Forth and pillaged. He was given fealty by King Malcolm and took hostages. The whole campaign had not been without some small resistance and casualties had been high amongst the still land holding Saxons of the north, and some of his rebellious Norman Barons. Again, significant hostages were taken back to Normandy. William, in 1071, was now undisputed King of England. In 1075, a minor uprising of Roger, Earl of Hereford was quelled.

From 1071 to 1086 there was relative peace in the land administratively. Attempts by the Danes to regain their foothold on the island were thwarted. The Norman magnates jockeyed for power, even the King's own half brother. Bishop Odo, was imprisoned for life after making a play for the throne of England. He was released only when William Rufus, William's third son became King of England after his father's death in 1087.

William spent much of his time in Normandy dealing with his Norman affairs. In each country, England and Normandy, he had installed governing bodies. Regents, constantly changing personalities who eventually outlived their loyalties. The traffic between Normandy and England was reasonably heavy, Normans returned briefly to their own or family domains with their war chests, greeted their wives and families, usually leaving their eldest sons to run the family domains in England or sometimes reversing the procedure, depending on the size of the spoils acquired in England.

In 1086, the Doomsday Book came into being. William in one of his visits to England in the autumn of '85 took his traveling court to Gloucester. For a month he sat and listened to the claims and counter claims of rightful Norman ownership of English domains. Enough was too much. He instructed commissioners to organize teams to go forth and record every domain in England, its taxable value, and who was adjudged to be the holder of those domains.

He gave them one year to complete the mammoth project. He declared that these records would confirm those rights 'in perpetuity', till the end of time, hence this huge survey was called The Doomsday Book, now in the U.S spelt Doomsday. Whichever way it's spelt, this final penultimate act of Duke William, a year and half before his death, caused major legal land claim headaches, power struggles, minor rebellions, even wars, for centuries to come. But the Doomsday Survey at least went on record for the greater part of England in establishing the incumbents at that time in the year 1086. England and much of lowland Scotland was jealously Norman owned and settled by domain entitlement and would be for centuries to come.

In Normandy, well before the Conquest of England, the surnaming protocol had been born of the feudal system. In Saxon England, surnames had not entered the social scheme of ownership and title and first (font) names only were used, with some very rare exceptions. In Normandy, the scion of the family generally adopted his domain name as his own surname. The de (of) prefix was being dropped by attrition, although, by exception, some notable families would retain the prefix through until the 14th and 15th centuries.

There could only ever be one person identifying himself (sometimes, but rarely, herself) with entitlement to the Norman domain. Along with that entitlement of domain, he was also the custodian of the family seal, the banner which represented the family in battle, the Coat of Arms, and any other family heirlooms which were carried with his dynasty. None of his progeny were ever allowed to use or copy those family relics during his lifetime. However, this created a problem, perhaps more of a problem than it was worth. If the old man lived to a ripe old age, and many did, there might be sons, even grandsons, requiring to be identified with their posterity and probable hereditary rights of their own new domains at some time in the future. What name would they use? The first answer was Fitz, meaning the 'son of. This did not mean, as was commonly supposed in earlier times, an illegitimate son. The Viking society rarely made any distinction between descendants in or out of wedlock. And if this argument held, why didn't the Duke call himself FitzWilliam. Duke William himself was a bastard who had achieved the Duchy of Normandy. And already the Danish Vikings were adopting the tag 'son' on the end of font names for distinction such as Ericson, Estrithson and others to overcome the problem of the continuity of the posterity. Hence, 'son' names are to be found mostly in northern England. Similarly, at this time or later, the prefix Mac was adopted by the Scottish, the "0" by the Irish, and the Ap or Ab by the Welsh. But no such prefix or suffix was adopted in the Saxon naming protocol as far as can be determined.

Curiously, in the Norman culture, it meant that a man, Robert de Mortimer, for instance, might have two names during his own lifetime, a confusing headache no historian should need. If the eldest son, by primogeniture, the beneficiary of his father's estates, hung around for his inheritance he might assume the name, say, Robert FitzHugh, if his father's name was Hugh de Mortimer. On his father's death Robert would then revert to and inherit the old domain name Robert de Mortimer, and all its entitlements. In other words, Robert FitzHugh and Robert de Mortimer were one and the same person. This was very confusing to the record books. And most Fitz names were of a temporary nature until such time as they were changed to a new heritable domain name, or one was acquired from the main hereditary family estates. Younger sons might be given a place name, a domain within the father's domain, which in turn would become their own lifetime domain/surnames. This made the establishment of a genealogical link from the younger sons to their father very difficult, and each of the younger sons grew within their own orbit with a different surname from the father. If they moved, to say, Norman settlements in England, tracing back, linking the younger son relationship to the main stem became an assumption, or was almost impossible. However, it shouldn't be assumed that this was a rigid procedure by any means. It was the beginning of a naming custom, and subject to personal interpretation or family convenience. Sometimes the suffix I, II, or ni was used and the eldest son's name could be the same as that of the father, so long as the suffix followed. But it was still domain driven, particularly for the younger sons, of which there were usually many.

There were many loopholes in this early system, nor was the procedure followed assiduously. For instance, the son of Robert Guiscard, whom we mentioned previously in his Italian campaigns, was Mark Bohemond, Prince Tarentum, an inconsistency. Similarly, the Norman ranking of titles, was not as clearly defined as it was in the late middle ages, or is today. William generally assumed the heritable title of Duke, most likely in deference to the French King, to whom there was a vague suzerainty relationship. But there was no question of his absolute monarchical rule. Lesser nobles could be styled counts, countesses, bishops, seigniors, sires, lords, masters, constables, sheriffs, even princes, and the laws of precedence seemed to evolve more on the size of a noble's estates, and his influence in the royal court, rather than any precise ranking protocol. Duke William made an attempt to straighten this mess out in England when he elected just one controlling and administrative head, an Earl, to each

county. Other lesser officers such as Sheriffs, tax men, the King' stewards and Reeves administered the King's (very ill-defined) Law. Lordships were granted for domains, large or small, and each carried variable rights and powers in his local court and justice system, powers which were often meted out in abstentia, since the magnate's domains were usually widely scattered through several distant counties, or he might even be back in Normandy. This was a first crude attempt at administrative organization, by no means perfect, but at least it changed the complexion of the land and was not a replication of the loose structures in Normandy. Nor was it inherited from the Saxon system in which there was an earldom consisting of many counties strung together, such as Wessex, thus making the Earls what amounted to petty kings. But *the* new system would inherit its own problems.

Meanwhile, younger sons were a problem in the emerging surnaming protocol and record keeping. Sometimes landless, these budding knights or even men at arms, had little to call their own, or if they had, the size of their holdings did not support their ambitions. Restless at being indented to knight's service to his distant lord, perhaps an elder brother or father, they honed their skills and many became mercenaries, finding the highest bidder for their services, as they had done in Normandy before the Conquest. The whole world out there was free for the taking. This in preference to sitting in a small manor house little better than a multi-roomed shack, twiddling his thumbs and becoming poorer as the days went by. Many pillaged the local countryside. Jousts, lists, fairs, melees were planned and they became footloose, moving from event to event, battle to battle. And between 1066 and the first crusade in 1096 the ravages, plunder and rapine of the far from gallant and chivalrous knight was continued ferociously. Since they fought for hostages, possessions, riches, rank, and their own form of honor, there developed a crude code. In combat or skirmishes the objective was to obtain hostages, not to kill. A dead opponent was worthless. In one melee in Normandy before the Conquest, 500 knights skirmished in planned combat. Only three died. Many were unhorsed. And under the rules of combat, to the victor went the spoils. The more important and richer the family relationship of the loser, the more bountiful the rewards. The victor could claim not only ransom in coin, but the knight's domain name, his Coat of Arms, his banner, his sword and armor, and his horse, even his wife and squire. Troubadours adhered as camp followers, and twanged their knights exploits with songs of their courage. To many they became the heroes of their time. To many others they were the major scourge of any land on which they visited their very doubtful charms.

On the continent in particular, there had been and was more alarm about an emerging way of life which was leading to absolute and unchecked pillage, or anarchy, so much so that the Church had pronounced the Truce of God at the Council of Nice in 1041. This, in effect, protected the public at large by prohibiting plunder, murder and rapine by Barons and their knights from Thursday to Sunday inclusive. However, even if those same laws had been effective, which they weren't, they tacitly allowed, maybe approved, said uncontrolled plunder on Mondays, Tuesdays and Wednesdays. It was from this source of restless, rapacious knights, squires and men at arms, mostly Norman, Flemish and Prankish, that many of the rank and file of the Norman invasion of England in 1066 and their subsequent reinforcements was drawn. Fathers recalled recalcitrant sons from all over Europe.

Later, it was also of this lawless source that many of the European knights of all nations were recruited by Pope Urban II at Clermont in France in his well advertised appeal for the first crusade in 1095. It is not clear why this was called the first Crusade, there'd been many before. Anyway, Urban, Duke Robert of Normandy and his kinsman Robert Count of Flanders had received a very urgent appeal in 1093 from the Byzantine Emperor Alexius Comenus for help in quelling the Seljuk Turks and "retrieving the holy relics from Jerusalem" the latter an obvious appeal to the Pope. However, Alexius' main enticement in his letter was the beautiful women of the East, a magnetic attraction to our lustful, footloose knights. Alexius made several more appeals. Finally, after much deliberation, perhaps even consultations with the Normans to the south. Prince Tarentum, Guiscard's son, the green light was given.

Pope Urban had promised his assembly in 1095 complete redemption for their previous sins. His opening address to the multitude at Clennont "You, girt about your badge of knighthood, are arrogant with great pride, you rage against your brothers and cut each other to pieces" was one version. Another "You oppressors of orphans, robbers of widows, you homicides, blasphemers and plunderers". The assembly of knights replete with their surnames and their house Coat of Arms from all over Europe were more impressed with the offer of pardons for their past sins, and the prospect of untold riches and the good life in the "Holy Land'.

Cash-rich Duke Robert of Normandy in August 1096, left his young brother King William Rufus of England in charge and collected Normans Stephen of Blois, Eustace III, Count of Bolgne, Godfrey (Geoffrey)

Duke of Lorraine, and Count of Vermandois, and knights from England, including the Percy's of the north, from Normandy, Germany, France, and proceeded to southern Italy and jumped off from the Italian south eastern coastal cities of Brindisi and Bari. Here he met the main contingent, "25,000?" Vikings who miraculously arrived on the scene from Scandinavia and who stopped off at Sicily for a visit with Prince Tarentum. This event is not even reported in popular history, only in the Norwegian Sagas. And the Viking ties were upheld. Once a Viking, always a Viking.

However, this organized, and well equipped battle force had been pre-empted the previous April by an over-anxious monk who was anything but a general. Peter the Hermit preached to the poor, the faithful and fearful masses and started from the Rhine Valley overland, a rag and bob-tailed mass, estimates ranging from 100,000 to 300,000 men, women and children supported by a few knights. They needed money so they murdered local rich Jews in what has been called the first Holocaust. This huge band of footloose conversions and opportunists would play little part in the battles of the 1st Crusade and would suffer badly at the hands of the decadent tribesmen of Hungary, the Byzantines and eastern European tribes who strangely got the notion that this mob was invading their turf. Finally arriving on the southern side of the Bospherous with a remnant force of less than 15,000 they were annihilated at Civetot and never reached the Holy Land. Peter escaped however. So there were really two, separate, quite independent Crusades, one starting in April, the other in August of '96, both under the banner of the 1st Crusade.

After a successful "pilgrimage "to *the* Holy Land, the main Norman contingent of knights returned to Europe with their domains much richer than before. Baldwin of Boulogne was crowned King of Jerusalem in 1100. They set up a Norman system of counties and fiefs. As previously mentioned they left Norman Bigot d'Bger of the Bigod or Wigot dynasty and Tancred in support of Norman King Baldwin of Jerusalem with 200 knights. The crusader "Princes" returned home minus a few casualties, notably Stephen Henry Count de Blois, father of Stephen de Blois who would become King Stephen of England. The father was "son-in-law" of William the Conqueror by his daughter Adela but this relationship is not acknowledged in history. Stephen Henry de Blois' third son, Stephen de Blois, would become King of England renouncing all of the Blois fortunes, but for his surname.

In Europe, the knightly ravages continued unabated well into the late 12th century when Eleanor of Aquitane and Marie of Champagne took a hand in the defense of feminity, restoring some order to the chaos. This episode produced the Cretien romances in 1070 elevating knighthood to a King Aurthur and Lancelot status, and creating a new code of chivalry. But that's another story.

So, in post Conquest England, in Europe, the Anglo domain name created new surname identities for younger Norman sons in particular, taking all the trappings of this vicious art form into their pastoral settings. The Normans overran Europe like a plague unto themselves. The domain surname became more firmly established as a protocol. Undoubtedly, their ancient Coat of Arms also found new roots. But this did not prevent them from tripping off to the fairs and jousts, particularly at Bruges, in addition to plundering the English countryside. They continued the Norman practice of contributing to Abbeys, monastries and churches to atone for their sins.

It was in this environment that the surname was born, a symbol of ownership, possessions, pride and greed. It would carry the posterity of the family name down though the centuries from the Orkneys to the Holy Land. The Norman surnames would have more opportunity for growth since they represented wealth, ownership and title, and were more motivated to establish posterities which would continue well into the distant future, for their dynasties and their descendants. They would fare better through the pestilences simply because they would be better equipped to resist. And the Norman strain bred like rabbits. They were accustomed to breed sons for the battle, and a little on the side for their own posterity. Many of these warriors died young, but surprisingly, many lived to be very old. Nevertheless, the spirit of the ancient family names prevailed. To quote noted anthropologist Erik Trinkaus of the University of New Mexico "It takes only a very subtle difference in life style to make a big difference in terms of evolutionary success".

Clearly, those who contend that the common law history about surnames shows that Christians used a particular method for designating names of people finds no support in authoritative sources.

Several years ago, Hartford Van Dyke asserted an argument that one could file commercial liens against other parties via an ancient process which he only recently discovered. The advocates of this argument claimed that

history showed the use of this process and that the "law" was full of cases where this process had been used with success. In an effort to confirm the validity of this argument, I tried to find any mention in history or the law of this process but came up empty handed. But this deficiency did not matter for these advocates and they filed liens all over the place against judges and all sorts of other public officials. I only comment in passing that many of the people who became involved with this endeavor had their lives ruined. What about the 17 innocent members of the Missouri common law court who filed liens against a local judge? Some of these unfortunate souls are presently incarcerated for 7 years. What about Leroy Schwitzer and the other Freemen now in jail in Montana? What about Grant McEwan?

The lesson which must be learned is this: do your homework and research. I attend many "patriot pep rallies" and am confronted with people who accept various legal arguments on blind faith. In conversations with these people it is clear that they have a belief about their pet argument, but belief is not important. What is important is whether their beliefs about the law are really correct. When asked by these people to prove their contentions, almost 100% of them cannot do it. Some approach me and proudly proclaim their knowledge of the law: "I am not going to file federal income tax returns because the IRS is that private Delaware corporation established in 1933." When asked to prove this contention, all of these people slink away and they undoubtedly utter under their breath, "what a stupid lawyer!" Likewise, when I walk away from them I am reminded of John Wayne's profound statement: "Life is hard. But it is harder if you are stupid."

Unless you can find support for some patriot argument other than through the statements of the proponent, my advice is walk away from that argument because it will only get you into DEEP trouble.

FEDERAL JURISDICTION [64]

In the United States, there are two separate and distinct jurisdictions, one being that of the States within their own territorial boundaries and the other being federal jurisdiction. Broadly speaking, state jurisdiction encompasses the legislative power to regulate, control, and govern real and personal property, individuals and enterprises within the territorial limits of any given State. In contrast, federal jurisdiction is extremely limited, with the same being exercised only in areas external to state legislative power and territory. Notwithstanding the clarity of this simple principle, the line of demarcation between these two jurisdictions and the extent and reach of each has become somewhat blurred due to popular misconceptions and the efforts expended by the federal government to conceal one of its major weaknesses. Only by resorting to history and case law can this obfuscation be clarified and the two distinct jurisdictions be readily seen.

The original thirteen colonies of America were each separately established by charters from the English Crown. Outside of the common bond of each being a dependency and colony of the mother country, England, the colonies were not otherwise united. Each had its own governor, legislative assembly and courts, and each was governed separately and independently by the English Parliament.

The political connections of the separate colonies to the English Crown and Parliament descended to an rebellious state of affairs as the direct result of Parliamentary acts adopted in the late 1760's and early 1770's. Due to the real and perceived dangers caused by these various acts, the First Continental Congress was convened by representatives of the several colonies in October, 1774, and its purpose was to submit a petition of grievances to the British Parliament and Crown. By the Declaration and Resolves of the First Continental Congress, dated October 14, 1774, the colonial representatives labeled these Parliamentary Acts of which they complained as "impolitic, unjust, and cruel, as well as unconstitutional, and most dangerous and destructive of American rights;" but further, they asserted that these acts manifested designs, schemes and plans "which demonstrate a system formed to enslave America."

Matters grew worse and between October 1775, and the middle of 1776, each of the colonies separately severed their ties and relations with England, and several adopted constitutions for the newly formed States. By July 1776,

the exercise of British authority in all of the colonies was not recognized in any degree. The capstone of this actual separation of the colonies from England was the more formal Declaration of Independence.

The legal effect of the Declaration of Independence was to make each new State a separate and independent sovereign over which there was no other government of superior power or jurisdiction. This was clearly shown in *M'llvaine v. Coxe's Lessee*, 8 U.S. (4 Cranch) 209, 212 (1808), where it was held:

> "This opinion is predicated upon a principle which is believed to be undeniable, that the several states which composed this Union, so far at least as regarded their municipal regulations, became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign states, and that they did not derive them from concessions made by the British king. The treaty of peace contains a recognition of their independence, not a grant of it. From hence it results, that the laws of the several state governments were the laws of sovereign states, and as such were obligatory upon the people of such state, from the time they were enacted."

The consequences of independence was again explained in *Harcourt v. Gaillard*, 25 U.S. (12 Wheat.) 523, 526, 527 (1827), where the Supreme Court stated:

> "There was no territory within the United States that was claimed in any other right than that of some one of the confederated states; therefore, there could be no acquisition of territory made by the United States distinct from, or independent of some one of the states.
>
> "Each declared itself sovereign and independent, according to the limits of its territory.
>
> "[T]he soil and sovereignty within their acknowledged limits were as much theirs at the declaration of independence as at this hour."

Thus, unequivocally, in July 1776, the new States possessed all sovereignty, power, and jurisdiction over all the soil and persons in their respective territorial limits.

This condition of supreme sovereignty of each State over all property and persons within the borders thereof continued notwithstanding the adoption of the Articles of Confederation. Article n of that document declared:

> "Article II. Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

As the history of the confederation government demonstrated, each State was indeed sovereign and independent to such a degree that it made the central government created by the confederation fairly ineffectual. These defects of the confederation government strained the relations between and among the States and the remedy became the calling of a constitutional convention.

The representatives which assembled in Philadelphia in May, 1787, to attend the Constitutional Convention met for the primary purpose of improving the commercial relations among the States, although the product of the Convention was more than this. But, no intention was demonstrated for the States to surrender in any degree the jurisdiction so possessed by them at that time, and indeed the Constitution as finally drafted continued the same territorial jurisdiction of the States as existed under the Articles of Confederation. The essence of this retention of state jurisdiction was embodied in Art. I, § 8, cl. 17 of the U.S. Constitution, which defined federal jurisdiction as follows:

> "To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings."

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[64] Reprinted with permission of the author, Larry Becraft.

The reason for the inclusion of this clause in the Constitution is obvious. Under the Articles of Confederation, the States retained full and complete jurisdiction over lands and persons within their borders. The Congress, under the Articles of Confederation, was merely a body which represented and acted as agents of the separate States for external affairs, and it had no jurisdiction within the States. This defect in the Articles made the Confederation Congress totally dependent upon any given State for protection, and this dependency did in fact cause embarrassment for that Congress. During the Revolutionary War, while the Congress met in Philadelphia, a body of mutineers from the Continental Army surrounded the Congress and chastised and insulted its members. The governments of both Philadelphia and Pennsylvania proved themselves powerless to remedy this situation, so Congress was forced to flee first to Princeton, New Jersey, and finally to Annapolis, Maryland. Thus, this clause was inserted into the Constitution to give jurisdiction to Congress over its capital, and such other places which Congress might purchase for forts, magazines, arsenals and other needful buildings wherein the State ceded jurisdiction of such lands to the federal government. Other than in these areas, this clause of the Constitution did not operate to cede further jurisdiction to the federal government, and jurisdiction over those areas which had not been so ceded remained within the States.

While there had been no real provisions in the Articles which permitted the Confederation Congress to acquire property and possess exclusive jurisdiction over that property, the above clause filled an essential need by permitting the federal government to acquire land for the seat of government and other purposes from certain of the States. These lands were deemed essential to enable the United States to perform the powers delegated by the Constitution, and a cession of lands by any particular State would grant exclusive jurisdiction of them to Congress. Perhaps the best explanations for this clause in the Constitution were set forth in Essay No. 43 of *The Federalist:*

> "The indispensable necessity of complete authority at the seat of government carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it not only the public authority might be insulted and its proceedings interrupted with impunity, but a dependence of the members of the general government on the State comprehending the seat of the government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the government and dissatisfactory to the other members of the Confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to a removal of the government, as still further to abridge its necessary independence. The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession will be derived from the whole people of the State in their adoption of the Constitution, every imaginable objection seems to be obviated.
>
> "The necessity of a like authority over forts, magazines, etc., established by the general government, is not less evident. The public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular State. Nor would it be proper for the places on which the security of the entire Union may depend to be in any degree dependent on a particular member of it. All objections and scruples are here also obviated by requiring the concurrence of the States concerned in every such establishment."

Since the ratification of the present U.S. Constitution, the U.S. Supreme Court and all lower courts have had many opportunities to construe and apply this clause of the Constitution. The essence of all these decisions manifests a legal principle that the States of this nation have exclusive jurisdiction of property and persons located within their borders, excluding such lands and persons residing thereon which have been ceded to the United States.

Perhaps one of the earliest decisions on this point was *United States v. Bevans,* 16 U.S. (3 Wheat.) 336 (1818). which involved a federal prosecution for a murder committed on board the Warship, Independence, anchored in the

harbor of Boston, Massachusetts. The defense complained that only the state had jurisdiction to prosecute this crime and argued that the federal circuit courts had no jurisdiction of this crime supposedly committed within the federal government's admiralty jurisdiction. In argument before the Supreme Court, counsel for the United States admitted as much:

> "The exclusive jurisdiction which the United States have in forts and dockyards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein,"
>
> Id., at 350-51.

In holding that the State of Massachusetts had jurisdiction over this crime, the Court held:

> "What, then, is the extent of jurisdiction which a state possesses?
>
> "We answer, without hesitation, the jurisdiction of a state is co-extensive with its territory; co-extensive with its legislative power,"
>
> Id., at 386-87.

> "The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction... Congress has power to exercise exclusive jurisdiction over this district, and over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.
>
> "It is observable that the power of exclusive legislation (which is jurisdiction) is united with cession of territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, that, in describing the judicial power, the framers of our constitution had not in view any cession of territory; or, which is essentially the same, of general jurisdiction,"
>
> Id., at 388.

The Court in *Bevans* thus established a principle that federal jurisdiction extends only over the areas wherein it possesses the power of exclusive legislation, and this is a principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. To hold otherwise would destroy the purpose, intent and meaning of the entire U.S. Constitution.

The decision in *Bevans* was closely followed by decisions made in two state courts and one federal court within the next two years. In *Commonwealth v. Young*, Brightly, N.P. 302, 309 (Pa. 1818), the Supreme Court of Pennsylvania was presented with the issue of whether lands owned by the United States for which Pennsylvania had never ceded jurisdiction had to be sold pursuant to state law. In deciding that the law of Pennsylvania exclusively controlled this sale of federal land, the Court held:

> "The legislation and authority of congress is confined to cessions by particular states for the seat of government, and purchases made by consent of the legislature of the state, for the purpose of erecting forts. The legislative power and exclusive jurisdiction remained in the several states, of all territory within their limits, not ceded to, or purchased by, congress, with the assent of the state legislature, to prevent the collision of legislation and authority between the United States and the several states."

A year later, the Supreme Court of New York was presented with the issue of whether the State of New York had jurisdiction over a murder committed at Fort Niagara, a federal fort. In *People v. Godfrey*, 17 Johns. 225, 233 (N.Y. 1819), that court held that the fort was subject to the jurisdiction of the State since the lands therefore had not been ceded to the United States:

> "To oust this state of its jurisdiction to support and maintain its laws, and to punish crimes, it must be shown that an offense committed within the acknowledged limits of the state, is clearly and exclusively cognizable by

> the laws and courts of the United States. In the case already cited. Chief Justice Marshall observed, that to bring the offense within the jurisdiction of the courts of the union, it must have been committed out of the jurisdiction of any state; it is not (he says,) the offence committed, but the place in which it is committed, which must be out of the jurisdiction of the state."

The decisional authority upon which this court relied was *United States v. Bevans,* supra.

At about the same time that the New York Supreme Court rendered its opinion in *Godfrey*, a similar fact situation was before a federal court, the only difference being that the murder was committed on land which had been ceded to the United States. In *United States v. Comell,* 25 Fed. Cas. 646,648, No. 14,867 (C.C.D.R.I. 1819), the court held that the case fell within federal jurisdiction:

> "But although the United States may well purchase and hold lands for public purposes, within the territorial limits of a state, this does not of itself oust the jurisdiction or sovereignty of such State over the lands so purchased. It remains until the State has relinquished its authority over the land either expressly or by necessary implication.
>
> "When therefore a purchase of land for any of these purposes is made by the national government, and the State Legislature has given its consent to the purchase, the land so purchased by the very terms of the constitution ipso facto falls within the exclusive legislation of Congress, and the State jurisdiction is completely ousted."

Almost 18 years later, the U.S. Supreme Court was again presented with a case involving the distinction between state and federal jurisdiction. In *New Orleans v. United States,* 35 U.S. (10 Pet.) 662, 737 (1836), the United States claimed title to property in New Orleans likewise claimed by the city. After holding that title to the subject lands was owned by the city, the Court addressed the question of federal jurisdiction:

> "Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction."

In *New York v. Miln, 36* U.S. (11 Pet.) 102 (1837), the question before the Court involved an attempt by the City of New York to assess penalties against the master of a ship for his failure to make a report regarding the persons his ship brought to New York. As against the master's contention that the act was unconstitutional and that New York had no jurisdiction in the matter, the Court held:

> "If we look at the place of its operation, we find it to be within the territory, and, therefore, within the jurisdiction of New York. If we look at the person on whom it operates, he is found within the same territory and jurisdiction,"
>
> Id., at 133.

> "They are these: that a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits, as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That, by virtue of this, it is not only the right, but the bounden and solemn duty of a State, to advance the safety, happiness and prosperity of its people, and to provide for its general welfare, by any and every act of legislation which it may deem to be conducive to these ends; where the power over the particular subject, or the manner of its exercise is not surrendered or restrained, in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called internal police, are not thus surrendered or restrained; and that, consequently, in relation to these, the authority of a State is complete, unqualified and exclusive,"
>
> Id., at 139.

Some eight years later in *Pollard v. Haean.* 44 U.S. (3 How.) 212 (1845). the question of federal jurisdiction was once again before the Court. This case involved a real property title dispute with one of the parties claiming a right to the contested property via a U.S. Patent; the lands in question were situated in Mobile, Alabama, adjacent to Mobile Bay. In discussing the subject of federal jurisdiction, the Court held:

> "We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which Alabama or any of the new States were formed,"
>
> Id., at 221.

> "[B]ecause, the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted,"
>
> Id., at 223.

> "Alabama is therefore entitled to the sovereignty and jurisdiction over all the territory within her limits, subject to the common law,"
>
> Id., at 228-29.

The single most important case regarding the subject of federal jurisdiction appears to be *Fort Leavenworth R. Co. v. Lowe,* 114 U.S. 525, 531; 5 S.Ct. 995 (1885.), which sets forth the law on this point fully. Here, the railroad company property which passed through the Fort Leavenworth federal enclave was being subjected to taxation by Kansas, and the company claimed an exemption from state taxation because its property was within federal jurisdiction and outside that of the state. In holding that the railroad company's property could be taxed, the Court carefully explained federal jurisdiction within the States:

> "The consent of the states to the purchase of lands within them for the special purposes named, is, however, essential, under the constitution, to the transfer to the general government, with the title, of political jurisdiction and dominion. Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the government, is subject to the legislative authority and control of the states equally with the property of private individuals."

Thus the cases decided within the 19th century clearly disclosed the extent and scope of both State and federal jurisdiction. In essence, these cases, among many others, hold that the jurisdiction of any particular State is co-extensive with its borders or territory, and all persons and property located or found therein are subject to that jurisdiction; this jurisdiction is superior. Federal jurisdiction results from a conveyance of state jurisdiction to the federal government for lands owned or otherwise possessed by the federal government, and thus federal jurisdiction is extremely limited in nature. There is no federal jurisdiction if there be no grant or cession of jurisdiction by the State to the federal government. Therefore, federal territorial jurisdiction exists only in Washington, D.C., the federal enclaves within the States, and the territories and insular possessions of the United States.

The above principles of jurisdiction established in the last century continue their vitality today with only one minor exception. In the last century, the cessions of jurisdiction by States to the federal government were by legislative acts which typically ceded full jurisdiction to the federal government, thus placing in the hands of the federal government the troublesome problem of dealing with and governing scattered, localized federal enclaves which had been totally surrendered by the States. With the advent in this century of large federal works projects and national parks, the problems regarding management of these areas by the federal government were magnified. During the last century, it was thought that if a State ceded jurisdiction to the federal government, the cession granted full and complete jurisdiction. But with the ever increasing number of separate tracts of land falling within the jurisdiction of the federal government in this century, it was obviously determined by both federal and state public officials that the States should retain greater control over these ceded lands, and the courts have acknowledged the constitutionality of varying degrees of state jurisdiction and control over lands so ceded.

One of the first cases to acknowledge the proposition that a State could retain some jurisdiction over property ceded to the federal government was *Surplus Trading Co. v. Cook,* 281 U.S. 647, 50 S.Ct. 455 (1930). Here, a state attempt to assess an ad valorem tax on Army blankets located within a federal army camp was found invalid and beyond the state's jurisdiction. But in regards to the proposition that a State could make a qualified cession of jurisdiction to the federal government, the Court held:

> "[T]he state undoubtedly may cede her jurisdiction to the United States and may make the cession either absolute or qualified as to her may appear desirable, provided the qualification is consistent with the purposes for which the reservation is maintained and is accepted by the United States. And, where such a cession is made and accepted, it will be determinative of the jurisdiction of both the United States and the state within the reservation,"
>
> Id., at 651-52.

Two cases decided in 1937 by the U.S. Supreme Court further clarify the constitutionality of a reservation of partial state jurisdiction over lands ceded to the jurisdiction of the United States. In *James v. Dravo Contracting Company*, 302 U.S. 134, 58 S.Ct. 208 (1937), the State of West Virginia sought to impose a tax upon the gross receipts of the company arising from a contract which it had made with the United States to build some dams. One of the issues involved in this case was the validity of the state tax imposed on the receipts derived by the company from work performed on lands to which the State had ceded "concurrent" jurisdiction to the United States. The Court held that a State could reserve and qualify any cession of jurisdiction for lands owned by the United States; since the State had done so here, the Court upheld this part of the challenged tax notwithstanding a partial cession of jurisdiction to the U.S. A similar result occurred in *Silas Mason Co. v. Tax Commission of State of Washington*, 302 U.S. 186, 58 S.Ct. 233 (1937). Here, the United States was undertaking the construction of several dams on the Columbia River in Washington, and had purchased the lands necessary for the project. Silas Mason obtained a contract to build a part of the Grand Coulee Dam, but filed suit challenging the Washington income tax when that State sought to impose that tax on the contract proceeds. Mason's argument that the federal government had exclusive jurisdiction over both the lands and its contract was not upheld by either the Supreme Court of Washington or the U.S. Supreme Court. The latter Court held that none of the lands owned by the U.S. were within its jurisdiction and thus Washington clearly had jurisdiction to impose the challenged tax; see also *Wilson v. Cook*, 327 U.S. 474, 66 S.Ct. 663 (1946).

Some few years later in 1943, the Supreme Court was again presented with similar taxation and jurisdiction issues; the facts in these two cases were identical with the exception that one clearly involved lands ceded to the jurisdiction of the United States. This single difference caused directly opposite results in both cases. In *Pacific Coast Dairy v. Department of Agriculture of California*, 318 U.S. 285, 63 S.Ct. 628 (1943), the question involved the applicability of state law to a contract entered into and performed on a federal enclave to which jurisdiction had been ceded to the United States. During World War II, California passed a law setting a minimum price for the sale of milk, and this law imposed penalties for sales made below the regulated price. Here, Pacific Coast Dairy consummated a contract on Moffett Field, a federal enclave within the exclusive jurisdiction of the United States, to sell milk to such federal facility at below the regulated price. When this occurred, California sought to impose a penalty for what it perceived as a violation of state law. But, the U.S. Supreme Court refused to permit the enforcement of the California law, holding that the contract was made and performed in a territory outside the jurisdiction of California and within the jurisdiction of the United States, a place where this law didn't apply. Thus in this case, the existence of federal jurisdiction was the foundation for the decision. However, in *Penn Dairies v. Milk Control Commission of Pennsylvania*, 318 U.S. 261, 63 S.Ct. 617 (1943), an opposite result was reached on almost identical facts. Here, Pennsylvania likewise had a law which regulated the price of milk and penalized milk sales below the regulated price. During World War II, the United States leased some land from Pennsylvania for the construction of a military camp; since the land was leased, Pennsylvania did not cede jurisdiction to the United States. When Penn Dairies sold milk to the military facility for a price below the regulated price, the Commission sought to impose the penalty. In this case, since there was no federal jurisdiction, the Supreme Court found that the state law applied and permitted the imposition of the penalty. These two cases clearly show the different results which can occur with the presence or absence of federal jurisdiction.

A final point regarding federal jurisdiction concerns the question of when such jurisdiction ends or ceases. This issue was considered in *S.R.A. v. Minnesota*, 327 U.S. 558, 563-64, 66 S.Ct. 749 (1946), which involved the power of a State to tax the real property interest of a purchaser of land sold by the United States. Here, a federal post office building was sold to S.R.A. pursuant to a real estates sale contract which provided that title would pass only after the purchase price had been paid. In refuting the argument of S.R.A. that the ad valorem tax on its equitable interest in the property was really an unlawful tax on U.S. property, the Court held:

> "In the absence of some such provisions, a transfer of property held by the United States under state cessions pursuant to Article I, Section 8, Clause 17, of the Constitution would leave numerous isolated islands of federal jurisdiction, unless the unrestricted transfer of the property to private hands is thought without more to

> revest sovereignty in the states. As the purpose of Clause 17 was to give control over the sites of governmental operations to the United States, when such control was deemed essential for federal activities, it would seem that the sovereignty of the United States would end with the reason for its existence and the disposition of the property. We shall treat this case as though the Government's unrestricted transfer of property to non-federal hands is a relinquishment of the exclusive legislative power."

Thus when any property within the exclusive jurisdiction of the United States is no longer utilized by that government for governmental purposes, and the title or any interest therein is conveyed to private interests, the jurisdiction of the federal government ceases and jurisdiction once again reverts to the State.

The above principles regarding the distinction between State and federal jurisdiction continue today; see *Paul v. United States,* 371 U.S. 245, 83 S.Ct. 426 (1963), and *United States v. State Tax Commission of Mississippi,* 412 U.S. 363, 93 S.Ct. 2183 (1973). What was definitely decided in the beginning days of this Republic regarding the extent, scope, and reach of each of these two distinct jurisdictions remains unchanged and forms the foundation and basis for the smooth workings of state governmental systems in conjunction with the federal government. Without such jurisdictional principles which form a clear boundary between the jurisdiction of the States and the United States, our federal governmental system would have surely met its demise long before now.

In summary, the jurisdiction of the States is essentially the same as they possessed when they were leagued together under the Articles of Confederation. The confederated States possessed absolute, complete and full jurisdiction over property and persons located within their borders. It is hypocritical to assume or argue that these States, which had banished the centralized power and jurisdiction of the English Parliament and Crown over them by the Declaration of Independence, would shortly thereafter cede comparable power and jurisdiction to the Confederation Congress. They did not and they closely and jealously guarded their own rights, powers and jurisdiction. When the Articles were replaced by the Constitution, the intent and purpose of the States was to retain their same powers and jurisdiction, with a small concession of jurisdiction to the United States of lands found essential for the operation of that government. However, even this provision did not operate to instantly change any aspect of state jurisdiction, it only permitted its future operation wherein any State, by its own volition, should choose to cede jurisdiction to the United States.

By the adoption of the Constitution, the States jointly surrendered some 17 specific and well defined powers to the federal Congress, which related almost entirely to external affairs of the States. Any single delegated power, or even several powers combined, do not operate in a fashion so as to invade or divest a State of its jurisdiction. As against a single State, the remainder of the States under the Constitution have no right to jurisdiction within the single State absent its consent.

The only provision in the Constitution which permits territorial jurisdiction to be vested in the United States is found in Art. I, § 8, cl. 17, which provides the mechanism for a voluntary cession of jurisdiction from any State to the United States. When the Constitution was adopted, the United States had jurisdiction over no lands within the States, and it possessed jurisdiction only in the lands encompassed in the Northwest Territories. Shortly after formation of the Union, Maryland and Virginia ceded jurisdiction to the United States for Washington, D.C. Over time, the States have ceded jurisdiction to federal enclaves within the States. Today, the territorial jurisdiction of the United States is found only in such ceded areas, which encompass Washington, D.C., the federal enclaves within the States, and such territories and possessions which may now be owned by the United States.

The above conclusion is buttressed by the opinion of the federal government itself. In June 1957, the United States government published a work entitled *Jurisdiction Over Federal Areas Within The States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, Part II,* and this report is the definitive study on this issue. Therein, the Committee stated:

> "The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction - by State consent under Article I, section 8, clause 17... Justice McLean suggested that the Constitution provided the sole mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place,"

Id., at 41.

"It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise by the State, subject to non- interference by the State with Federal functions,"

Id., at 45.

"The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State,"

Id., at 46.

"On the other hand, while the Federal Government has power under various provisions of the Constitution to define, and prohibit as criminal, certain acts or omissions occurring anywhere in the United States, it has no power to punish for various other crimes, jurisdiction over which is retained by the States under our Federal-State system of government, unless such crime occurs on areas as to which legislative jurisdiction has been vested in the Federal Government,"

Id., at 107.

Thus from a wealth of case law, in addition to this lengthy and definitive government treatise, the "jurisdiction of the United States" is identified as a very precise and carefully defined portion of America. The United States is one of the 50 jurisdictions existing on this continent, excluding Canada and its provinces.

FEDERAL CRIMINAL JURISDICTION

It is a well established principle of law that all federal "legislation applies only within the territorial jurisdiction of the United States unless a contrary intent appears;" see *Caha v. United States.* 152 U.S. 211, 215, 14 S.Ct. 513 (1894);

American Banana Company v. United Fruit Company, 213 U.S. 347, 357, 29 S.Ct. 511 (1909); *United States v. Bowman,* 260 U.S. 94, 97, 98, 43 S.Ct. 39 (1922); *Blackmer v. United States,* 284 U.S. 421, 437, 52 S.Ct. 252 (1932); *Foley Bros. v. Filardo,* 336 U.S. 281, 285, 69 S.Ct. 575 (1949); *United States v. Spelar,* 338 U.S. 217, 222, 70 S.Ct. 10 (1949); and *United States v. First National City Bank,* 321 F.2d 14, 23 (2nd Cir. 1963). This particular principle of law is expressed in a number of cases from the federal appellate courts; see *McKeel v. Islamic Republic of Iran, 722* F.2d 582, 589 (9th Cir. 1983) (holding the Foreign Sovereign Immunities Act as territorial); *Meredith v. United States,* 330 F.2d 9, 11 (9th Cir. 1964) (holding the Federal Torts Claims Act as territorial); *United States v. Cotroni, 527* F.2d 708, 711 (2nd Cir. 1975) (holding federal wiretap laws as territorial); *Stowe v. Devoy,* 588 F.2d 336, 341 (2nd Cir. 1978); *Cleary v. United States Lines, Inc.,* 728 F.2d 607, 609 (3rd Cir. 1984) (holding federal age discrimination laws as territorial); *Thomas v. Brown & Root, Inc.,* 745 F.2d 279, 281 (4th Cir. 1984) (holding same as *Cleary,* supra); *United States v. Mitchell,* 553 F.2d 996, 1002 (5th Cir. 1977) (holding marine mammals protection act as territorial); *Pfeiffer v. William Wrigley, Jr., Co.,* 755 F.2d 554, 557 (7th Cir. 1985) (holding age discrimination laws as territorial); *Airline Stewards & Stewardesses Assn. v. Northwest Airlines, Inc., 267* F.2d 170, 175 (8th Cir. 1959) (holding Railway Labor Act as territorial); *Zahourek v. Arthur Young and Co.,* 750 F.2d 827, 829 (10th Cir. 1984) (holding age discrimination laws as territorial); *Commodities Futures Trading Comm. v. Nahas,* 738 F.2d 487, 493 (D.C. Cir. 1984) (holding commission's subpoena power under federal law as territorial); *Reyes v. Secretary of H.E.W.,* 476 F.2d 910, 915 (D.C. Cir. 1973) (holding administration of Social Security Act as territorial); and *Schoenbaum v. Firstbrook,* 268 F.Supp. 385, 392 (S.D.N.Y. 1967) (holding securities act as territorial). This principle was perhaps best expressed in *Caha v. United States,* 152 U.S., at 215, where the Court declared:

"The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government."

But, because of treaties as well as express statutory language, the federal drug laws operate extra-territorially; see *United States v. King, 552 F.2d* 833, 851 (9th Cir. 1976). The United States has territorial jurisdiction only in Washington, D.C., the federal enclaves within the States, and in the territories and insular possessions of the United States. However, it has no territorial jurisdiction over non-federally owned areas inside the territorial jurisdiction of the States within the American Union, and this proposition of law is supported by literally hundreds of cases.

As a general rule, the power of the United States to criminally prosecute is, for the most part, confined to offenses committed within "its jurisdiction" in the absence of treaties. This is born out simply by examination of 18 U.S.C. § 5 which defines the term "United States" in clear jurisdictional terms. Further, §7 of that federal criminal code contains the fullest statutory definition of the "jurisdiction of the United States." The U.S. District Courts have jurisdiction of offenses occurring within the "United States" pursuant to 18 U.S.C. § 3231.

Examples of this proposition are numerous. In *Pothier v. Rodman,* 291 F. 311 (1st Cir. 1923), the question involved whether a murder committed at Camp Lewis Military Reservation in the State of Washington was a federal crime. Here, the murder was committed more than a year before the U.S. acquired a deed for the property which was the scene of the crime. Pothier was arrested and incarcerated in Rhode Island and filed a habeas corpus petition seeking his release on the grounds that the federal courts had no jurisdiction over this offense not committed in U.S. jurisdiction. The First Circuit agreed that there was no federal jurisdiction and ordered his release. But, on appeal to the U.S. Supreme Court, in *Rodman v. Pothier,* 264 U.S. 399, 44 S.Ct. 360 (1924), that Court reversed; although agreeing with the jurisdictional principles enunciated by the First Circuit, it held that only the federal court in Washington State could decide that issue. In *United States v. Unzeuta,* 35 F.2d 750 (8th Cir. 1929), the Eighth Circuit held that the U.S. had no jurisdiction over a murder committed in a railroad car at Fort Robinson, the state cession statute being construed as not including railroad rights-of-way. This decision was reversed in *United States v. Unzeuta,* 281 U.S. 138. 50S.Ct.284 (1930). the Court holding that the U.S. did have jurisdiction over the railroad rights-of-way in Fort Robinson. In *Bowen v. Johnson,* 97 F.2d 860 (9th Cir. 1938), the question presented was whether the lack of jurisdiction over an offense prosecuted in federal court could be raised in a habeas corpus petition. The denial of Bowen's petition was reversed in *Bowen v. Johnston.* 306 U.S. 19. 59 S.Ct. 442 (1939), the Court concluding that such a jurisdictional challenge could be raised via such a petition. But, the Court then addressed the issue, found that the U.S. both owned the property in question and had a state legislative grant ceding jurisdiction to the United States, thus there was jurisdiction in the United States to prosecute Bowen. But, if jurisdiction is not vested in the United States pursuant to statute, there is no jurisdiction; see *Adams v. United States.* 319 U.S. 312. 63 S.Ct. 1122 (1943).

The lower federal courts also require the presence of federal jurisdiction in criminal prosecutions. In *Kelly v. United States,* 27 F. 616 (D. Me. 1885), federal jurisdiction of a manslaughter committed at Fort Popham was upheld when it was shown that the U.S. owned the property where the offense occurred and the state had ceded jurisdiction. In *United States v. Andem,* 158 F. 996 (D.N.J. 1908), federal jurisdiction for a forgery offense was upheld on a showing that the United States owned the property where the offense was committed and the state had ceded jurisdiction of the property to the U.S. In *United States v. Penn,* 48 F. 669 (E.D. Va. 1880), since the U.S. did not have jurisdiction over Arlington National Cemetery, a federal larceny prosecution was dismissed. In *United States v. Lovely,* 319 F.2d 673 (4th Cir. 1963), federal jurisdiction was found to exist by U.S. ownership of the property and a state cession of jurisdiction. In *United States v. Watson,* 80 F.Supp. 649, 651 (E.D. Va. 1948), federal criminal charges were dismissed, the court stating:

> "Without proof of the requisite ownership or possession of the United States, the crime has not been made out."

In *Brown v. United States,* 257 F. 46 (5th Cir. 1919), federal jurisdiction was upheld on the basis that the U.S. owned the post office site where a murder was committed and the state had ceded jurisdiction; see also *England v. United States,* 174 F.2d 466 (5th Cir. 1949); *Hudspeth v. United States,* 223 F.2d 848 (5th Cir. 1955); *Krull v. United States,* 240 F.2d 122 (5th Cir. 1957); and *Gainey v. United States,* 324 F.2d 731 (5th Cir. 1963). In *United States v. Townsend,* 474 F.2d 209 (5th Cir. 1973), a conviction for receiving stolen property was reversed when the court reviewed the record and learned that there was absolutely no evidence disclosing that the defendant had committed this offense within the jurisdiction of the United States. In *United States v. Benson,* 495 F.2d 475, 481 (5th Cir. 1974), in finding federal jurisdiction for a robbery committed at Fort Rucker, the court held:

> "It is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction therefor."

In two Sixth Circuit cases. *United States v. Tucker,* 122 F. 518 (W.D. Ky. 1903), a case involving an assault committed at a federal dam, and *United States v. Blunt,* 558 F.2d 1245 (6th Cir. 1977), a case involving an assault within a federal penitentiary, jurisdiction was sustained by finding that the U.S. owned the property in question and the state involved had ceded jurisdiction. In *In re Kelly,* 71 F. 545 (E.D. Wis. 1895), a federal assault charge was dismissed when the court held that the state cession statute in question was not adequate to convey jurisdiction of the property in question to the United States. In *United States v. Johnson,* 426 F.2d 1112 (7th Cir. 1970), a case involving a federal burglary prosecution, federal jurisdiction was sustained upon the showing of U.S. ownership and a state cession. And cases from the Eighth and Tenth Circuits likewise require the same elements to be shown to demonstrate the presence of federal jurisdiction; see *United States v. Heard,* 270 F.Supp. 198 (W.D. Mo. 1967); *United States v. Redstone,* 488 F.2d 300 (8th Cir. 1973); *United States v. Goings,* 504 F.2d 809 (8th Cir. 1974) (demonstrating loss of jurisdiction); *Hayes v. United States,* 367 F.2d 216 (10th Cir. 1966); *Hall v. United States,* 404 F.2d 1367 (10th Cir. 1969); *United States v. Carter,* 430 F.2d 1278 (10th Cir. 1970); and *United States v. Cassidy,* 571 F.2d 534 (10th Cir. 1978).

Of all the circuits, the Ninth Circuit has addressed jurisdictional issues more than any of the rest. In *United States v. Bateman,* 34 F. 86 (N.D. Cal. 1888), it was determined that the United States did not have jurisdiction to prosecute for a murder committed at the Presidio because California had never ceded jurisdiction; see also *United States v. Tully,* 140 F. 899 (D. Mon. 1905). But later, California ceded jurisdiction for the Presidio to the United States, and it was held in *United States v. Watkins,* 22 F.2d 437 (N.D. Cal. 1927), that this enabled the U.S. to maintain a murder prosecution. See also *United States v. Holt,* 168 F. 141 (W. D. Wash. 1909), *United States v. Lewis,* 253 F. 469 (S.D. Cal. 1918), and *United States v. Wurtzbarger,* 276 F. 753 (D. Or. 1921). Because the U.S. owned and had a state cession of jurisdiction for Fort Douglas in Utah, it was held that the U.S. had jurisdiction for a rape prosecution in *Rogers v. Squier,* 157 F.2d 948 (9th Cir. 1946). But, without a cession, the U.S. has no jurisdiction; *see Arizona v. Manypenny,* 445 F.Supp. 1123 (D. Ariz. 1977).

The above cases from the U.S. Supreme Court and federal appellate courts set forth the rule that in criminal prosecutions, the government, as the party seeking to establish the existence of federal jurisdiction, must prove U.S. ownership of the property in question and a state cession of jurisdiction. This same rule manifests itself in state cases. State courts are courts of general jurisdiction and in a state criminal prosecution, the state must only prove that the offense was committed within the state and a county thereof. If a defendant contends that only the federal government has jurisdiction over the offense, he, as proponent for the existence of federal jurisdiction, must likewise prove U.S. ownership of the property where the crime was committed and state cession of jurisdiction.

Examples of the operation of this principle are numerous. In Arizona, the State has jurisdiction over federal lands in the public domain, the state not having ceded jurisdiction of that property to the U.S.; see *State v. Dykes,* 114 Ariz. 592, 562 P.2d 1090 (1977). In California, if it is not proved by a defendant in a state prosecution that the state has ceded jurisdiction, it is presumed the state does have jurisdiction over a criminal offense; see *People v. Brown,* 69 Cal. App.2d 602, 159 P.2d 686 (1945). If the cession exists, the state has no jurisdiction; see *People v. Mouse,* 203 Cal. 782, 265 P. 944 (1928). In Montana, the state has jurisdiction over property if it is not proved there is a state cession of jurisdiction to the U.S.; see *State ex rel Parker v. District Court,* 147 Mon. 151, 410 P.2d 459 (1966); the existence of a state cession of jurisdiction to the U.S. ousts the state of jurisdiction; see *State v. Tully,* 31 Mont. 365, 78 P. 760 (1904). The same applies in Nevada; see *State v. Mack,* 23 Nev. 359, 47 P. 763 (1897), and *Pendleton v. State,* 734 P.2d 693 (Nev. 1987); it applies in Oregon (see *State v. Chin Ping,* 91 Or. 593, 176 P. 188 (1918), and *State v. Aguilar,* 85 Or. App. 410, 736 P.2d 620 (1987)); and in Washington (see *State v. Williams,* 23 Wash. App. 694, 598 P.2d 731 (1979)).

In *People v. Hammond,* 1111.2d 65, 115 N.E.2d 331 (1953), a burglary of an IRS office was held to be within state jurisdiction, the court holding that the defendant was required to prove existence of federal jurisdiction by U.S. ownership of the property and state cession of jurisdiction. In two cases from Michigan, larcenies committed at U.S. Post Offices which were rented were held to be within state jurisdiction; see *People v. Burke,* 161 Mich. 397, 126 N.W. 446 (1910), and *People v. Van Dyke,* 276 Mich. 32, 267 N.W. 778 (1936). See also *In re Kelly,* 311 Mich. 596, 19 N.W.2d 218 (1945). In *Kansas City v. Gamer,* 430 S.W.2d 630 (Mo. App. 1968), state jurisdiction over a theft offense occurring in a federal building was upheld, and the court stated that a defendant had to show federal jurisdiction by proving U.S. ownership of the building and a cession of jurisdiction from the state to the United States. A similar holding was made for a theft at a U.S. missile site in *State v. Rindall,* 146 Mon. 64, 404 P.2d 327 (1965). In *Pendleton v. State,* 734 P.2d 693 (Nev. 1987), the state court was held to have jurisdiction over a D.U.I, committed on federal lands, the defendant having failed to show U.S. ownership and state cession of jurisdiction.

In *People v. Gerald,* 40 Misc.2d 819, 243 N.Y.S.2d 1001 (1963), the state was held to have jurisdiction of an assault at a U.S. post office since the defendant did not meet his burden of showing presence of federal jurisdiction; and because a defendant failed to prove title and jurisdiction in the United States for an offense committed at a customs station, state jurisdiction was upheld in *People v. Fisher,* 97 A.D.2d 651, 469 N.Y.S.2d 187 (A.D. 3 Dept. 1983). The proper method of showing federal jurisdiction in state court is demonstrated by the decision in *People v. Williams,* 136 Misc.2d 294, 518 N.Y.S.2d 751 (1987). This rule was likewise enunciated in *State v. Burger,* 33 Ohio App.3d 231, 515 N.E.2d 640 (1986), a case involving a D.U.I, offense committed on a road near a federal arsenal.

In *Kuerschner v. State,* 493 P.2d 1402 (Okl. Cr. App. 1972), the state was held to have jurisdiction of a drug sales offense occurring at an Air Force Base, the defendant not having attempted to prove federal jurisdiction by showing title and jurisdiction of the property in question in the United States; see also *Towry v. State,* 540 P.2d 597 (Okl. Cr. App. 1975). Similar holdings for murders committed at U.S. post offices were made in *State v. Chin Ping,* 91 Or. 593, 176 P. 188 (1918), and in *United States v. Pate,* 393 F.2d 44 (7th Cir. 1968). Another Oregon case. *State v. Aguilar,* 85 Or. App. 410, 736 P.2d 620 (1987), demonstrates this rule. Finally, in *Curry v. State,* 111 Tex. Cr. 264, 12 S.W.2d 796 (1928), it was held that, in the absence of proof that the state had ceded jurisdiction of a place to the United States, the state courts had jurisdiction over an offense.

Therefore, in federal criminal prosecutions involving jurisdictional type crimes, the government must prove the existence of federal jurisdiction by showing U.S. ownership of the place where the crime was committed and state cession of jurisdiction. If the government contends for the power to criminally prosecute for an offense committed outside "its jurisdiction," it must prove an extra-territorial application of the statute in question as well as a constitutional foundation supporting the same. Absent this showing, no federal prosecution can be commenced for offenses committed outside "its jurisdiction."

END NOTES:

[1] See *Fort Leavenworth R. Co. v. Lowe,* 114 U.S. 525, 529, 5 S.Ct. 995 (1885).

[2] The statutory definition of "United States" as expressed in this § 5 is identical to the constitutional definition of this term; see *Cunard S.S. Co. v. Mellon,* 262 U.S. 100,43 S.Ct. 504 (1923), which deals with the definition of "United States" as used in the 18th Amendment.

****

[Note for the reader: The above memo discusses only about 140 cases. If you wish to find more cases addressing the issue of federal territorial jurisdiction, please see the other 3 separate files noted on the web page. The important U.S. Supreme Court cases are all cataloged in their own file; the same type of cases from each federal circuit and each state are found in the other two files. If you wish to learn more about how federal laws are applicable outside "its jurisdiction," please study the brief regarding treaties.]

TRY THE LAW

The scene is a somber federal courtroom. The lengthy trial on a charge of weapons possession has just ended.

> "Ladies and Gentlemen of the jury, the testimony has now concluded. We will take the time to determine the innocence or guilt of Mr. John Watkins.
>
> "You have heard all the testimony from the prosecution and defense attorneys. You will soon retire to the jury room for your deliberations. All the evidence presented at this trial will be there with you for your examination and use in reaching a verdict.
>
> "During your deliberations, I charge you with determining the facts presented in this litigation and the facts only. I will now instruct you on the law concerning this case and under which Mr. Watkins has been tried."
>
> "If you have any questions during your deliberations concerning what I am about to instruct you, please make a written request to the Court. Cite what you do not understand. The Bailiff will bring your question into the Court and I will answer it."

Now, in a usual monotonous voice, the judge will read his interpretation of the laws involved. If you can stay awake and understand a small part of what 'His Honor" is saying consider yourself fortunate.

This whole setup is called 'Judicial Supremacy'. They purposely constructed court rooms so the judge sits higher than everyone else. That forces you to look up to him. He lords it over everyone that he is only the person who has any say-so on the law.

This is a lie ... a real legal fairy tale. The reason for a jury has been turned upside down. In past years it bears no similarity to the true purpose of your duty as a juror. Your obligation is not only to determine the innocence or guilt of the accused; it is also to examine the law!

Let's get back to basics and define a law. **The supremacy clause of our Constitution is explicit when it says it and only laws made following its power and restrictions are the supreme law of the land.**

The key words are laws made following the power in the document. If they pass a law beyond the permission we granted, then what? It would NOT conform to the document and is no law. And how would you know?

The first requirement is that you know something about our Constitution. Without this knowledge, these legal eagles will continue to make monkeys of you. It would be ridiculous to memorize the document and no one expects that. Nevertheless, the purpose of the jury is to safeguard other citizens from an overzealous government. You should know where to look to see if they have the authority to pass the law under which they are accusing the person on trial.

There are only four crimes listed in our Constitution. These are:

1. **Counterfeiting of securities and current coins, (Art I, Sec 8)**
2. **Piracies and felonies committed on the high seas, (Art I, Sec 8)**
3. **Treason against the United States (Art III, Sec 3)**
4. **Offenses against the law of nations (Art I, Sec 8)**

That's it! We gave NO power to Congress beyond these four to define a crime. Sounds weird ... but it's true. In 1821, Chief Justice John Marshall, of the United States Supreme Court stated in an opinion:

> **"Congress has a right to punish murder in a fort, or other place within its exclusive jurisdiction; but no general right to punish murder committed within any of the States." Further, he added, "It is clear, that Congress cannot punish felonies generally;"**
>
> *Cohen v Virginia, 4 Wheat (US) 264* (1821).

Unless you are a juror in a case (federal) charging someone with a violation of one of the four listed crimes, there is no criminal law. And you cannot judge the persons' innocence or guilt. You have no right to convict.

That's a heavy statement. Let's see if it's true ...

The determination of crimes and criminal acts were designated as state functions. They are still state functions today and of no concern to the federal government. This is verified by the instructions in Art IV, Sec 2, clause 2.

We have established repeatedly that our Constitution is the supreme law of the land. Nowhere have we given Congress the power to determine any act by a citizen to be a crime. The document is full of 'thou shalt nots' directed at the government. The consensus of some of our Founding Fathers was that the powers given, limited as they are, were much too dangerous.

The Tenth Amendment restates the 'thou shalt nots'… ***"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."*** It is an absolute bar to the federates assuming any power we did not grant to them.

For the sake of illustration, this trial was about the possession of weapons. The Second Amendment prohibits the Congress from passing ANY law which will infringe on the right to keep and bear arms. And here the 'justice' dept is after someone for possession of weapons? It's no good. The law is a myth.

Hamilton makes it clear in Paper No. 83 that the 'thou shalt nots' are there. Their powers are specific and limited. These specific powers preclude all assumption of a general legislative authority. Being specific, it would be absurd as well as useless if a general authority was intended. (As before, all references to 'paper #' are from *The Federalist Papers.)* Where can Congress find the right to assume power to define crimes if *the* permission were not specifically granted by us?

For the past hundred or more years. Congress has been busy writing all sorts of laws for which we gave no permission. The worse period for illegal and bad laws was during the period of the 1930's. This was when the exercise of control over the American people went wild. This is one reason why the purpose of the jury is so important today.

The people who work for the government have a job as a result of our Constitution. If it were not that we agreed to government, their positions would not exist. There is no other way to look at it. It is our right and our duty to check on what they are doing. This of course includes the laws they are passing.

And what do we check them against? The supremacy clause holds the key. If they do not conform, they are no good — they are not laws. Can't make it any plainer.

Our Fifth Amendment guarantees you and I due process of law. This is an extremely important statement. They cannot take life, liberty, or property unless this requirement for due process is followed. Our basic law holds the precedence. ***If the government does not obey a command of the document, anything that comes as a result does NOT follow due process.***

It doesn't take a unanimous jury to say the law is no good. It takes only one knowledgeable person to refuse to convict and the law, for that instance at least, has been neutralized.

This is jury nullification of laws. This was the intent of our jury system from the beginnings of our system of government. The Supreme Court has agreed with that premise. *(Georgia v. Brailsford, 3 US 1)* (1794) There are decisions in law books which show the jury is to try both law and fact. These were many years in our past. The drive by federal judges to establish the judicial branch as the most powerful branch of government has hidden this point. Today, the people believe only judges can tell the jury what the law means. Surprised? *This is legal fiction* ... Buffalo chips!

A phrase nearly everyone is familiar with is ignorance of the law is no excuse. What excuse does a judge have for not knowing the law? (Or do you think perhaps he might?)

How about all the lawyers we have in Congress making laws? What about the lawyers in that court room? If this statement has any validity, it applies to everyone.

Now what would you do in a situation like this? Send a note with the bailiff to the judge saying the law is no good so you cannot vote for conviction? This would probably end with you receiving a contempt citation from the judge and off to jail you go without passing go! After all, the man in the black robe has instructed you on the meaning of the law. The alternative is to refuse to convict. No matter what pressure you feel from the other jurors. Knowing the national government has no power to define a criminal act, how can you consider a persons guilt and perhaps ruin someone's life?

Now your duty as a juror becomes paramount. The people who are passing these laws and those who are enforcing them are guilty of breaking the law. We have ordered each person who works for government to swear to God they will support our Constitution. Another command of the document which Congress ignores in many instances. More hanky-panky.

The ease with which they do these unconstitutional practices reflects on us. Sadly, we don't know what the Constitution says. We have paid no attention to what the government has been doing to our rights and with their allotted powers.

The eternal vigilance recommended by Jefferson has gone to sleep. We have not been watching our elected representatives. I assure you these people who exceed their powers know exactly what they're doing. They know good people are reluctant to raise a fuss to make it stop. Those with a lust for greed and power continue on their merry way.

Back to your duty as a juror. By simply resisting the pressure of other members of the jury and refusing to convict, the government will be denied a conviction. No question this is an awkward position to be in. You may feel this person is guilty of something. However, you can't bow to pressure to find a person guilty when we denied the federal government the power to establish the crime.

You can rest assured if the person is a criminal, he will continue his criminal activity and be back in court again.

The next time perhaps in a state court and not a federal court.

There has been an assumption in this country that a person is innocent until proven guilty. The attitude in courts today is frightening. Many people feel if the government has gone through all the work and investigation, the person must be guilty. Guilty until proven innocent? That puts the cart before the horse. This position is dangerous to the survival of our Republic and a task which is nearly impossible to overcome in court. Don't let them use you in this manner. That's exactly what they are doing.

Alexander Hamilton made this very point in *Paper No. 65:* "But juries are frequently influenced by the opinions of judges. They are sometimes induced to find special **verdicts, which refer the main question to the decision of the court. Who would be willing to stake his life and his estate on the verdict of a jury acting under the guidance of judges who had predetermined his guilt?"**

What about grand juries? The only mention of them is in the Fifth Amendment. This is the first hurdle the government has to overcome to bring a person to trial. It is the obligation of the Grand Jury to investigate allegations on it's own. They should never simply accept what a government attorney charges.

Grand Juries are completely independent bodies. They do not belong to the Court system or the US Attorneys office. The Court calls Grand Juries into session from lists of names maintained by the US Attorneys office. Yet they are independent! They have no right to determine guilt. Their only duty is to see if US laws were violated and if they were, to issue an indictment against an individual.

Some Grand Juries have earned the name of "rubberstamp" juries. They have accepted what a US Attorney charges against an individual without conducting an investigation on their own. This is how badly the protection of our citizens has eroded in the past years. It's a sad comment on American justice and proves how we have been bamboozled by our public servants.

The first investigation conducted has the same requirement as for the petit jury. Does the law meet with the requirements of our Constitution? Simply because a US Attorney says the violation is of one of US laws doesn't mean it's true. In legal circles this is called jury manipulation. You are being used by the US Attorney to indict a person simply on his word. Charges must be investigated independently.

Do you know a US Attorney does not take an oath to support the Constitution as required? He has no authority to stand before the Grand Jury and make a charge against anyone.

The requirement that all officers take an oath or affirmation to support the Constitution includes the executive branch. There are no exceptions. The US Attorney works for the Justice Department, part of the executive branch. Nonetheless, the US Attorney takes an Oath only to perform his duties faithfully. This is in *section 544 of the Judicial Code, Title 28, United States Code.*

Do you see why the federates don't want anyone to know that juries have the obligation to try the law also? If there is no power to define a crime, you as a member of a Grand Jury have no authority to issue an indictment.

How can anyone argue with this premise? The Constitution established that Congress can make no law which is beyond their specified and granted powers. The jury system, both petit and grand, is the basic protection for us as citizens against overzealous government and agents. Jury duties and functions have been very slowly curtailed by the government. That way they can exercise control over the people as they see fit.

One great man in history made the statement: "The more corrupt the state, the more numerous the laws." (Cornelius Tacitus, Roman senator and historian. A.D. c. 56 - c. l 15). Congress has been busy for years writing laws for which we gave no permission. We must get our ambitious public officials back within the confines of our basic law.

Are we being led down the road to slavery like sheep?

Has this great country become a nation of wimps ... people who are afraid to challenge the government when it breaks the law? Will we wake some fine morning to find we are now a minor member of the New World Order? It's closer than any of us dare to imagine. Wake up, people!

What will it be like in this country for us, for our children and grandchildren if we don't take control of the government? Perhaps you or one of your children will be in the same position as the man in this story. Your duty as a juror is of the utmost importance in the guarantee of our basic protections.

This same principle applies to state courts. All states must obey the Constitution, either by ratification of the document or on being granted statehood. The requirement for officials to take an oath to support the document also applies to state officials. Each reader should at least know the authority the state has received from your particular state constitution. Find a copy of it or write your state representative and request a copy. Then you will be able to familiarize yourself with its authority.

Our very survival depends on alert Americans. Ignorance is NO defense! Languishing in prison on an illegal conviction is a travesty.

You and I are the sovereigns. We must begin to act like a sovereign. Otherwise, our birthright of life, liberty and happiness will disappear like a puff of smoke.

THERE ARE TRAITORS WITHIN THE GATES!

4. Of Note...

Apparently members of the common law court movement have no problem with ignoring the concept of separation of powers — they have on a number of occasions filed documents intended to command that their state legislatures rethink longstanding statutes. Kidding aside, members of the movement attempt to take public participation to a fascinating new level, a sort of "if you can't join them, join them" philosophy in which the movement tries to bring about social change by literally commanding those in power to bring it about. Following are some examples of this odd trend.

Colorado Findings of Fact and Redress for Grievances

(To be heard April 29 by Colorado State Legislature, 1:30 p.m.. Old Supreme Court Chambers committee room on second floor, north end of Colorado State Capitol, Denver.)

Country of Colorado Our One Supreme Court
Common Law Venue; Original and Exclusive Jurisdiction Outside the
District of Columbia

In Fremont County, Colorado Republic	)	
People, for Colorado Republic, ex rel,	)	"IN LAW"
	)	
Demandant, Plaintiff,	)	Redress Of Grievance
	)	
vs.	)	Grievance
	)	
STATE OF COLORADO,	)	Case – Colorado 95-1
"its" political subdivisions	)	
and officers thereof, et al	)	Petition de Droit
	)	and
Respondents, Defendants	)	Command To Show Cause
	)	
Specifically To:	)	

PRAECIPE
(Summons)

I, Alvin Jenkins, special appointed clerk, in and for Colorado Republic, hereby under the order and authority of the People for the several counties, command the above named defendants to show lawful cause and place into evidence by signed affidavit. Lawful documentation of the "Emergency Government" described in the attached pages ____through ____. This Colorado Common Law Assembly has concluded, "In Law", that no authority or necessity exists for an "Emergency Government" and that such a government is operating against the best interest and will of the Sovereign People, the "state" in fact. Affidavits of response must be sent to the above Clerk of Court address within 60 days of day served, exclusive of day received. If no Lawful evidence to the contrary is received, these facts stated as Truth and this Assembly of the Sovereign People shall continue "in Law" to remove this bondage from us. _____ Special Appointed Clerk

Country of Colorado Republic)
) ss: Affidavit of Return
In and for the several counties)

I, _____, special appointed private courier, attest and acknowledge that I did serve upon above specifically named defendant by Contract via insured RRR Mail # _____ this Praecipe and Attached Exhibits.

AFFIDAVIT

I, Alvin Jenkins, special appointed Clerk of the Court, for the term, hereby Attest and Acknowledge that the following is True, Correct, and Certain, in relation to the record of proceedings that are in my possession for safe-keeping, but open to the public for review.

1. War & Emergency Powers Special Report
2. Constitution: Fact or Fiction
3. Working Paper 9405
A. Colorado Legislative Acts
B. Kevin Tebedo Testimony
C. Colorado Legislative Acts
D. Jury List
E-l. Colorado Constitution
E-2. 10th Amendment Resolution

I, Alvin Jenkins, attest; (1) that the above is as recorded within the Case Jacket in my possession and open for review upon request, and (2) the attached _____ pages are True, Correct, and Certain copies of the Original Petition for Redress of Grievance by the Common Law Assembly.

Attest: _____
Alvin Jenkins

COUNTY OF BACA)
) ss:
STATE OF COLORADO)

Subscribed and sworn to before me this ____ day of October, 1995.
Witness my hand and official seal.
My Commission Expires: _____
_____ Notary Public
_____ Address

Country of Colorado Our One Supreme Court Common Law Venue; Original and Exclusive Jurisdiction Outside the District of Columbia In Fremont County, Colorado Republic People, in and for the United States of America, **ex** rel, Plaintiff, Vs. Governor Roy Romer, Attorney General Gail Norton Colorado State Senators Colorado State Representatives Colorado Supreme Court Judges Colorado Court of Appeals Judges Colorado District Court Judges All County Court Judges All County Commissioners All State Agencies All Elected or Appointed Officials, et.al. Defendant[s].	)	Colorado 95-1 Petition de Droit and Command To Show Cause Why the Emergency Statutes of the state should not be terminated, along with the War and Emergency Powers of the United States.

[...] [The "Colorado Common Law Jury" issued 18 "findings of fact," quoting at length from such sources as the Constitution, the Congressional Record, Communications of the President of the United States, among others, in support of its argument that neither the Federal Government nor the Legislature of Colorado had any authority to pass restrictive laws consistent with "emergency conditions" essentially in the period following the great depression.] [...]

II CONCLUSIONS

(1) The Colorado Common Law Jury concludes that the original Trading with the Enemy Act of October 6, 1917, passed by Congress during World War I, was valid and constitutional. Congress was within it's constitutional authority. Article I, Section 8, Clause 11 states:

> "The Congress shall have Power to declare War, grant Letters of Manqué and Reprisal, and make Rules concerning Captures on Land and Water."

(2) The Colorado Common Law Jury further concludes that Executive Order 2039, of March 6, 1933 and Executive Order 2040 of May 9, 1933 are invalid and unconstitutional; and further all Executive Orders, Proclamations, statutes, judgments, etc., made thereunder, and made thereafter, are likewise invalid and unconstitutional, for the following reasons:

a. Pursuant to Stoehr v. Wallace decided Feb. 28, 1921, which stated: "The Trading With the Enemy Act, original and as amended, is strictly a war measure and finds its sanctions in the provision empowering Congress 'to declare War, grant Letters of Manqué and Reprisal, and make Rules concerning Captures on Land and Water . . .'"

(3) The Colorado Common Law Jury concludes that in his inaugural address of March 4, 1933, President Roosevelt acknowledged that no invasion or rebellion had taken place. Roosevelt proceeded by asking for:

> "... broad Executive power to wage a war against the emergency, as great as the power that would be given me if we were in fact invaded by a foreign foe."

(4) The Executive Order 2039 of March 6, 1933 was amended and in its final form included the American people and their transactions the same as "enemy" and made them subject to all the War-time Executive Orders, Rules, Regulations, Licenses etc.

(5) The Colorado Common Law Jury not only concludes that there was an Act of "Fraud" perpetrated against the American people, but also an Act of Treason, under Article III, Section 3 of the United States Constitution.

> Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort.

(6) The Colorado Common Law Jury conclusion is further supported by Senate Report 93-549, which states in part:

> “A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency. “

and further states:

> "there is no present need for the United States Government to continue to function under emergency conditions.”

and further states:

> "In the view of the Special Committee, an emergency does not now exist. Congress, therefore, should act in the near future to terminate officially the states of national emergency now in effect."

(7) The Colorado Common Law Jury's conclusions are further supported by Working Paper 9405 by Walker F. Todd, writing for the Federal Reserve Bank of Cleveland. Coming "straight from the horse's mouth" -

Todd describes it as a "large-scale peacetime intervention." See page 2, Working Paper 9405, and further:

> Hoover later wrote: "I had consulted our legal advisors as to the use of a certain unrepealed war power over bank withdrawals and foreign exchange. Most of them were in doubt on the ground that the lack of repeal was probably an oversight by the Congress, and under another law, all the war powers were apparently terminated by the peace. Secretary [or the Treasury Ogden] Mills and Senator Glass held that no certain power existed."

(8) The Colorado Common Law Jury makes the conclusion that the overwhelming evidence is: that the War and Emergency Power Act was enacted at a time when the country was at peace and was not under threat of invasion and not in a state of rebellion, which is the controlling factor in this case.

(9) The Colorado Common Law Jury further concludes that pursuant to the Kentucky Resolution, which spelled out the criminal jurisdiction of the United States to four specifics, i.e.:

> "(1.) to punish treason;
> "(2.) counterfeiting the securities and current coin of the United states;
> "(3.) felonies committed on the high sea, and;
> "(4.) offences against the law of nations."

and further; that Congress had no other criminal jurisdiction, other than what was delegated to them by the Constitution, and further; the Colorado Common Law Jury concludes that the War and Emergency Power is synonymous with the Alien and Sedition Acts described in the Kentucky Resolutions of 1798; and further it is a matter of Res judicata. Wheretofore, Executive Order 2039 of March 6, 1933, and Executive Order 2040, and all statutes, orders, judgments, etc., passed thereunder are all void and having no authority, whatsoever.

(10) In Colorado HE 89-1181 has been unconstitutionally used to usurp the right of the people to redress government through initiative and referendum.

(11) In Colorado the "safety clause" found on most legislation is a fraudulent usurpation of the people's right of referendum.

(12) In Colorado, the repeal of anti-trust laws establishes a corporate government that conflicts with its interest and obligation in protecting the rights of the people of Colorado.

(13) The Colorado Common Law Jury concludes that since March 9, 1933 the United States of America has been impoverished; during the past 45 years we have slipped from the wealthiest, most powerful nation on earth, to the world's greatest debtor nation, in imminent danger of catastrophic economic collapse, and further concludes that the exercise of War and Emergency Powers has impoverished the American and deprived Americans of unalienable rights, and have worked contrary to the safety, health, liberty and general welfare of the American people. The Colorado Common Law Jury on behalf of the People, in and for Colorado Republic, hereby Command the defendants to Show Cause why the Emergency Statutes passed within this state should not be terminated, along with the War and Emergency Powers of the United States. If the defendants should fail in any way to Show Cause, then this Finding of Fact and Conclusions by Our Court of First and Last Resort shall become a Superseding Judgment, and upon failure of the public to properly protest said judgment, it shall become Case Res judicata. The Court is instructed to issue all necessary documents. I/we the Jurats of the Colorado Common Law Jury hereby attest and acknowledge that the above Finding of Facts and Conclusions are true, correct, certain, reliant and necessary to the well-being of the people of our Colorado Republic.

Our Finding of Facts and Conclusions of Law by our Colorado Common Law Jury is not reviewable by any other Court of the United States than in accordance to the rules of Common Law, per the seventh amendment to our National Constitution, nor subject to trespass by the judicial power of the United States as per the Eleventh Amendment to our National Constitution.

So agreed to and done this 19th day of August, 1995.

_____ Per curiam Per curiam curiam Per curiam

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United States of America)
) ss:
Country of Colorado State)

I, _____, duly appointed, commissioned, and privately bonded National officer, hereby attest and acknowledge that the signatures of the above jurats are the ones chosen by the People of the several states, and that the jury was presented with testimony and the facts, pertaining to the necessity of the termination of the non-constitutional War and Emergency Powers, being perpetrated upon the American People. On this _____ day of June, 1995. _____

Notarial Officer Fee: _____

IN THE MARION COUNTY SUPERIOR COURTS
CRIMINAL DIVISION ROOM NO. 15

STATE OF INDIANA	)	
COUNTY OF MARION	)	
STATE OF INDIANA,	)	Filed April 25, 1996
	)	
Plaintiffs,	)	(cited in NY Times June 1997)
	)	
v.	)	
	)	
LINDA THOMPSON, J.D.	)	
	)	
Defendants.	)	

AMICUS CURAE BRIEF

RE: INDIANA CONSTITUTION
ARTICLE I SECTION 19

Comes now, R. J. Tavel, J.D., Indiana state coordinator for the Fully Informed Jury Association, Inc., [a not-for-profit educational organization organized pursuant to IRC § 501(c)(3) headquartered in Helmville, Montana with affiliate chapters in all 50 states of the United States] who, in support of the continued vitality of the concept of jury nullification found in the body of our state's constitution [Ind. Const. Art. I, Sec. 19], here submits, by way of his *amicus curae* brief, that then Chief Justice Randall T. Shepard was speaking to this Criminal Court when he observed:

> "Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence."
>
> 22 In. L.R.575 (1989) quoting *Mapp v. Ohio,* 367 U.S. 643 (1961)

The provision of jury nullification in the body of our Constitution is not anomalous or even singular in its prescription since Article I Section 3 provides that no law may "interfere with the rights of conscience." Indeed, just as Section 9 thereof affirms the rights of expression in language much more comprehensive than the First Amendment to the U.S. Constitution, the very provision of all Hoosiers "right" to "due process" is more explicitly stated as a "guarantee that all courts shall be open and that every person shall have a remedy." These are not accidents or mere happenstance. Quite to the contrary, they are the result of great deliberation and are meant to stand as the fundamental provisions underlying the consent of the people to be governed by the state [1 Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana 394 (1850)].

The state's attempt to cast the issue in terms of "legislating" is disingenuous, without merit in the case at bar

and, further, does not square with Indiana history. Our Indiana Supreme Court has held, in a long line of cases, *e.g.,* from the case of *MacDonald v. State,* 63 Ind. 544 (1878) through that of the Indiana Court of Appeals in *State v. Tyson,* (Ind. App., 1993) 619 N.E.2d 276, that, far from "legislating," the jurors "are oath-bound to find the facts honestly and accept the law faithfully as both exist, and ... return a verdict which you find just and proper ..." (*Tyson, supra.,* at 299).

It is this last quoted phrase that is the operative concept underlying all of the foregoing writings in all of the aforementioned documents. Article I, Section 19, of the Indiana Constitution is riot a grant of right from the state, it is a recognition of right, a God-given, unalienable right drawn from the command of *Deuteronomy 16:20:* **"Justice, justice shall you pursue."**

It is in "good conscience" that jurors pass upon the circumstances of a defendant. Legislation, being the last pronouncement of the community standard by our General Assembly, is sometimes out of step or behind the times, since the community standard is forever evolving. Fully informed jurors, by their verdicts, send legislators non-political democratic feedback about the laws they have enacted, which is essential for the proper functioning of our constitutional Republic. Most importantly, fully informed jurors act as the fourth and final check on the unrestrained often oppressive crush of government prosecutions brought at the whim of state officials for no valid reason concerning public safety but rather for petty, personal, political reasons that have no place in a court of law [see, *e.g.. In Bushell's case,* Vaughn. 135,124 Eng. Rep. 1006 (C.P. 1670), wherein Justice Vaughn found that the jurors who acquitted William Penn of unlawful assembly "against full and manifest evidence" and "against the direction of the court in matter of law" could not be fined or imprisoned; and see, J. Alexander, A Brief Narration of the Case and Trial of John Peter Zenger (1963). For many years following the Zenger case, it was generally recognized in American jurisprudence that juries in criminal cases had the "right" to decide the law, as well as the facts, and juries were so instructed (see, *e.g., Skidmore v. Baltimore O.R. Co.,* 167 F2d 54, 57 (2d Cir. 1948).]

Last year, California's "trial of the century," *People v. Oranthal James Simpson,* has rekindled the fire and controversy surrounding jury nullification, just as New York's *People v. Goetz* raised the debate in 1988. While journalists and jurists alike proclaimed these to be "public-policy" verdicts, they were examples of jury nullification, and the majority of states have made provision for this right and power:

I. CURRENT CONSTITUTIONAL AUTHORITY FOR JURY NULLIFICATION:

The Constitutions of Maryland (Art. XX in entire), Indiana (Art. I, Sec. 19), Oregon (Art. I, Sec. 16), and Georgia (Art. I Sec. 1, Para. 11, Subsec. A), currently have provisions guaranteeing the right of jurors to "judge the law;" that is, to nullify the law. For example, the Georgia Constitution says:

> "In criminal cases, the defendant shall have a public and speedy trial - and the jury shall be the judges of the law and the facts."

Attorneys in Georgia and Indiana are able to request nullification instructions from the judge to the jury and generally receive them, and are sometimes able to argue the law. Twenty states currently include jury

nullification provisions in their Constitutions under their sections on freedom of speech, specifically with respect to libel and sedition cases:

Alabama (Art. I, Sec. 12);
Colorado (Art. II, Sec. 10);
Connecticut (Art. I, Sec. 6);
Delaware (Art. I, Sec. 5);
Kentucky (Bill of Rights, Sec. 9);
Maine (Art. I, Sec. 4);
Mississippi (Art. 3, Sec. 13);
Missouri (Art. 1, Sec. 8);
Montana (Art. II, Sec. 7);
New Jersey (Art. I, Sec. 6);
New York (Art. I, Sec. 8);
North Dakota (Art. I, Sec. 4);
Pennsylvania (Art. I, Sec. 7);
South Carolina (Art. I, Sec. 16);
South Dakota (Art. VI, Sec. 5);
Tennessee (Art. I, Sec. 19);
Texas (Art. I, Sec. 8);
Utah (Art. I, Sec. 15);
Wisconsin (Art. I, Sec. 3);
Wyoming (Art. I, Sec. 20).

Of these, Texas, Delaware, Kentucky, North Dakota and Tennessee say that the jury is the judge of the law in libel and sedition cases, "as in all other cases." [Source: Alan W. Scheflin, "Jury Nullification: the Right to Say No", Southern California Law Review, 45, p. 204 (1972). This list has been updated to 1996.]

When there is division amongst the states on an important issue, trial judges often look to federal authorities for guidance, and such is instructive in this case. *Modem Federal Jury Instructions* (Sands, Siffert, Loughlin & Reis, Instruction 4-2) suggests that juries should be told that it is their "duty to acquit the defendant" if they harbor a reasonable doubt, however, rather than instruct juries that they have a corresponding "duty to convict," *i.e.,* "must" convict if they are satisfied of the defendant's guilt beyond a reasonable doubt, the treatise recommends that juries be advised that they "should vote to convict: if the government has carried its burden (leaving a jury to conclude that it has the authority to nullify even in the absence of a reasonable doubt) [and our own federal district courts agree on this prerogative of the jury, see also, *e.g.. United States v. Will L. Dawson, and Derrick Termail Willis,* Criminal Cause Numbers: IP 95-0064M-01-02, citing approvingly *Beaver v. State,* 236 Ind. 549, 141 N.E.2d 118 (1957) to the effect that "Article I, Section 19 of the Indiana Constitution provides that 'in all criminal cases whatever, the jury shall have the right to determine the law and the facts.' However, jurors should be bound by their conscience and their oaths, and not act arbitrarily, capriciously, upon a whim or prejudice.] While logic would seem to dictate that a corollary obligation be imposed on jurors, it is reversible error to charge that the jury must explain their doubts ever since the ordeal of Edward Bushell and the Penn jury hereinabove.

HUGO BLACK, a great believer in the Jury system, used to tell this story-Years ago, in the foot-hills of Alabama, a tenant-farmer was charged criminally with stealing a cow from his landlord, and was brought to trial. As was frequently the case in rural America, the Jurors selected for the trial were

acquainted with everyone, including the accused and his victim. Each juror knew that the farm's landlord was a nasty bastard who tormented his neighbors, while frequently treating the town's orphans and widows with derision. By the same token, the tenant-farmer was the salt of the earth, beloved by everyone. But still, the evidence of his guilt was indisputable. After the evidence was in and the jury retired to deliberate, it quickly returned to the courtroom to announce its verdict:

"If the accused returns the cow, we find him not guilty."

The judge was infuriated. His anger heightening, he commanded the jury to return to the jury room to deliberate — shrilly chastising them for their flagrantly "arrogant" and "illegal" verdict. Not a moment passed when they re-appeared in the tense courtroom to trumpet their new verdict:

"We find the accused not guilty - and he can keep the cow."

The American Jury, Justice Black reminds his listeners, is effectively omnipotent in rendering an acquittal. What hits home in Justice Black's story is the deeply held American notion that juries often perform an independent role in a system in which the people - not prosecutors, judges or lawyers - have the last word. In the end, if the jury wishes to let the defendant keep the cow, that is what will happen. Respectfully submitted:

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