"Exhibit B"

DISTRICT COURT OF THE UNITED STATES [1]
(FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION)

David Schied and Cornell Squires,
Sui Juris Grievants/Private Attorney Generals
v.
Karen Khalil, et al
Defendants

Case No. 2:15-cv-11840
Judge: Avern Cohn

Under the Common Law Guarantee (7th Amendment)
Of an Article III Court of Record

"*MEMORANDUM ON RIGHTS OF (WE), 'THE PEOPLE'*:

TO ASSEMBLE; TO LOCAL GOVERNANCE; AND TO WITHDRAW '*CONSENT*' THROUGH STATE AND FEDERAL JURY NULLIFICATION, THROUGH GRAND JURY PRESENTMENTS, THROUGH PRIVATE PROSECUTIONS, AND THROUGH OTHER EXECUTIONS OF *CUSTOMARY LAW* AND THE *LAWS OF COMMERCE*'

In Evidence and Support of Acts of Self-Defense, and Responses to the Unconstitutional Denial of First Amendment Right to Redress of Grievances Regarding Previous "*Backward-Looking-Access-to-Court*" Claims

[1] "The term 'District Courts of the United States,' as used in the rules, without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under article 3 of the Constitution. Courts of the Territories are legislative courts, properly speaking, and are not District Courts of the United States. We have often held that vesting a territorial court with jurisdiction similar to that vested in the District Courts of the United States does not make it a 'District Court of the United States." *Mookini v. United States*, 303 U.S. 201 (1938) citing from *Reynolds v. United States*, 98 U.S. 145 , 154; *The City of Panama*, 101 U.S. 453 , 460; *In re Mills*, 135 U.S. 263, 268 , 10 S.Ct. 762; *McAllister v. United States*, 141 U.S. 174, 182 , 183 S., 11 S.Ct. 949; *Stephens v. Cherokee Nation*, 174 U.S. 445, 476 , 477 S., 19 S.Ct. 722; *Summers v. United States*, 231 U.S. 92, 101 , 102 S., 34 S.Ct. 38; *United States v. Burroughs*, 289 U.S. 159, 163 , 53 S. Ct. 574.

Sui Juris Grievants / Next Friends and
Co-Private Attorney Generals
David Schied and Cornell Squires

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Dated: 8/24/16

David Schied and Cornell Squires (hereinafter "*PAGs Schied and Squires*"), being each **of the People**[2], and having established this case as a *suit of the sovereign*[3], acting in their own capacity, herein accept for value the oaths[4] and

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[2] PEOPLE. "*People are supreme, not the state*." [*Waring vs. the Mayor of Savannah*, 60 Georgia at 93]; "*The state cannot diminish rights of the people*." [*Hertado v. California*, 100 US 516]; Preamble to the US and Michigan Constitutions – "*We the people ... do ordain and establish this Constitution...*;" *"...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves...*" [*Chisholm v. Georgia* (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 Dall (1793) pp471-472]: "*The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative*." [*Lansing v. Smith*, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7]. See also, *Dred Scott v. Sandford*, 60 U.S. 393 (1856) which states: "*The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the 'sovereign people', and every citizen is one of this people, and a constituent member of this sovereignty*."

[3] *McCullock v. Maryland*, 4 Wheat 316, 404, 405, states "*In the United States, Sovereignty resides in the people, who act through the organs established by the Constitution*," and *Colten v. Kentucky* (1972) 407 U.S. 104, 122, 92 S. Ct. 1953 states; "*The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents*." See also, *First Trust Co. v. Smith*, 134 Neb.; 277 SW 762, which states in pertinent part, "*The theory of the American political system is that the ultimate sovereignty is in the people, from whom all legitimate authority springs, and the people collectively, acting through the medium of constitutions, create such governmental agencies, endow them with such powers, and subject them to such limitations as in their wisdom will best promote the common good*."

[4] OATHS. Article VI: "*This Constitution, and the laws of the United States... shall be the supreme law of the land; and the judges in every State shall be bound thereby; anything in the Constitution or laws of any State to the contrary notwithstanding... All executive and judicial officers, both of the United States and*

bonds of all the officers of this court, including attorneys. Having already presented the initial causes of action to this Article III District Court of the United States as a *court of record*[5]*, PAG Schied* and *PAG Squires* hereby proceed according to the course of Common Law[6].

This court and the opposing parties should all take notice **WE DO NOT CONSENT to the reference of parties named as "*grievants*" and/or as Private Attorney Generals as otherwise being corporate fictions in ALL CAPS of lettering as "*plaintiff*"** (e.g., "DAVID SCHIED, plaintiff"). **Note that all "*summons*" were issued with notice to all co-Defendants that Grievant David Schied is "*sui juris*."**

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of the several States, shall be bound by oath or affirmation to support this Constitution."

[5] "*A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial*". [*Jones v. Jones*, 188 Mo.App. 220, 175 S.W. 227, 229; *Ex parte Gladhill*, 8 Metc. Mass., 171, per Shaw, C.J. See also, *Ledwith v. Rosalsky*, 244 N.Y. 406, 155 N.E. 688, 689].

[6] COMMON LAW. – According to *Black's Law Dictionary* (Abridged Sixth Edition, 1991): "*As distinguished from law created by the enactment of legislatures [admiralty], the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs*." *"[I]n this sense, particularly the ancient unwritten law of England*." [1 Kent, Comm. 492. *State v. Buchanan*, 5 Har. & J. (Md.) 3G5, 9 Am. Dec. 534; *Lux v. Ilaggin*, G9 Cal. 255, 10 Pac. G74; *Western Union Tel. Co. v. Call Pub. Co.*, 21 S.Ct. 561, 181 U.S. 92, 45 L.Ed. 765; *Barry v. Port Jervis*, 72 N.Y.S. 104, 64 App. Div. 268; *U. S. v. Miller*, D.C. Wash., 236 F. 798, 800.]

WE DO NOT CONSENT to the assignment of this case, otherwise attempted to be "*filed*" in Ann Arbor and ultimately filed in Flint, being subsequently sent to Detroit, in the heart of Wayne County, situated in a building believed to be leased by Defendant Charter County of Wayne to the United States District Court with a proven proclivity toward contributing to the *domestic terrorism* being carried out, hand-in-hand with state and county government imposters, as usurpers of *The People's* power and authority.

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PREFACE IN SUMMARY OVERVIEW OF THE BASIS FOR THIS MEMORANDUM

Both the Constitution *for* the United States and the Constitution *of* the United States[1] maintain as the Fifth Amendment that "***No person shall be held to***

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[1] As explained by Anna Maria Riezinger and James Clinton Belcher in the book, *You Know Something is Wrong When..... An American Affidavit of Probable Cause*; (published by The American Affidavit Pure Trust 2014.), the "*Constitution **for** the **u**nited States of America*" creating the federal United States...

> "*is built of Articles of Treaty....[The] Amendments are slight changes or interpretations of the Treaty made by agreement of the subscribing parties. There are ten Articles and three Amendments to the Original Equity Contract, including one known as the Titles of Nobility Amendment (TONA) which does not appear in the Corporate Constitution published by the United States of America, Incorporated...*" (p.77)

As further explained,

> "*The Corporate Constitution known as 'the Constitution **of** the **U**nited States of America' is built of Articles of Incorporation – a different kind of 'Articles' entirely. Amendments to this constitution do not strictly require any ratification by the Federal 'State' franchises, and they only represent changes in 'Public Policy' by the corporation – not any amendment of the actual Constitution creating the Federal United States.*" (p.78)

With regard to the former of the two, Riezinger and Belcher have clarified that it was the "*original*" Constitution, being written as an "*equity contract*" with Amendments that...

> "*require a properly seated Congress composed of Deputies representing the landed (E) states and a lengthy ratification process by each State Legislature operating in fiduciary capacity as State Delegates (Deputies). Because neither the Congress nor the State Legislatures have been operating in their proper capacity, no Amendments have been made to the actual Constitution since 1860. This is the actual Constitution that establishes the Law of the Land – that is, the Law that the Federal Government must operate under with respect to the Land Jurisdiction and the People of the Land. We are owed all our Natural Rights and a Republican form of government.*"

With regard to the latter, the "*Corporate Constitution*" these authors assert,

> "*[T]he 13th Amendment onward are not Public Law, only private law affecting the officers and employees of the United States of America, Inc. The existence of this corporate 'constitution' is a direct result of the fact that the Federal United States is a separate (and with respect to us, foreign) nation. It is allowed to organize its internal affairs as it sees fit and to impose whatever laws it wishes to apply to is 'citizens' within it international 'territorial jurisdiction". This is why the entire Federal Code*

answer *for a capital, or otherwise infamous crime, unless on a* ***presentment*** *or* ***indictment*** *of a Grand Jury....*" In both constitutions, the Sixth Amendment guarantees "*In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed...*" Nearly all state constitutions have been known to provide similar guarantees.[2] Yet in recent decades, at both state and federal

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including the Internal Revenue Code persists in calling birthright citizens of the Continental United States 'non-resident aliens'." (p.78)

[2] State constitutions that included references to the "grand jury" are given below: **Alabama** Constitution of 1875 (Art. I, Sec. 9); **Alaska** Constitution (present) (Art. I, Sec. 8); Constitution of **Arizona** (none found); Constitution of **Arkansas** of 1868 (Art. I, Sec. 9); Constitution of **California** of 1849 (Art. I, Sec. 8); Constitution of **Colorado** of 1876 (Art. II, Sec. 23 by option of the legislature); The Constitution of **Connecticut** (1818) (Article First, Sec. 9); **Delaware** Constitution of 1831 (Art. VI, Sec. 15, by option of the legislature); **Florida** Constitution of 1865 (Art. I, Sec. 16); 1777 **Georgia** Constitution (Art. XLV); 1950 Constitution of the State of **Hawaii** (Art. I, Sec. 10); Constitution of the State of **Idaho** of 1889 (Art. I, Sec. 8); Constitution for the State of **Illinois** of 1848 (Art. XIII, Sec. 10); **Indiana** Constitution of 1816 (Art. I, Sec. 12); Constitution of **Iowa** of 1857 (Art. I, Sec. 11); Constitution of the State of **Kansas** (Topeka Constitution of 1865) (Art. I, Sec. 10); Constitution of **Kentucky** of 1850 (Art. IV, Sec. 36 – pertained to presentments for malfeasance of judges; and, Art. X, Sec. 3 states slaves were not entitled to grand juries); Constitution of the State of **Louisiana** of 1879 (Bill of Rights, Art. 5); Constitution of **Maine** of 1820 (Art. I, Sec. 7); Constitution of **Maryland** (none found); Constitution of **Massachusetts** (none found); Constitution of **Michigan** of 1835 (Art. 1, Sec. 11); Constitution of **Minnesota** (none found); **Mississippi** Constitution of 1832 (Art. IV, Sec. 28 – pertained to presentments for negligence of judges; and, Art. VII "Slaves" Sec. 1 states slaves were not entitled to grand juries); **Missouri** Constitution of 1820 (Art. XIII, Sec. 9); **Montana** Constitution of 1884 (Art. I, Sec. 23 by option of the legislature); Constitution of the State of **Nebraska** of 1875 (Art. I, Sec. 10 by option of the legislature); **Nevada** Constitution of 1864 (Art. I, Sec. 8.1); Constitution of **New Hampshire** (none found); Constitution of **New Jersey** of 1844 (Art. I, Sec. 9); Constitution of the State of **New Mexico** of 1872 (Art. II, Sec. 8 by option of the legislature); Constitution of **New York** of 1821 (Art. VII, Sec. 7); Constitution of **North Carolina** of 1776 (Declaration of Rights, Art. VIII requiring grand jury presentment against freemen; and, Constitution or Form of Government, Art XXIII for corruption by state officials); Constitution of **North Dakota** (not

levels, prosecutors across the nation are obtaining indictments and convictions while rendering the independence of both grand juries[3] and juries[4] increasingly obsolete.

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found); **Ohio** Constitution of 1803 (Art. VIII, Sec. 10); Constitution of **Oklahoma** of 1907 (Art. II, Sec. 18 by option of the legislature); 1857 **Oregon** Constitution (Art. VII, Sec. 18 by option of the legislature); **Pennsylvania** Constitution (not found); Constitution of **Rhode Island** of 1843 (Art. I, Sec. 7); Constitution of **South Carolina** of 1868 (Art. I, Sec. 19); 1889 Constitution of **South Dakota** (Art. VI, Sec. 10); **Tennessee** Constitution of 1796 (Art. 11th, Sec. 14); Constitution of the State of **Texas** of 1876 (Art. I, Sec. 10); Constitution of the State of **Utah** of 1895 (Art. I, Sec. 13 by option of the judge); Constitution of **Vermont** (none found); Constitution of **Virginia** (none found); Constitution of **Washington** of 1878 (Art. V, Sec. 8 by option of the legislature); Constitution of **West Virginia** of 1863 (Art. II, Sec. I); Constitution of the State of **Wisconsin** of 1848 (Art. I, Sec. 8); Constitution of the State of **Wyoming** of 1889 (Art. I, Sec. 9 by option of the legislature).

[3] Roots, Roger. *If It's Not a Runaway, It's Not a Real Grand Jury*. Creighton Law Review, Vol. 33, No. 4 1999-2000 821. See Footnote #8 stating,

> "*See FED. R. CRIM. P. 7(c)(1) (requiring that all indictments be 'signed by the attorney for the government'). See also id. Advisory Committee Note 4 explaining Subdivision (a) of the same Rule (stating that grand jury "presentments," or non-government-approved accusations, 'are obsolete, at least as concerns the Federal courts')*."

See *also* Roots' *id*, Footnote #23 stating,

> "*See 1 ORFIELD'S CRIMINAL PROCEDURE UNDER THE FEDERAL RULES 392 (Mark S. Rhodes ed., 2d ed. 1985) [hereinafter ORFIELD'S]; 'Under the Constitution the grand jury may either present or indict. Presentment is the process whereby a grand jury initiates an independent investigation and asks that a charge be drawn to cover the facts if they constitute a crime. Since the grand jury may present, it may investigate independently of direction by the court or the United States Attorney. Proceeding by presentment is now obsolete in the federal courts.'*"

Additionally, see Roots' *id*, Footnote #90 which states,

> *"See ADVISORY COMMITTEE NOTE 4, FED. R. CRIM. PRO. 7(a) ('Presentment is not included as an additional type of formal accusation, since presentments as a method of instituting prosecutions are obsolete, at least as concerns the Federal courts.'). A few voices in the federal judiciary, however, have ignored this language and allowed for 'presentments' or unapproved statements of federal grand juries to stand public regardless of the will of federal prosecutors. For a discussion of this issue, see Phillip E. Hassman, Annotation, Authority of Federal Grand Jury To Issue Indictment Or Report Charging Unindicted Person With Crime Or Misconduct, 28 A.L.R. FED. 851 (1976).*"

Notably in criminal cases, the Fifth Amendment guarantees the presentment or indictment of a grand jury.[5] More importantly, in 1992 U.S. Supreme Court Justice Antonin Scalia wrote the majority opinion in *United States v. Williams* [504 U.S. 36 (1992)] [6] to clarify and offset where the real balance of government power should be resting. Despite what we see happening today, Justice Scalia's ruling should be superseding and overriding the precedence set by Chief Justice John Marshall for the previous over two centuries in *Marbury v. Madison* [5 U.S. 137 (1803)] when Marshall had expanded the federal Judiciary's power under Article III

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[4] On 1/7/14, Pennsylvania attorney Matthew T. Mangino wrote,

> *"Trial by jury has become so rare in modern American criminal jurisprudence that the chance of being convicted at trial is little more than one in one hundred. That doesn't mean that people are not getting convicted. They are—in record number. America's prisons are literally filled to capacity..... Ninety-seven percent of federal criminal prosecutions are resolved by plea bargain. In state courts the numbers are comparable. The plea bargain may be the grease that keeps the criminal justice system churning, but it may also be a sign of a system in need of repair.... A system that lowers the threshold for proving guilt and creates incentives for the innocent to plead guilty is 'unhealthy' indeed."* See "*How Plea Bargains Are Making Jury Trials Obsolete*" published online by the Center on Media Crime and Justice at John Jay College as found on 7/1016 at: http://thecrimereport.org/2014/01/07/2014-01-how-plea-bargains-are-making-jury-trials-obsolete/#

[5] See "*Fifth Amendment*" online as found on 7/10/16 at: https://www.law.cornell.edu/constitution/fifth_amendment

See also that in 1998, *"the United States Supreme Court reiterated its 1884 holding in Hurtado v. California, noting that the "Fifth Amendment requires the Federal Government to use a grand jury to initiate a prosecution and 22 states adopt a similar rule as a matter of state law." Robert B. Johnson v. State of Deleware* 711 A.2d 18 (1998) citing *Campbell v. Louisiana*, ___ U.S. ___, 118 S. Ct. 1419, 140 L. Ed. 2d 551 (1998).

[6] Found on 7/10/16 at: https://scholar.google.com/scholar_case?case=15938389737466632088

of the Constitution, by ruling that the Supreme Court justices were the final arbiters of what is considered "*constitutional*."[7]

What Marshall's action in 1803 effectually did – at the foundation of America's statutory growth – was to cause an immediate imbalance of power under the Separation of Powers Clause, whereby Congress could not use it's legitimate legislative powers to Constitutionally place limits upon the Supreme Court [8]. This has resulted in two subsequent centuries of the Supreme Court being dangerously alone and completely "*unchecked*" by Congress as a key prong of the three-part federal system. **What (the late) Antonin Scalia clearly recognized in 1992 was that the ultimate power to nullify and decide what is *constitutional* or not, is up to those who created the federal government in the first place, the progenitors of the Constitution, being "*We, The People*."** (Bold emphasis)

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[7] Important to note is that there is nothing in the text of the Constitution explicitly authorizing this power of what is known as "*judicial review*." Thus, the ruling by Marshall in *Marbury v. Madison* had the effect of expanding the judiciary's limited Article III jurisdiction by giving the Justices of the United States Supreme Court permanent entitlement in *nullifying* any legislation passed by Congress that they found was inconsistent with whatever rationale these justices chose for deciding which laws are to be deemed *constitutional* and which are not.

[8] Without a doubt, at the time of the creation of the American Constitution, Congress had the authority to limit federal court's Article III jurisdiction. In fact, even Congress and the Congressional Research Service ("CRS") as the "*official research arm of Congress*" have been known to mistakenly forget that "*the lower federal courts are entirely creatures of Congress, as is the appellate jurisdiction of the Supreme Court, excluding only cases within the Supreme Court's original jurisdiction those 'affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party.'*" Taylor, Paul. *Congress's Power to Regulate the Federal Judiciary: What the First Congress and the First Federal Courts Can Teach Today's Congress and Courts*. 37 Pepp. L. Rev. 3 (2010); pp.846-970 (*See* quotations from pp. 849-850 of this article.)

(The late Antonin) Scalia stated that, "*the grand jury is an institution separate from the courts, over whose functioning the courts do not preside*." In hammering that point "*home*" in the Common Law where grand juries are derived, Scalia had much more to add. He stated, [9]

> *"[R]ooted in long centuries of Anglo American history," Hannah v. Larche, 363 U.S. 420, 490 (1960) (Frankfurter, J., concurring in result), the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It 'is a constitutional fixture in its own right.' United States v. Chanen, 549 F. 2d 1306, 1312 (CA9)' (quoting Nixon v. Sirica, 159 U.S. App. D.C. 58, 70, n. 54, 487 F. 2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825 (1977).*"
>
> "*In fact the whole theory of [the grand jury's] function is that* ***it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people.*** *See Stirone v. United States, 361 U.S. 212, 218 (1960); Hale v. Henkel, 201 U.S. 43, 61 (1906); G. Edwards, The Grand Jury 28-32 (1906). Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the judicial branch has*

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[9] What follows in citations are choice excerpts found in in Jason W. Hoyt's book, "*Consent of the Governed: The People's Guide to Holding Government Accountable*" ISBN-13: 978-0-9966863-2-7; published by Liberty Restoration Publishing, Inc. which is followed by Hoyt's "*Summary of Key Points by SCOTUS Reinforcing the Need for Grand Jury Independence*," (pp.126-27) which lists the following significant points covered by Scalia about **a common law….**

> **"*institution that's been around for 800 years*"**: 1) *The grand jury is separate from the court*; 2) *The courts do not preside over the grand jury*; 3) *The courts do not supervise the grand juries*; 4) *The grand jury institution is based on centuries of history*; 5) *The formation of and the delegation of control of the grand jury cannot be found anywhere in the Constitution*; 6) *The grand jury is not part of the institutional branches of government*; 7) *The grand jury serves as a buffer or referee between the government and the people*; 8) *Even though the grand jury operates in the courthouse, they do not belong to the judicial branch*; 9) *Judges have very limited involvement with the grand jury*; 10) *The grand jury can initiate investigations on their own*; 11) *The grand jury can investigate merely on the suspicion of criminal activity or to prove there is none*; 12) *The grand jury requires no permission to initiate an investigation*; 13) *The grand jury should operate without interference from the judge or prosecutor*; 14) *The grand jury deliberates in total secrecy*; 15) *The grand jury's evidence-gathering process requires no supervision*; 16) *The grand jury should operate unfettered by technical rules*."

traditionally been, so to speak, at arm's length. Judges' direct involvement in the functioning of the grand jury has generally been confined to the constitutive one of calling the grand jurors together and administering their oaths of office. ***See United States v. Calandra****, 414 U.S. 338, 343 (1974); Fed. Rule Crim. Proc. 6(a)."*

"The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. 'Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.' United States v. R. Enterprises, 498 U. S. ___, ___ (1991) (slip op. 4) (quoting United States v. Morton Salt Co., 338 U.S. 632, 642-643 (1950))."

"It need not identify the offender it suspects, or even "the precise nature of the offense" it is investigating. Blair v. United States, 250 U.S. 273, 282 (1919). The grand jury requires no authorization from its constituting court to initiate an investigation, see Hale, supra, at 59-60, 65, nor does the prosecutor require leave of court to seek a grand jury indictment. And in its day to day functioning, the grand jury generally operates without the interference of a presiding judge. ***See Calandra****, supra, at 343. It swears in its own witnesses, Fed. Rule Crim. Proc. 6(c), and deliberates in total secrecy, see United States v. Sells Engineering, Inc., 463 U. S., at 424-425."*

"[W]e have insisted that the grand jury remain 'free to pursue its investigations unhindered by external influence or supervision so long as it does not trench upon the legitimate rights of any witness called before it.' United States v. Dionisio, 410 U.S. 1, 17-18 (1973). Recognizing this tradition of independence, ***we have said that the Fifth Amendment's "constitutional guarantee presupposes an investigative body `acting independently of either prosecuting attorney or judge'.*** *. . . ." Id., at 16 (emphasis added) (quoting Stirone, supra, at 218)...."*

"Given the grand jury's operational separateness from its constituting court, it should come as no surprise that we have been reluctant to invoke the judicial supervisory power as a basis for prescribing modes of grand jury procedure. Over the years, we have received many requests to exercise supervision over the grand jury's evidence taking process, but we have refused them all, including some more appealing than the one presented today. In Calandra v. United States, supra, a grand jury witness faced questions that were allegedly based upon physical evidence the Government had obtained through a violation of the Fourth Amendment; we rejected the proposal that the exclusionary rule be extended to grand jury proceedings, because of 'the potential injury to the historic role and functions of the grand jury.' 414 U. S., at 349. In Costello v. United States, 350 U.S. 359 (1956), ***we declined to enforce the hearsay rule in grand jury proceedings, since that 'would run counter to the whole history of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules****.' Id., at 364."*

What all of the above – and much more – conveys is that there is a "*Fourth Branch*" of government, deemed herein as the "*People's Branch,*" that has been lying dormant, hidden behind the veil of legislative fraud[10], but still exists in the long legacy of remedies in Common Law and its accompanying Customary Law.

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[10] Semi-retired New Jersey attorney Leo C. Donofrio, J.D. published an article, "*The Federal Grand Jury is the Fourth Branch of Government*," found on the web (http://freedom-school.com/law/federal-grand-jury.html) that concisely expounds upon Roger Roots' published assertion that

> *"In 1946, the Federal Rules of Criminal Procedure were adopted, codifying what had previously been a vastly divergent set of common law procedural rules and regional customs.[In general, an effort was made to conform the rules to the contemporary state of federal criminal practice. In the area of federal grand jury practice, however, a remarkable exception was allowed. The drafters of Rules 6 and 7, which loosely govern federal grand juries, denied future generations of what had been the well-recognized powers of common law grand juries: powers of unrestrained investigation and of independent declaration of findings. The committee that drafted the Federal Rules of Criminal Procedure provided no outlet for any document other than a prosecutor-signed indictment. In so doing, the drafters at least tacitly, if not affirmatively, opted to ignore explicit constitutional language"* (Donofrio's citations are omitted herein).

Donofrio pointed out that the drafters of Rules 6 and 7 included, in the Advisory Committee Notes on the Rules, a "***Note 4****" pertaining* to Rule 7, which referenced indictments but made no reference whatsoever to the Fifth Amendment's "*presentment*" of the Grand Jury. **Note 4 reads as follows:**

> *"4. Presentment is not included as an additional type of formal accusation,* ***since presentments as a method of instituting prosecutions are obsolete****, at least as concerns the Federal courts."*

In citing from a commentary published about that "Note 4" by *The American Juror* (i.e., this is the newsletter of the American Jury Institute and the Fully Informed Jury Association which cites the famed American jurist, Joseph Story), attorney Donofrio wrote,

> "[*W]hile the writers of the federal rules made provisions for indictments, they made none for presentments. This was no oversight. According to Professor Lester B. Orfield, a member of the Advisory Committee on Rules of Criminal Procedure,* ***the drafters of Federal Rules of Criminal Procedure Rule 6 decided the term presentment should not be used, even though it appears in the Constitution.*** *Orfield states [22 F.R.D. 343, 346]:* '***There was an annotation by the Reporter on the term presentment as used in the Fifth Amendment. It was his conclusion that the term should not be used in the new rules of criminal procedure. Retention might encourage***

the use of the run-away grand jury as the grand jury could act from their own knowledge or observation and not only from charges made by the United States attorney. It has become the practice for the United States Attorney to attend grand jury hearings, hence the use of presentments have been abandoned.´ " (Bold emphasis)

In continuing with his own commentary, attorney Donofrio wrote,

> "*They have the nerve to put on the record that they intended to usurp our Constitutional power, power that was intended by the founding fathers, in their incredible wisdom, to provide us with oversight over tyrannical government. And so they needed a spin term to cast aspersions on that power. The term they chose was, "runaway grand jury," which is nothing more than a Constitutionally mandated grand jury, aware of their power, and legally exercising that power to hold the federal beast in check, as in "checks and balances." The lie couldn´t be inserted into the Constitution, so they put it in a statute and then repeated it. And scholars went on to repeat it, and today, as it stands, the grand jury has effectively been lied into the role of submissive puppet of the US Attorney."*

Donofrio then went on to cite more of the American Juror publication on this topic:

> *"Of course, no statute or rule can alter the provisions of the Constitution, since it is the supreme law of the land. But that didn´t prevent the federal courts from publishing a body of case law affirming the fallacy that presentments were abolished. A particularly egregious example: ´A rule that would permit anyone to communicate with a grand jury without the supervision or screening of the prosecutor or the court would compromise, if not utterly subvert, both of the historic functions of the grand jury, for it would facilitate the pursuit of vendettas and the gratification of private malice. A rule that would open the grand jury to the public without judicial or prosecutorial intervention is an invitation to anyone interested in trying to persuade a majority of the grand jury, by hook or by crook, to conduct investigations that a prosecutor has determined to be inappropriate or unavailing.'"*

Next, the New York attorney Leo Donofrio, who is also a prominent legal scholar and essayist, sought to add his own "*two cents*" to the argument. He wrote,

> "*What is the result? Investigating seditious acts of government officials can be deemed inappropriate or unavailing by the prosecutor, or the judge can dismiss the grand jurors pursuing such investigations. Consequently, corrupt government officials have few natural enemies and go about their seditious business unimpeded. By the way, they made a rule to take care of runaways too, in 1946....*
>
> *'Rule 6(g)..... At any time for cause shown the court may excuse a juror either temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused." Now judges can throw anyone off a grand jury, or even dis-impanel a grand jury entirely, merely for exercising its discretion.'*
>
> ***Most of the discussion about Note 4 to Rule 7 of the FRCP takes for granted that the common law use of 'presentments' (as codified in the 5th Amendment) was made 'illegal' in 1946 by this act. Nothing could be more***

false. *Note 4 does not contain language that makes the use of presentments 'illegal,' although* ***it had chosen its words carefully to make it appear as if that is what the legislative branch intended.***

The key word is, 'obsolete.' ***Obsolete means 'outmoded,' or 'not in use anymore,' but it does not mean 'abolished' or 'illegal.' And therein lies the big lie. The legislature knew it could not directly overrule the Constitution, especially with something so clearly worded as the 5th Amendment, which grants a power to the people which has a long and noble purpose in criminal jurisprudence. But the federal beast legislative branch sought more power to protect themselves from the oversight of '[W]e, [T]he [P]eople,' and in its vampire like thirst for more governmental control, it inserted this insidious Note 4 in the hope that scholars and judges would play along with their ruse, or in the alternative, their ruse would appear to be legally viable.***

The use of presentments had become obsolete [simply] because the grand jurors were not aware of their power. So the use of 'presentments' became more and more rare[;] and then in 1946 the legislative branch seized upon the moment to make this power disappear by waving its magic wand over the Constitution.

But we have it on good authority, the Supreme Court, that the lie has no legal effect. Justice Powell, in *United States v. Calandra*, 414 U.S. 338, 343 (1974), stated:

'*The institution of the grand jury is deeply rooted in Anglo-American history. In England, the grand jury served for centuries both as a body of accusers sworn to discover and present for trial persons suspected of criminal wrongdoing and as a protector of citizens against arbitrary and oppressive governmental action. In this country, the Founders thought the grand jury so essential to basic liberties that they provided in the Fifth Amendment that federal prosecution for serious crimes can only be instituted by ´a presentment or indictment of a Grand Jury.´ Cf. Costello v. United States, 350 U.S. 359, 361-362 (1956).* ***The grand jury´s historic functions survive to this day.*** *Its responsibilities continue to include both the determination whether there is probable cause to believe a crime has been committed and the protection of citizens against unfounded criminal prosecutions. Branzburg v. Hayes, 408 U.S. 665, 686-687 (1972).*'

(Citation notes and quoted page references have been omitted herein.)

The Note 4 lie is smashed on the altar of the U.S. Supreme Court, ***'The grand jury´s historic functions survive to this day.'*** *Take that Note 4! "*

In closing, attorney Leo Donofrio wrote:

"*I submit to you that* ***this [passage] sets the stage for a revolutionary new context necessary and Constitutional mandate to "[W]e, [T]he [P]eople,' THE FOURTH BRANCH of the Government of the United States.*** *Besides, the Legislative, Executive, and Judicial branches, I submit that there is a fourth branch, THE GRAND JURY[;] and '[W]e, [T]he [P]eople[,] when sitting as grand jurors, are, as Scalia quoted in US v. Williams,* ***'a constitutional fixture in its own right.'*** *Yes, darn it.* ***That is exactly what the grand jury is, and what it was always intended to be.***

THE EVOLUTIONARY ROLE OF "*CUSTOM*" AND "*COMMON*" LAW AS FOUNDED UPON INDEPENDENT *GRAND JURIES*, THE *MAGNA CARTA*, *MERCHANT* AND *ADMIRALTY* LAWS, AND THE *LAW OF NATIONS*

In his 1992 ruling in the previously-referenced case of *United States v. Williams*, ("*the late*")[11] Justice Scalia made reference to the "*common law*" of the

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> *The Constitution of the United States, as interpreted by the Supreme Court, gives rise to a FOURTH BRANCH of Government, THE GRAND JURY. We the people have been charged with oversight of the government in our roles as grand jurors. And at this critical time in American history, we must, for the protection of our constitutional republic, take back our power and start acting as powerful as the other branches of government. The law IS on our side."*

[11] While this writer is *not* by any stretch of the imagination to be considered a "*conspiracy theorist*," there is some cause for pausing to remember that the death earlier this year of Justice Antonin Scalia has not been without significant controversies. This could only begin with the significant contrast between one report by the ranch owner of the remote West Texas location where Justice Scalia was staying when he died stating that Scalia was found with a pillow "*over his head,*" to another report by a television station that he had otherwise died of a heart attack.

In any regard, **the decision by authorities to make the determination by phone and without an autopsy that Scalia died of "*natural causes*" is suspiciously parallel to the way the death of former Michigan Supreme Court "*chief*" Justice Elizabeth Weaver was handled by authorities when she was found dead at home on 4/21/15, and whereby her death of "*natural*" causes was made by phone, without an autopsy, and without even pictures being taken of the corpse.**

Justice Weaver's death also was wrought with significant controversy because over the previous five years she had been on a ceaseless campaign to alert the public about the great magnitude of tyranny and corruption running rampant "*from top-to-bottom*" of the Michigan judicial branch. Actually, given that this writer spent an entire afternoon in Justice Weaver's living room as her guest, this writer can state with certainty that Justice Weaver was adamant in asserting that the executive and legislative branches of Michigan government were also very corrupt; in part by default, due to the fact there is a widespread "*revolving door*" between government branches in Michigan, as elsewhere across the United States, allowing prosecutors to become judges and vice versa. One example discussed was that in which, after decades of corrupt "*service*" as a Michigan Court of Appeal judge, Richard Bandstra became the "*lead counsel*" for the Michigan Attorney General where he was positioned strategically to protect against public allegations that the judges of the Court of Appeals, including Bandstra himself, were to be held criminally accountable and civilly liable for private and public damages.

Fifth Amendment and the grand jury. He framed the entitlements of the grand

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Notably, Justice Weaver's death followed within just a couple of months of her receiving long-deserved recognition by the *Michigan Bar Journal* (published by the State Bar of Michigan for its December 2014 issue) that her book, *Judicial Deceit: Tyranny and Unnecessary Secrecy at the Michigan Supreme Court*, had merit. (See the link as found on 7/31/16 at: http://www.michbar.org/file/barjournal/article/documents/pdf4article2513.pdf

As can be found widely published on the Internet, the controversy surrounding Justice Scalia's death centered upon the premise that Scalia was providing protection for an international pedophile ring and was murdered because of his work on behalf of the Federalist Society, a nationwide group that has placed a stranglehold upon the Judiciary of the United States of America by serving the interests of big business – corrupt corporations, big pharma, the oil and gas barons, etc. [Notably, Justice Weaver's archrival in Michigan, against whom she targeted for many of her public allegations of corruption, is now the current Michigan Supreme Court "*chief*" justice, Robert Young, who is widely known to also be a member of the Federalist Society, as well as other high-ranking Michigan judges who also have ties with ties the Catholic Lawyers Society. Other powerful members of the judiciary with oversight and influence over Michigan's public policies include the federal circuit and district court judges James Ryan, Richard F. Suhreinrich, Paul V. Gadola, David W. McKeague, Gerald E. Rosen and (the late) Lawrence Zatkoff, federal magistrate Virginia Morgan, Clifford W. Taylor, Maura Corrigan, and (the late) Elizabeth Weaver herself, who may quite simply have been murdered for using her own insider information to blow the whistle on this widespread network of "*tyranny*" and "*dark money*."]

As for Justice Scalia, according to the article written by Gordon Duff, the senior editor of *Veterans Today*, apparently just hours before his death Scalia had met with President Obama and "*left the White House carrying 'slam dunk proof' that would lead to the arrest, conviction and, of course, impeachment of a seated Supreme Court Justice, files that contained names of victims and details on sex acts, preferred 'types' along with dates and places*." All of this information was purportedly on a computer belonging to Sterling David Allen that was seized by FBI Special Agent Jeff Ross of the Salt Lake City, Utah field office. As the story was told, Allen was arrested and charged with child rape and sodomy by the FBI after an investigation that began with a meeting in Rome, Italy; and though the FBI had known about Allen for some time, they had been blocked from arresting him for reasons that were not known until after Justice Scalia died. Subsequently, within nine days of that event, Allen was jailed. The information contained on Allen's computer supposedly had gone "*uphill*" from the FBI to the Department of Justice and directly over to the White House and Obama. More details on this published story can be found at the link below:
http://www.veteranstoday.com/2016/03/01/scalia-murdered-after-obama-meeting/

jury's actions in Common Law, in terms of both the "*scope of its power to investigate*" and in "*the manner in which that power is exercised*" as virtually unrestricted, and framed only by "*the legitimate rights of any witness called before it*." Thus, such depth and breadth of power is limited only by the Common Law maxims by which it has been known to operate.

Common Law *maxims*, being axiomatic statements[12] or general principles governing relationships[13], frequently embody the general principles of law.[14] One particular maxim, which "*retains great force and [is] relied upon regularly [is] 'de minimus non-curat lex'*," which translates, "*the law does not concern itself with the trivial*."[15] By contrast, the science of law, as traditionally orchestrated by attorneys, judges and legal scholars, is based upon precise "*definition[s] and division[s]*;"[16] and

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[12] Generally, online dictionaries define an "*axiom*" as "*a statement or proposition that is regarded as being self-evident or as being a universally recognized truth*."

[13] "*Maxims give directions for relationship with higher authorities, relations with peers, and relations with the general public*." Richardson, Elaine and Jackson, Ronald. *African American Rhetoric(s): Interdisciplinary Perspectives*. Southern Illinois University Press. (2004; 2007); p.131.

[14] Goldsworth, John. *Lexicon of Trust & Foundation Practice*. Mulberry House Press. (2016). (*See* entry for "*maxims*" on p.230.)

[15] "*The maxims of the ancient common law…are plain and simple; our state of manners and society do not require that they should be relaxed or qualified. The principles…of the common law remain unimpaired*." Riddell, William. *Common Law and Common Sense*. Yale Law Journal, Vol 27:8. (June, 1918) p.994 as found on 7/11/16 at: https://www.jstor.org/stable/787627?seq=2#page_scan_tab_contents

[16] Citizens all across the United States have long been up in arms about the heightened tendency of judges today to freely (and many arguably would state *arbitrarily*) exercise their "*judicial discretion*" while cherry-picking the case law history they use in rendering their "*summary decisions*" on cases while denying litigants their claimed right (reinforced in commerce by their also paying out-of-pocket the cost demanded by the court clerks) for a trial by jury. While these judges rely upon "*judicial immunity*" to cover these actions, most of which are *administratively* dismissed based upon technicalities by some combination of judge–

–created case law or judicially–created court rules, common sense holds that any such strict (or arbitrary) exercise of judicial or non–judicial decision-making, "*case precedence*," or judge–made laws can be publicly hazardous and lead to unjust rulings that can often yield tragic results. In fact, law school professors and teachers have written much more on this topic:

> *"There is...scarcely a decision which can more than temporarily set at rest the law. The ever changing conditions of society, trade, and invention give rise to new situations and new questions. Old rules by this process are constantly becoming obsolete, because the tide of human activity must often bring a rule out from under its application, and controversies over new transactions invoke a new contest, until finally another decision differing somewhat from the former rule obtains general approval. Such a decision is termed ['a ruling case'] to distinguish it from the superseded leading one.*
>
> *Every leading case is, during the time when its authority is respected, a ruling one[;] and it continues a ruling case so long as the principle upon which it is based and the rules of law which it announces are regarded as the law of the subject. The multiplication of decisions emanating from our courts almost invariably follow along the line of the leading and ruling cases with slight modification until a new rule breaks up the authority of the former one, and then the trial courts and the tribunals inferior to the supreme judicial tribunal bow to the authority. When a leading case or old case is supplanted by a later case, which announces and enforces a rule contrary to that declared in the earlier case, the former case is then denominated an overruled case. Many of our leading cases are overruled by later decisions.*
>
> ***This respect for judicial decisions, while essential to the existence and observance of fixed rules, has been carried to absurd lengths in its application. We may perceive by slight reflection how perilous is the experiment of relying upon mere precedent without in every instance examining the ground of the precedent and the elemental facts of the new case presented for decision in order to determine whether the facts present a case within the principle of the former case or, in extreme cases, whether the former case was determined on principle. The most dangerous form of logical reasoning is invoked, viz., analogy.***
>
> *The safe application requires unchanged principles, unchanged policies, unchanged conditions of society or trade, and undistinguishable elemental facts involved in both the precedent and the case at bar."******

***** Hall, James; and Andrews, James. *American Law and Procedure*. LaSalle Extension University (1961) pp.347-48; as found on 6/2/16 at:
https://archive.org/stream/hallamericanlaw13chic/hallamericanlaw13chic_djvu.txt
and, as found on 7/27/16 at:
http://books.googleusercontent.com/books/content?req=AKW5QaffzvpbnYayp2tOgVImd7caYXSCoAatG50iHtIJxvDRl_bJ_IE7jCi8xasah6VaHvvAx_-lOHv6ik8oKhqULks0xyXCqqG0dhxTNNP9UIkgOCZic15QANHgUpRhfO9ifLcKgYgmQaAMw4Rehh2Dz70WOa3900y5LgRIg1UzGByCLs8fMUKI4kRepi

once it becomes written, "*the law necessarily becomes fixed, unyielding, in a sense arbitrary*," especially when it is mishandled, as without that preciseness.[17] Hence, as Justice Scalia pointed out in *United States v. Williams*, "*[i]t is axiomatic that the grand jury sits not to determine guilt or innocence, but to assess [simply] whether there is adequate basis for bringing a criminal charge*."

Bouvier's Law Dictionary reportedly holds around 1,500 Common Law maxims in its collection[18], many of which can now be found easily online.[19] They comprise the principles, so founded and named "*common law*" because they are universally comprehensible and applicable to mankind[20]. Lord Coke (1 Inst. 142)[21]

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[17] *See* Riddell, *(supra); p.996. In describing the common law judge of yesteryears, which many hold to be the reason why* ***petit and grand juries are deemed to be the ultimate judge(s) of the facts and the laws****, Riddel asserted that "[t]he judge is necessarily the creature of his times…[He] is not educated as a judge…[he] is in close touch with the people." He continued, "The common sense of the judge is not far from the common sense of the mass of the people."*

[18] *See* Goldsworth, (supra); p.230.

[19] *See* "*Maxims of Law [F]rom Bouvier's 1856 Law Dictionary*" as found on 7/11/16 at: http://www.lawfulpath.com/ref/bouvier/maxims.shtml

[20] As cited from Thomas Paine's "*Common Sense*" with respect to the *Origin and Design of Government in General* he wrote,

> "*I draw my idea of the form of government from a principle in nature which no art can overturn, viz. that* ***the more simple any thing is, the less liable it is to be disordered, and the easier repaired when disordered;*** *and with this maxim in view I offer a few remarks on the so much boasted constitution of England.... that it is imperfect, subject to convulsions, and incapable of producing what it seems to promise is easily demonstrated. Absolute governments, (tho' the disgrace of human nature) have this advantage with them, they are simple;* ***if the people suffer, they know the head from which their suffering springs; know likewise the remedy; and are not bewildered by a variety of causes and cures.*** *But the constitution of England is so exceedingly complex, that the nation may suffer for years together without being able to discover in which part the fault lies; some will say in one and some in another, and every political physician will advise a different*

said of it, "*The common law is sometimes called right, common right, common justice*." Its roots are *immemorial*, meaning that proving it existed prior to 1189 was sufficient to establish that "*it had existed for time out of mind*."[22]

The Roots of Common Law are Founded Upon Customs; of the People, NOT the Government

In fact, the history of English common law has been traced back to the Norman invasion and occupation of England in the 11th Century, a time in which Jews began integrating their refined system of commercial law and rules for commerce into the existing Anglo-Saxon tradition.[23] As shown in early English documents, certain written credit agreements were established by the Jews – called

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medicine." Found on 7/11/16 at: http://www.ushistory.org/paine/commonsense/sense2.htm

[21] See *Miller v. Taylor*, 4 Burr. 2302, 98 Eng. Rep. 201 [K.B., 1769] citing Sir Edward Coke (1552-1634) as found on 7/11/16 at: http://www.coatsandbennett.com/images/pdf/millar_v_taylor.pdf

Considered the most important of the common law theorists, he was widely recognized by his contemporaries as "*the greatest living lawyer*." Coke articulated on the supremacy of common law over statutes, arguing that judges could sometimes pronounce statutes to be void. Coke was opposed to the King personally acting as judge, however; and he opposed many policies of the British Crown. He also argued that regardless of how critical or outspoken someone was about the King's worthiness or ability to govern, such speech should not be construed as to be treasonous, but at most would constitute that which refer to today as *defamation*. Coke's writings were generally regarded as authoritative both by contemporaries and later lawyers and constitutional theorists in England and America. "*In a series of thirteen Reports Coke summarized the arguments in contemporary cases spinning them in his own way. His Institutes (which appeared in four parts) formed a comprehensive outline of English law*." (Author unknown of the faculty at the University of Wisconsin) Found on 7/11/16 at: https://faculty.history.wisc.edu/sommerville/367/367-044.htm

[22] See again https://faculty.history.wisc.edu/sommerville/367/367-044.htm

[23] The Anglo–Saxons were people of German descent who inhabited England from the time of their arrival during the 5th Century until the Norman Conquest.

the Shetar or Starr – which established a "*lien on all property (including realty) that has been traced as a source of the modern mortgage*."[24]

> *"The Crusades of the twelfth century opened an era of change in feudal England. To obtain funds from Jews, nobles offered their land as collateral. Although the Jews, as aliens, could not hold land in fee simple, they could take security interests of substantial money value. That Jews were permitted to hold security interests in land they did not occupy expanded interests in land beyond the traditional tenancies. The separation of possessory interest from interest in fee contributed to the decline of the*

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[24] Shapiro, Judith. *The Shetar's Effect on English Law – A Law of the Jews Becomes the Law of the Land*. The Georgetown Law Journal, Vol.71; (1983) pp.1179-2000. Found on 7/31/16 at: https://ia802608.us.archive.org/26/items/pdfy-AxcuxNfzg1UDm2Da/The%20Shetar%20how-jewish-law-became-english-law.pdf This article also references Rabinowitz, J. *Jewish Law*. 250-72 (1956) (discussing Jewish Gage, Odaita, Starr of Acquittance, and Representation by Attorney); and Rabinowitz, *The Common Lav Mortgage and the Conditional Bond*, 92 U. PA. L. REV. 179-94 (1943) found also on 7/31/16 at: http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9338&context=penn_law_review

Shapiro traces the two-instrument (debt and release) mortgage to its origin as a device to avoid asmakhta, a Jewish principle invalidating penalty clauses. Under that doctrine. Jewish money lenders were forbidden to exact a penalty conditioned on the future failure of the debtor's obligation. *Id.* at 184-85. If a conveyance involved asmakhta, it was void. *Id* at 182. Invalidation as asmakhta could be avoided if all obligations were incurred at the time of the original transaction. *Id.* at 184. 185-86. Land was seizable as security only if the creditor went into possession at the time of the loan: "Meakhshav"—"from now". *Id* at 185. For this reason, the debt instrument included an immediate conveyance of the land that was to serve as security against default. A second instrument, the acquittal, would release the security and reconvey the land to its original owner if the debt were paid on or before its due date. *Id.* at 185. The entire written obligation (shetar) remained in the hands of a third party for the duration of the debt. *Id* at 192. The document proved that the debt existed and clarified the rights and duties of the parties in case of default. Rabinowitz finds in these and other early Jewish devices for avoiding *asmakhta* both the structural and substantive roots of the English mortgage and the later developed equitable right of redemption. Rabinowitz, J. *supra* note 4, at 250-72. *See also* Lincoln, F. *The Starra*. 47-50 (1939) (outlining the same derivation); *see generally* Lincoln, F. *The Legal Background to the Starra*. (1932) (same). Compare the historical period of equitable right of redemption with the same term of protected redemption in *Leviticus* 25:29: "*And if a man sell a dwelling house in a walled city; then he may redeem it within a whole year after it is sold; for a full year shall he have the right of redemption*." *Id*

> *rigid feudal land tenure structure. At the same time, the strength of the feudal system's inherent resistance to this widespread innovation abated. By 1250, scutage had completely replaced feudal services: tenant obligations had been reduced to money payments. And as the identity of the principals in the landlord–tenant relationship became less critical, a change in the feudal rules restricting alienability of interests in land became possible."*[25]

The Jews were not part of the land–based obligatory network between the king, his feudal lords and their vassals as this time was moving toward the Late Middle Ages in medieval England. Instead, they were owned as chattels by the local lords, by permission of the King who maintained personal control over the sufferance of Jews in return for their handling the monarchy's monetary accounts and serving as a source of tax collection the King's assignment to Jews with the usufruct of his money[26] as his Christian lords were in charge over the King's lands.

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[25] *Id.* (Shapiro, pp.1180-1181) "*Scutage*," in medieval feudal law, was a payment by the tenant in lieu of military service. Also, as noted in Shapiro's footnotes, *"[I]n feudal land holding, the tenant's possessory right in land was limited to usufruct, as granted by the King, who retained absolute dominion over the land. The denotation of the tenant's interest as fee (or fief, feud, or feodum) reflected the tenant's obligation to render service to the sovereign in return for the privilege of using the land. 2 W. Blackstone, Commentaries 104-05.*" Note: "*Usufruct is a limited real right (or in rem right) found in civil–law and mixed jurisdictions that unites the two property interests of usus and fructus: Usus (user) is the right to use or enjoy a thing possessed, directly and without altering it.*" (Found on 7/12/16 at https://en.wikipedia.org/wiki/Usufruct)

[26] *Id.* (Shapiro), pp.1188-1191 as excerpted below:

> *"In accord with their traditional practice, when the Jews lent money, they did so under written credit agreements documented in the traditional form of the shetars. Because of his relation to the Jews, the King had manifold interests in enforcing these shetars. And, because "what the Jews held, they held for the King," what the Jews lost through litigation or to an evasive debtor was lost to the King. Nor were these losses small: the Jews accumulated immense wealth through their moneylending and the King's Exchequer relied heavily on the Jews as an important source of tax revenues. And the King had an even more immediate stake in the revenues from court costs. When the debtor refused to pay, the King enforced the Jewish contracts through his royal court, at a cost of one-tenth to one-sixth*

of the sum at issue. Yet, despite the royal interest, the questions posed by litigation of the shetar were not questions that English practice was designed to solve."

"When a Jew sought to enforce a shetar, he asked alternative forms of relief: payment of the money owed or award of the land and chattels securing the debt. But this request apparently was an aberration from English practice of the early twelfth century. A Jew's request tracked the terms of his unique contract: only a Jewish creditor of a defaulting debtor would be forced to seek either money or security, because only his alien procedure left the debtor in possession of the land pledged to secure the debt."

"*When a Jew sought to enforce a shetar, he asked alternative forms of relief: [either] payment of the money owed or award of the land and chattels securing the debt. But this request apparently was an aberration from English practice of the early twelfth century. A Jew's request tracked the terms of his unique contract: only a Jewish creditor of a defaulting debtor would be forced to seek either money or security, because only his alien procedure left the debtor in possession of the land pledged to secure the debt."*

It appears likely that, at that time, a Christian litigant asked for only a single remedy, either a thing or money. A Christian creditor took and kept possession of the land until the debt was satisfied. In case of default, therefore, his suit would be for money only. If the debtor wrongfully put him out of possession of the land securing the debt, English practice barred the Christian creditor from bringing an assize of novel disseisin to recover the land: the English system relegated him to a suit only for the underlying debt. Conversely, the debtor regained the possessory rights to his property once the underlying debt was satisfied. If the creditor refused to return the security, the debtor's suit would be limited to return of the pledged property. Jewish creditor was apparently the only person in the realm who would seek execution on a significant personal obligation by either transfer of a thing or payment of a sum."

"*A Jewish creditor's ability to ask two forms of relief gave him more than the obvious advantage over a Christian creditor. Important procedural privileges inhered in the option of getting real relief for a personal obligation. The conventional litigant, suing on a personal obligation and seeking only money, could not get judgment if the defendant did not appear in court. In contrast, any litigant seeking an award of land would be awarded judgment if the defendant had been absent, without excuse, after three successive summonses. After the defendant's third unexcused absence, the land was "seized into the King's hand" for fifteen days and then adjudged to the plaintiff. Consequently, only a litigant demanding land was assured complete relief regardless of a defendant's attempts to evade the court's power. Other litigants could gain access to defendants' property only through successful attempts to secure defendants' presence through distraint of chattels and lands. This disparate justice dissatisfied Bracton, who proposed that the courts grant relief to claimants of personal*

Over time, the alien ways of the Jews became the subject of everyday litigation in the King's courts, with the Exchequer[27] enforcing the law "*according to the customs of Jewry*." This lasted until 1290 when the Jews were expelled from England as despised creditors and debt collectors with the power of the King behind them, which enforced their money lending practices through binding written encumbrances upon their debtors' properties. Such encumbrances upon property – by means of the Jewish shetar being used for debt collection – remained in English common law after the expulsion of the Jews; however by that time, King Edward I (1272-1307) expanded the common law institution of money–lending and the securitization of debts to include the Statute of Merchants (1285). This transferred what was for the previous two centuries the power of the Jews – of registering and

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obligations who were faced with a defaulting defendant by the distraint and award of the defendant's property. But because this solution was not generally adopted until 1832, a Jewish creditor's avenues of enforcement remained unique in medieval England, enabling him to pursue his claim to judgment even though the defendant did not appear to answer the writ."

"*The Jews asked for a remedy that the English system was unaccustomed to offering. This challenge was met by the King, who himself commanded enforcement of the terms of the shetar. The King first manifested his interest in a command to pay in the form of a writ praecipe, which if disregarded, conferred jurisdiction on the King's court. By the shetar's terms, the debtor had the choice of paying the debt or relinquishing the property which secured the obligation. To enforce this choice, the King's command would have had to reflect the divergent remedies: money or property. Eventually, this form of writ praecipe evolved into the writ of debt."*

[27] The *Exchequer* was the King's royal treasury, eventually becoming the national treasury of British monarchs, responsible for the management and collection of taxation and other government revenues.

remedying debts and enforcing debt collections – to merchants and Christians creditors, and thus establishing debtor imprisonments.[28]

The Magna Carta ("*Great Charter*") Provides Both the Substantive and the Procedural Bases for Independent, "*Common Law*" Grand Juries

To put these and the subsequent descriptions of historical events into perspective, it should be noted that by the time of the expulsion of Jews from the land of England by King Edward, the Magna Carta ("*The Great Charter*") had already been signed by King John (June 15, 1215). Neither side initially honored that charter, which "*promised the protection of church rights, protection for the barons from illegal imprisonment, access to swift justice, and limitations on feudal payments to the Crown.*"[29] Nevertheless, because the heir[30] to King John's throne was only an infant at the time of John's death[31], the advisors to the new king "*found*

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[28] *Id.* (Shapiro), pp.1198-2000; Also, in the history of Common Law and debt liquidation in the United States of America, our modern day bankruptcy courts were founded upon a compromise between the harsh, ancient Merchant Law system of debt enslavement, imprisonment and death, and the ancient Hebrew practice of debt forgiveness every seven years. Hence, "*Chapter 7*" bankruptcy, codified this Biblical principle of the "*seven year rule*" in the Bankruptcy Act of 1938 allowing for the discharge of debts once every seven years. It is also the reason why the credit bureaus should not be reporting negative credit information that is older than seven years. *See* the links located at: http://www.bankruptcy-clinic.com/bankruptcy-law/bankruptcy-morality-bible/ and at: http://www.experian.com/blogs/ask-experian/credit-education/report-basics/fair-credit-reporting-act-fcra/

[29] Found on 7/11/16 at: https://en.wikipedia.org/wiki/Magna_Carta

[30] Found on 7/11/16 at: https://en.wikipedia.org/wiki/History_of_the_English_line_of_succession#Henry_II

[31] *"It is hardly too much to say that the failure of Magna Carta to provide adequate machinery for its own enforcement is responsible for the protracted struggles and civil war that made up the troubled reign of Henry III.; while the difference of attitude assumed by Henry and his son respectively towards the scheme of reform it embodied, explains why one [Henry III] reign was full of conflicts and distress, while the other [Edward I] was prosperous and progressive. The fundamental difference between the*

it prudent to reissue [The Magna Carta] voluntarily, and to accept as their rule of government, the essential principles of the Charter..."[32]

Significant to the construction of this instant "*Memorandum on Rights of (We), The People...*", particularly as it relates to the Common Law beginnings for independent grand juries, is that in the context of the feudal system in place at the time, the Magna Carta established to whom the rights were granted (i.e., feudal vassals being described as "*men*" or "*barons*") and declared by whom those rights would be enforced (i.e., namely, by a "*quasi-committee of twenty-five barons*").[33]

Importantly, as it relates to the taxonomy of definitions and applications and equal enforcements of the laws upon all persons and States under *our* Constitution here in the United States of America[34], the Magna Carta by comparison held that

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> *policies of Henry and Edward lies in this, that while Henry, in spite of numerous nominal confirmations of Magna Carta, never loyally accepted the settlement it contained, Edward acquiesced in its main provisions honestly on the whole, with a sincere intention to carry them into practice."* McKechnie, William. *Magna Carta: A Commentary on the Great Charter of King John, 2nd Ed*. James Maclehose and Sons, Glaslow. (1914) as found on 7/11/16 at: http://oll.libertyfund.org/titles/mckechnie-magna-carta-a-commentary#McKechnie_0032_1161

[32] *Ibid.*

[33] *Ibid.* Although both the beneficiaries and the enforcers of this arguable piece if early legislation of England were decidedly aristocrats, the benefits primarily intended for those aristocrats were spread to others, indirectly, of the lower classes, as conferred benefits, such as by concessions of the monarchy generally toward all of his vassals. Indeed, motivated by the support of their feudal tenants and *mesne* lords, these aristocratic barons stipulated in the Magna Carta treaty that "*every limitation imposed for their protection upon the feudal rights of the king should also be imposed upon their rights as mesne lords in favour of the under–tenants who held of them.*" Even the bulk of the English peasantry was protected by the Magna Carta as valued assets of the lords over these people.

[34] In England around the time the Magna Carta, by the sovereignty of the Crown the King...

the King (John) was not to be an absolute ruler, but was instead deemed to be **subject to the "*rule of law*"** that he had sworn a solemn oath to obey. In its signing, the King was also subjecting himself to the reprisal of a Committee of twenty-five barons (comprised of his known adversaries) by the certain ***redress of*** their demonstrative ***grievances***.[35]

In the common law of Medieval England, the King's Courts were not well known for fostering tribunals offering access to individuals from rural communities.

> "*has very high prerogatives... [and]...is a kind of trustee for the public interest, in all cases represents the Sovereignty of the Kingdom, and is the only authority which can sue or be sued in any manner on behalf of the Kingdom in any Court of Justice*" by his *subjects*. Notably, "*the term 'sovereign' has for its correlative, 'subject'....In the case of the King, the sovereignty had a double operation. While it vested him with jurisdiction over others, it excluded all others from jurisdiction over him. With regard to him, there was no superior power; and, consequently, on feudal principles, no right of jurisdiction....Hence it is, that no suit or action can be brought against the King, even in civil matters; because no Court can have jurisdiction over him:* ***for all jurisdiction implies superiority of power***."

By contrast, under the United States' constitution,

> "*there are citizens but no subjects....The term, subject, occurs, indeed once in the instrument; but to mark the contrast strongly, the epithet 'foreign' is prefixed....As a citizen, I know the Government...to be republican, and my short definition of such a Government is, one constructed on this principle, that the Supreme Power resides in the body of the people....The citizens [of Georgia], when they acted upon the large scale of the Union, as part of the 'People of the United States,' did not surrender the Supreme or Sovereign Power to that State; but as to the purposes of the Union, retained it to themselves....The principle is, that all human law must be proscribed by a superior. This principle I mean not now to examine. Suffice it at present to say, that another principle, very different in its nature and operations, forms, in my judgment, the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require.* ***The sovereign, when traced to his source, must be found in the man***." (Justice James Wilson) Chisholm v. State of Georgia, 2 U.S. 419 (1793).

[35] *Id.* The weakness of Magna Carta lay in a scheme of governance that was not preemptive of the King breaking his oath to the rule of law however; it was punitive instead, amounting to the "*right of legalized rebellion*" by the twenty-five barons under Ch.61 of that Charter.

Around the time the Magna Carta was written and signed, the royal justice of the monarchy was the exception and not the rule. In most cases, ordinary disputes were handled at the local level[36] since dispensing justice to the nation at large was not a priority in the course of the King's normal business activities. While those at the bottom of the feudal hierarchy were often compelled to take their grievances to the very courts of their oppressors, those of the aristocracy that had the temporary ear of the King responded often with selfish motives while seeking private relief for

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[36] *Id.* During the reign of Henry II, when frequent challenges to land titles and accusations against members of the upper classes were resolved by a trial of battle (known as a *duellem*), the King introduced another more *civil* option by means of instituting "*petty*" and "*grand*" assizes. ("*Grand Assize*," as defined by USLegal.com refers to the "*great jury*.") The derivations of the king's innovations were passed down and can be found with us in the courts of today. We might consider this as the early genesis of today's "*petit*" (or "*trial*") jury and "*grand*" jury.

During this time, the King dispatched two types of judges into his kingdom with his delegated authority: "*Justices in Eyre*" and "*Justices of Assize.*" The former actually drew the "*ire*" of the people as they traveled from district to district across the countryside to administrate the King's policies and finances and to settle disputes. Justices in Eyre were frequently dreaded because they carried reputations of levying heavy fines, penalties and miscarriages of justice. On the other hand, Justices of Assize, because of their limited royal commissions, were welcomed to the communities. Of the assizes, there was the Grand Assize and three types of Petty Assizes.

The Grand Assize(s) operated on a particular procedure in alternative to the challenge of a duel. It started with the appointment of four leading knights of the county, who in turn appointed twelve knights of the district where the particular dispute originated. Though the investigative fact–finding process sometimes took months or even years to arrive at a verdict, the declaration of that verdict was declared under solemn oath and was considered as final.

Alternatively, the King authorized Petty Assizes to operate more rapidly by methodology of twelve sworn local landholders reviewing sworn testimonies of the disputants. These petty assizes were assembled to review sworn testimonials of facts to determine: 1) proprietorship of land; 2) resolves of hereditary and familial impact as a result of the resolve of primary proprietorship of land; and, 3) resolve of who would have the temporary right of patronage to the church until the issue of who was to be the permanent landholder could be determined.

themselves and their fellow promoters. Therefore, the concept of binding the King to **a community which possessed the right to coerce *him*** was not only revolutionary, it turned out to be a distinctive first–step in England's growth toward national unity.[37]

While the Magna Carta has fostered many debates pertaining to its actual purposes in reform, its efficacy, and the legitimacy of its machinery for accomplishing such reforms, there are – without a doubt certain Common Law principles – presented by this Great Charter that have a legitimate application today in this New Millennium of the 21st Century. This is particularly true given that **the Evidence presented in this instant 2016 case now at hand demonstrates that**, like in the time of King John, **the government (i.e., here it is the governments of the States and the United States) has long been acting arbitrarily and capriciously, with conduct well extending outside of both the State and Federal constitutions, as well as outside of their own subordinate legal statutes.** (Bold emphasis)

As such, the following is a list of Common Law principles – put into action – as exhibited in historical *legal precedence* by the Magna Carta. These principles serve as procedural action steps that are either already being reinstituted by a consensus of the American people against our present form of tyrannical government, and/or that otherwise *needs* to be instituted right away; by cognizance of the FACT that today, similar to what was declared at the onset of the

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[37] *Id.*

Revolutionary War, "*Petitions for the Redress of Grievances*" by the American people against government are being met with "*Repeated Injury*"[38] by government.

The Federal and State governments of America no longer operate by the "*consent of the governed*" because the all–important Common Law maxim that "*a right is valueless without an appropriate remedy to enforce it*" is being dishonored at both the State and Federal levels. Thus, the Magna Carta has provided the procedural template by which Americans today may operate in Common Law to reclaim their rights while honoring yet other Common Law maxims, such as:[39]

a) "*ubi non est condendi auctoritas, ibi non est parendi necessitas*" ("*where there is no authority to enforce, there is no authority to obey*");
b) "*ubi jus, ibi remedium*" ("*where there is a right, there is a remedy*");
c) "*ubi cessat remedium ordinarium ibi decurritur ad extraordinarium*" ("*When a common remedy ceases to be of service, recourse must be had to an extraordinary one*");
d) *"quod necessitas cogit, defendit"* ("*what necessity forces, it justifies*");
e) "*regula pro lege, si deficit lex*" ("*in default of the law, the maxim rules*");

Hence, the American people are taking back their authority as the *sovereigns*[40] and enforcing it.[41] They are doing so – as they have long been showing

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[38] The "*Declaration of Independence*" specifically states, "*In every stage of these Oppressions we have Petitioned for Redress in the most humble Terms: Our repeated Petitions have been answered only by repeated Injury.*"

[39] See again, "*Maxims of Law [F]rom Bouvier's 1856 Law Dictionary*" (*supra*) as found on 7/11/16 at: http://www.lawfulpath.com/ref/bouvier/maxims.shtml

[40] The writer makes the clear distinction here between the "*sovereign citizen*" defined today archaically by subversive and incendiary hate organizations such as the Southern Poverty Law Center as suspected terrorists, and sovereign "*citizens*," who as defined by Justice Wilson in "*Chisholm v. State of Georgia*" (*supra*), are *natural persons* who have simply "*reserved the Supreme Power in their own hands.*"

[41] It may come by some surprise to some coming to know that it is not always the case that "*martial law*" is to be declared by the State or Federal governments, because the roots of Martial Law actually come from the Common Law. Some of the confusion between state–implemented and citizen–implemented martial law may be attributed to the misleading prevalence of military titles awarded to civil service

positions in government, such as *lieutenant* governor, air *marshal*, attorney *general*, solicitor *general*, deputy *martial,* etc. Nevertheless, martial law is not limited to the condition in which the law is temporarily abrogated by government when someone (i.e., the Mayor, the Governor, or the President) assumes the position of "*commander,*" such as had occurred at the onset of the Civil War (1864) when President Abraham Lincoln declared martial law by his Proclamation No. 113 (as found at: http://www.presidency.ucsb.edu/ws/?pid=69993).

In fact, most American have taken great interest in finding out that the organic Constitution for the United States actually had no enunciated provision authorizing such implementation of martial law, and still doesn't. Thus, Abraham Lincoln could have only really justified his authority for taking such *necessary* action under the natural, Common Law principles expressed by the *Law of Nations*, which is conditioned on there being some declaration of *insurrection* or *war*, or in cases when *self-defense* is necessary. [In most cases such as during the Civil War in America, martial law may be instituted after such a declaration, whereby the rule of law is abandoned ***out of necessity*** for the preservation of the Sovereign. Self-defense however is, according to the Common Law, a ***natural* right**, being a right endowed in each Man by his Creator, as found with the (other) animals of Nature. As such, "*when war is declared or immanent, we must at once cast aside all forms of law and gladly submit to personal and irresponsible rule… that the law needed for war conditions is martial law, that is to say something that is properly not law at all, but a denial of law.*" (Radin, Max. "*Martial Law and the State of Siege*." Cal. Law. Rev., Vol.30:6 (Article 2; Sept. 1942) as found on 7/20/16 at: http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=3657&context=californialawreview]

Importantly, and in retrospect however, the Constitution (*Art. I, §8, Clause 11*) gives the *exclusive* right to Congress for declaring war, *not* to the President. [See *Chisholm v. State of Georgia*, 2 U.S. 419, (1793)] In fact, at the time President Lincoln declared an insurrection of the South on April 15, 1861, signing the "*Blockade Proclamation*" on April 19, 1861, he was functionally without a constitutional Congress. (See the signed Blockade Proclamation as found on 7/20/16 at: http://www.raabcollection.com/abraham-lincoln-autograph/north-and-south-declarations-war) This is because on March 27, 1861, the congressional representatives of seven Southern states walked out of Congress leaving Congress without a quorum to close their deliberations causing a "*sine die*" adjournment and a defunct Congress without the ability to constitutionally reconvene. [See more about Lincoln's *usurpation* of congressional authority under the Common Law "*Doctrine of Necessity*" (*Art. I, §8, Clause 18*) by means of a defunct Congress, as also found on 7/20/16 at: http://www.federalobserver.com/2012/09/30/the-true-purpose-of-the-civil-war/]

Some argue that Lincoln moved forward from that point unlawfully claiming a "*Union*" of States (i.e., the "*United States*"] when technically the "*United States*" no longer existed. If that were the case, there is the accompanying argument that

the propensity for doing – by first moving in the direction of legal *restraint* and *remedy*, as opposed to the only other choice left, which is again by way of revolutionary violence.[42] They are also doing so through the very same "*constitutional fixture*" of the *independent* grand jury; with proceedings that are precisely like those described by Justice Scalia in his 1992 ruling of *United States v. Williams*. These acts are being conducted at the will of *the people* themselves, who are once again exercising their rights in rebuilding their own "*FOURTH BRANCH*"

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the Constitution was no longer even enforceable. Henceforth Lincoln, being no longer "*the President*" of anything other than of the corporate "*union*" of remaining states, was actually a *usurper* of Congressional power, being then compelled to reasoning and justifying his actions – of breaking the constitutional "*Separation of Powers Doctrine*" and executing his Executive Power (assuming he was still acting under the existing Constitution) to "*fill vacancies*" as *needed* as "*commander-in-chief*" – to subsequently call forth the militia (via *Proclamation No. 80* on April 15, 1861 as found on 7/20/16 at: http://www.presidency.ucsb.edu/ws/index.php?pid=70077), to issue *General Order 100* (a.k.a. "*Lieber Code*") proclaiming "*martial law*": (http://avalon.law.yale.edu/19th_century/lieber.asp#sec1), and further re-declaring martial law while also suspending the "*Writ of Habeas Corpus*" (by *Proclamation 113* on July 5, 1864 – http://www.presidency.ucsb.edu/ws/?pid=69993) while still operating without a legitimate, *de jure*, constitutional Congress.

[42] Some Americans contend that the "*revolution*" has already begun, and their response to enforce Common Law mechanisms for justice demonstrates them to be only "*reactionaries*," being contrary to what the popularized *mainstream media* and the controlling government *revolutionaries* are doing using Presidential "*Executive Orders*", international treaties with the United Nations targeting a "*New World Order*," Agenda 21 and "*Sustainability*" programs, and a broad widening of administrative government agencies and Article I Courts (and other forms of "tribunals"), illegal immigration, suspicious voting and election practices, and the general "*dumbing down*" of the American populace through unconstitutional programs such as "*Common Core*," so to sidestep and undermine constitutional guarantees; while also coercing the American population at the local, state, and federal levels – including the States themselves in their corporate capacities – so as to mislead the majority of Americans to believe that they, as individuals, live in a Democracy (as opposed to a Republic) and that, as such, they actually carry no personal influence in changing the direction "*their*" government has been heading.

of government, in accordance with the Common Law that was established by the Magna Carta, *without* the interference or the *permission* of any of the other of Three Branches of American constitutional government.

The Common Law prescription for today's grand juries is therefore procedurally set forth as follows:

1) Demonstrate reasonable attempts to use the available administrative machinery (i.e., but not to the point of complete exhaustion of all known, unknown, available, and not readily available machinery) for establishing proper control;
2) Intimidation must precede any attempt to redress wrongs by force, as the threat of lawful restraint and remedies should precede revolutionary violence;
3) No step to legally restrain or to make just remedy will be carried out after such formal intimidation, until the expiration of an interval of forty days during which preparations for war may be completed without interruption;
4) Form local assemblies of like–minded and respected community members from which twenty–five representative members are elected in secret from each assembly to constitute the common law grand jury for each community.
5) Upon information or belief, or by consensus of a determination to disprove information or belief, each community's common law grand jury will make it their (sworn) *duty* to work in secret to audit or investigate the specific operations of their respective local governments;

6) Upon finding of any form of criminal wrongdoing, a **Presentment** – in the form of a "*True Bill*"[43] – will be made signifying the finding there is "*probable cause*" to charge a ***person*** [44] with a crime; and/or in the case of a government official, to make the charge of a violation of sworn oath and duty. Conversely, if there is no probable cause to be found the Presentment will be in the form of a "*No True Bill*."

7) If a common law remedy is available to a person claiming a debt is owed to them by the ***person*** accused of a civil or criminal wrongdoing – which is supportively reinforced by the investigative finding of the grand jury, for there to be probable cause that the debt is truthfully owed – then four representative members of the grand jury will draft and authenticate a formal notice to "*the accused*" civil or criminal debtor, and the foreman will deliver such notice

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[43] With the understanding that the primary difference between a "*presentment*" and an "*indictment*" being the presence and the function of someone to act upon the finding in the capacity of "*prosecutor*," it goes without stating here that a prosecutor, as held by Scalia (1992) *"[does not] require leave of the court to seek a grand jury indictment*." Also, given the accompanying fact that there is a plethora of historical documentation showing that, in the early Common Law history of American court operations, private prosecutions were frequently conducted by those without membership in the American Bar Association (or any of its franchises or subsidiaries since the ABA was not given birth until August 21, 1878 by their own admission). It also goes without stating here that anyone deemed qualified by the grand jury itself may proceed, as a private prosecutor, with the establishment of a formal criminal "*indictment*;" and thereafter, proceed with the prosecution of a criminal case as it may then be presented before any *legitimate* court comprised of twelve members of a *legitimate* petit jury, as provided by law to ensure that *legitimate* due process is provided to the criminally "*accused*" as required under the *Supreme Law* of the American Constitution.

[44] As expounded upon more elsewhere, there are multiple definitions for "*person*" to include but not be limited to *natural* persons, any type of *association* of people, *corporations*, and even *governments* and their representative "*officials*."

giving Forty Days to for "*the accused*" to present proof[45] to the grand jury of the contrary or to prepare for their next step of Common Law consequence in remedy.

8) Upon the expiration of the forty day timeline without response by the *accused*, or upon any other updated reaffirmation of *probable cause* finding by the grand jury in the aftermath of resuming the earlier investigation, and after fairly considering the defense, if any, of the accused, a formally written proclamation of "*Distrain and Distress*" will be issued to the local Sheriff by the grand jury foreman on behalf of the majority of participating grand jurors.

9) Upon public issuance of *Distrain and Distress*, the grand jury will execute all options and means available, and use whatever force is necessary to include but not be limited to means in commerce and by use of the "*well-regulated (common law) militia*" of the region, to seize real property of land and their structures, and personal possessions[46] until such time the assessed value of the debt becomes fully paid, and/or until the accused is brought to justice through the constitutional scope of a criminal trial by jury.

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[45] *Silence* by the accused is construed as acquiescence in Common Law, similarly to how the "*no contest*" plea has been voluntarily or involuntarily entered and processed by American civil court judges as implied "*guilt*".

[46] *See* Hoyt – *Consent of the Governed* (*supra*) p.287 clarifying,

> "*Applying [the] distrain and distress process today doesn't necessarily have to involve the personal assets of the public official indicted for violating their oath. The purpose of the bond is to protect taxpayers and as long as the total value in the indictment is covered by the surety bond* [or insurance] *policy, there is no need to distrain or distress additional property. And once the bond* [or insurance policy] *has been liquidated* [if indeed the bond or insurance policy can be easily found]*, the politician or government bureaucrat will no longer be insurable nor able to hold their office*."

The Growth and Evolution of "*Customary Law*"
("*Merchant Law*," "*Admiralty Law*" and "*Maritime*" Law)

History has been shown to repeat itself, time and time again. The counteractive interplay and resulting evolution between the natural force of *Customary Law* and the deliberate force of *Common Law* exemplifies this repeat of history by case-in-point, particularly as it includes international law and international commerce. Not so coincidentally, the mechanics of individual market prices of commodities, products, and services and the rules for the buying and selling of property and the procurement of contracts all correspond with the *natural* and spontaneous evolution of commerce and international commercial laws. As such, the history of the international *Law of Nations* is derived from the history of the international *Law of Merchants*, and its corresponding *Law of Admiralty*.

Truly, whether speaking about trade and contracts in commerce, or about services in law, it all boils down to free market trading[47], and the positive or negative aspects of government intervention, mediation, control, and enforcement. It short, the evolution of *Customary Law* includes the buildups and the downfalls of *Common Law* as a separate but influential aspect of free enterprise in international trade. As such, it is safe to say that *customary* and *common* legal systems operate independently of one another, yet function mostly together and in tandem with the

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[47] *See* Bruce L. Benson's "*The Spontaneous Evolution of Commercial Law*" (2001) (p.647) as found at the Florida State University website: http://myweb.fsu.edu/bbenson/SEJ1989.pdf in which he references the conclusion of Lon Fuller's "*The Morality of Law*" [New Haven: Yale University Press (1964)] stating, "*It is only under capitalism that legal duty can be fully developed.*"

development of civil, equity, criminal, and other forms of the laws set up around the world of nation–states.

This correspondence between *customs* (i.e., *customary* laws) and *common* laws stems from the historical options available to merchants for subjecting their commercial business practices, their bartering, trading, buying and other merchant activities, to various rules, standards, and enforcement mechanisms. This correspondence also stems from the willingness and the desire of monarchs and other forms of government to weigh in on the profits found by their own market participation in commerce, by capitalizing upon the market value of their coercive royal and/or state power. Importantly, this evolutionary process can be said to have been based throughout time, based upon the voluntary CONSENT of the market participants themselves.

It has worked cyclically from as far back as "*time out of mind*".[48] Essentially, the customary Law of Merchants ("*Lex Mercatoria*") or "*Merchant Law*" first sprung as an alternative to the inability of the Roman Law to adequately meet the needs of

[48] See again https://faculty.history.wisc.edu/sommerville/367/367-044.htm for a contextual understanding of the phrase "*time out of mind*" to mean the same as time *immemorial*. Also, for further clarification of how "*time*" stands as the most enduring and absolute "*trier of truth,*" and for there being good reason to claim that Common Law is superior to and the antecedent of parliamentary law, see excerpts of the "*Speech in Parliament*" that was purportedly given by Thomas Hedley on June 28, 1610 while bolstering the positive attributes of the "*Magna Charta*," as found on 7/21/16 at: https://faculty.history.wisc.edu/sommerville/367/hedleycommonlaw.htm#time%20out%20of%20mind

international merchants[49] during a period of accelerated trade in the 10th, 11th, and 12th centuries. "*Consequently, [they] broke the bonds of localized political*

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[49] *See again* Benson, Bruce. "*The Spontaneous Evolution of Commercial Law*" (2001) as found at http://myweb.fsu.edu/bbenson/SEJ1989.pdf (pp. 649-50) stating:

> *"Merchants established their own courts for several reasons. For one thing, state law differed from merchant law. For instance, the royal courts of the day typically would not consider disputes arising from contracts made in another nation. And government courts would not honor any contractual agreement which involved the payment of interest. Any interest was usurious. Common–law courts would not consider books of account as evidence despite the fact that merchants held such records in high regard. Merchants needed their own courts in order to enforce their own law.*
>
> *Another reason for the development of merchant courts was that resolutions of commercial disputes often had to be achieved after consideration of highly technical issues. In such cases, the merchant courts used judges who were experts in that particular area of commerce, unlike royal court judges who could adjudicate disputes about which they knew nothing. Merchant court judges were always merchants chosen from the relevant merchant community (fair or market). It was widely recognized that lawyers were not suitable judges in commercial matters for a number of reasons. For instance, lawyers lacked knowledge of commercial custom and practice. Furthermore, they tended to be preoccupied with strict rules that involved formalities which often hindered commerce.* ***Commerce, and simplicity in its law were paramount****."*
>
> *Perhaps the most widely cited characteristic of the merchant courts was their speed and informality. This characteristic was in response to the needs of merchants, of course, and a third reason for developing merchant courts. Merchants of the time had to complete their transactions in one market or fair and quickly move to the next. A dispute had to be settled swiftly to minimize disruption of business affairs. This speed and informality could not have been equitably achieved without the use of judges who were highly knowledgeable of commercial issues and concerns, and whose judgments would be respected by the merchant community at large. Participatory or communal adjudication was, therefore, a necessary characteristic of the Law Merchant. The adjudicative procedures, institutional devices and substantive legal rules adopted by merchant courts all reflected the overall concern for facilitating commercial interaction.*
>
> *In this same light, rules of evidence and procedures were kept simple and informal. Appeals were forbidden because the tribunals wished to avoid unnecessary litigation and delays in order to avoid disruptions of commerce. Similarly, there was an avoidance of lengthy testimony under oath; notarial attestation was usually not required as evidence of an agreement; debts were recognized as freely transferable through informal "written obligatory," a process developed by merchants themselves to*

constraints to develop an international system of commercial law. They settled disputes in their own courts and backed their law with the threat of boycott sanctions."[50] In essence, the precedence set by the settlement of these interregional and/or international disputes became known as the private *custom*, the unwritten "*Customary Law*."[51] Some refer to such customs as *judge–made* law, being also

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> *simplify the transfer of debt; actions by agents in transactions were considered valid without formal authority; and ownership transfers were recognized without physical delivery. All these legal innovations were validated in merchant courts despite their frequent illegality in national courts. All were desirable because they promoted speed and informality in commerce and reduced transaction costs. In fact, this brings up a fourth reason for developing participatory merchant courts. While royal law, such as the common law in England, was developing during this same period, and while supporters of the common law take pride in its rationality and progressiveness, the fact is that this state produced law as enforced by the kings' courts simply did not adapt and change as fast as the rapidly changing commercial system required."* (Citations omitted)

[50] *Ibid* (p.649)

> "*A merchant who broke and agreement or refused to accept a court ruling would not be a merchant for long because his fellow merchants ultimately controlled his goods. The threat of a boycott of all future trade 'proved,' if anything, more effective than physical coercion.*"

[51] Note that the "*common law*" and "*civil law*" systems of authoritarian government are distinguishable from "*customary law,"* which is a system of law described in excerpt from a book written by Bruce Benson titled, "*The Enterprise of Law: Justice Without the State*" (published by Laissez Faire Books), the excerpt which was found on 7/22/16 at: http://jim.com/custom.htm *system of law*".
Note also that a summary of the book itself can be found at: http://www.independent.org/publications/books/summary.asp?id=92 which states,

> *"Bruce L. Benson (Senior Fellow, The Independent Institute; Professor of Economics, Florida State University) offers a powerful rebuttal of the received view of the relationship between law and government. Not only is the state unnecessary for the establishment and enforcement of law, Benson argues, but non-state institutions would also fight crime, resolve disputes, and render justice more effectively than the state because they would have stronger incentives to do so.*
>
> *Employing economic reasoning and historical analysis, The Enterprise of Law gives readers the background needed to resolve some of the thorniest issues in political and legal theory and offers a multitude of insights that shed light on important aspects of government contracting and privatization. First published in 1990, Benson's treatise has been reissued with a new preface by the author that explains the book's growing relevance in the twenty-first century."*

referred to in a more-or-less technical sense as "*common law*." In any event, as was the lawful *custom*, and to whatever degree it was influenced by or confused with the popular definition of "*common law*," the natural and customary corollary to the "*Merchant Law*" or "*Law Merchant*" on land was referred to as "*Admiralty Law*" or "*Maritime Law*" on the high seas.

It was through a process of government *usurpation* of the "*Customary Law*" that the ancient monarchy of England absorbed *"admiral"* courts and *"maritime"* issues into its jurisdiction, establishing *"common law"* courts which settled all types of civil and criminal issues, in spite of the unique customs and circumstances that developed outside of government, by merchants engaged in the private enterprise of commerce on land, and by the ship admirals and his mariners[52] facilitating that private commerce over open international waters. [53]

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[52] *See* Hall, John. *The Practice and Jurisdiction of the Court of Admiralty*. Geo./ Dobbin and Murphy. (1809) as found on 7/21/16 at: https://books.google.com/books/about/The_Practice_and_Jurisdiction_of_the_Cou.html?id=x3M9AAAAIAAJ As written on pp. xi-xii:

> "*It is certain that the court of admiralty, in its origin, had and entertained a jurisdiction co-extensive with that of the maritime courts throughout Europe. Those courts were established for the protection of maritime commerce, to which the feudal judicatures of those times were entirely inadequate. We find them in the [M]iddle [A]ges established in all the maritime countries of [C]hristendom; in some under the name of admiralty, in others under that of consular courts. In the south of Europe the judges who had cognizance of commercial and maritime causes, were denominated consuls; and the celebrated code by which they were directed was thence called the consulate of the sea. (Il Consolato del Mare.) Those consuls were mere civil judges, unconnected with the military or feudal system; but in the north, where feudality most flourished, and where the judiciary power was considered as a necessary appendage to military grandeur, the constable, who was at the head of the land armies, and the admiral who commanded the naval forces, could not, consistently with the dignity of their stations, be without a portion of the judicial authority, while every petty baron had a court of his own. The constable therefore invested his*

With the advent of credit advancements around the 12th Century, the flourishing of private trade spawned a commercial revolution.[54] Thus government, being often of an overly–jealous king or alternatively, of an overly–zealous compact of lawyers and other power mongers (i.e., rich aristocrats and other feudal lords in all parts of the Western Hemisphere), wanted their own "*piece of the action*" from that burgeoning market. Essentially, these favored classes sought to bolster their

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> *lieutenants, as the barons did their stewards, with the power of deciding on all matters and differences which arose out of the wars;* ***and the jurisdiction over maritime affairs naturally fell to the share of the admiral. His court was established on the model of the consular courts; and those maritime contracts which are regulated by the Consolato del Mare and the laws of Oleron, were the subject matters of their civil jurisdiction.***"

[53] In the ancient history of Common Law, there has always been a distinction between what is to be classified as "*maritime*" or "*admiralty*" jurisdiction in terms of *customary* private practices, and "*common law*" as facilitated by monarchs and other forms of government and/or "*state*" courts. Throughout history there has been a repeated tendency of royal courts and other government/state courts to *usurp* jurisdiction of *The People's* customary practices, for both the public's interest in private commerce and for the kings' and governors' own selfish interests. As a result, there has been the overwhelming tendency to combine the private and the state interests into a single category of "*Common Law*."

[54] Americans, during the late 20th Century and into the New Millennium of the 21st Century, have watched government debt rise to over eighteen TRILLION dollars and with a full century of the government authorizing the private corporation of the Federal Reserve to infuse worthless "*fiat*" currency into the United States and world economies as nothing more than "*debt*" notes. All this together has effectively devalued the labor of the American people and reduced the *common* people to hidden *adhesion* contracts of debt slavery. What we see today then, is not unlike what was found to happen with the fall of the ancient civilization of the Roman Empire and its commercial economy. As stated by Hall (p.651):

> *"[W]ith the fall of Rome a currency that could be trusted to maintain its value disappeared, and so, virtually, did commercial trade. No sound source of money as a means of exchange arose, so in order for trade to emerge again, merchants had to develop their own exchange medium. 'The take-off of the following period was fueled not by a massive input of cash, but by a closer collaboration of people using credit'. In other words, when government could not be counted on to provide a stable means of exchange, the merchant community provided its own through a series of legal innovations." See* Hall, (*supra*), *The Practice and Jurisdiction of the Court of Admiralty*. (Citations for quote omitted)

own sources of "*income,*"[55] and to increase what gains that were already sanctioned by the endorsements of monarchies and by other forms of medieval government.

Many who sought such expansion of their riches through alternative forms of commercial activities had long been traditionally *subjected* to various forms of feudal taxation on the "*privilege,*"[56] of their being employed in some fashion or

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[55] The term "*income*" here is underscored because historically, people who have served under the sovereign "*King*" or in service of the government under the sovereignty of "*The People*" are deemed "*subjects*" as today's definition of "*income*" subjects certain individuals to state and federal tax laws. For example, as cited by Peter Eric Hendrickson in his book, "*Cracking the Code: The Fascinating Truth About Taxation in America*," (ISBN: 0-9743936-0-6)

> *"We must reject....the broad contention submitted in behalf of the government that all receipts – everything that comes in – are income..." United States Supreme Court, So. Pacific v. Lowe, 247 U.S. 330, (1918)....This scheme capitalizes on widespread public ignorance of general legal doctrine and rules of statutory construction....It relies upon concealment of the underlying actual-law-in-force behind the misleading words of the [tax] code, which is legally no more than 'evidence of the law,' and not the law itself....I would not allow myself to be compelled to attest to what I knew to be untrue, and so always added to the perjury statement above the signature lines [of the 1040 form] the words, 'except insofar as the term "income" is misused herein.'*
>
> *I knew perfectly well that such things, insofar as they have to do with me,* ***cannot be taxable*** *'income', at least* ***not unless I, by endorsing*** *such a characterization (or letting it stand unchallenged)* ***made them so.....[T]he framers specifically prohibited such practices in Article I of the Constitution.*** *Any tax which is not apportioned must have the limiting characteristics of indirect taxes, which is to say, it can only be laid upon a wholly* ***optional*** *activity."*
>
> *"The term 'excise' is particularly illustrative of the nature of indirect taxes as specifically on activities. 'Excise' means 'a piece of the action'....[Thus,]... The income is not the subject of the tax; it is the basis for determining the amount of tax.... [Moreover,]...A government cannot tax – directly or indirectly – anything or any activity outside either its legal or its geographical jurisdiction....It is sufficient to the present to observe that* ***such jurisdiction does not involve (or establish) coercive authority to burden – by taxation or otherwise – any natural person in the exercise of his or her Rights....****[On the other hand]...* (Bold emphasis added)

[56] *Id.* Hendrickson:

> *"Actual possession and custody of Government property nearly always are in someone who is not himself the Government but acts in its behalf and for*

another[57] *by* the King or by other forms of governing Sovereignty. This created incentives for monarchs and other governments to compete with the international merchants and seafaring admirals for their "*business of the courts,*" eventually absorbing Customary Law, in both of its forms as *Merchant Law* and *Admiralty Law*, under their own *Common Law* umbrella and under their own government courts' jurisdiction.[58]

> *its sole purposes. He may be an officer, an agent, or a contractor. His personal advantages from the relationship by way of salary, profit, or beneficial personal use of the property may be taxed...' U.S. Supreme Court, United States v. County of Allegheny, 322 US 174 (1944)....Other courts have expressed this principle as well:* ***'Since the right to receive income or earnings is a right belonging to every person, this right cannot be taxed as privilege.'*** *Jack Cole Company v. Alfred T. MacFarland, Commissioner, 206 Tenn. 694, 337 S.W.2d 453 Supreme Court of Tennessee (1960).... [Also]...* ***[T]he Legislature has no power to declare as a privilege and tax for revenue purposes occupations that are of common right.'*** *Sims v. Ahrens, 167 Ark 557, 271 SW 720 (Ark. S. St. 1925)....The proceeds of such work can only be taxed, of course, with an apportioned direct tax."*

[57] Lawyers (a.k.a. "*attorneys*" and by other names of ill-repute) have always carried a reputation for having insatiable greed, a quality sought by many unscrupulous monarch for devising new, innovative ways to increase revenues (by taxation of *subjects* of the Kingdom), and to transfer wealth to their political allies. Feudal lords followed in suit. This "*pattern and practice*" dates all the way back to the ancient Roman "*justice*" system. One writer wrote (of this ancient system), *"With a judge to pay off and a lawyer to pay," Settle the debt is my advi[c]e; much cheaper that way." [Another] Roman satirist wrote: "What does a man need to be a lawyer? Cheating, lying, brass, shouting and shoving."* The historian Tacitus is also said to have written about the longstanding reputation of lawyers' greed: *"The most salable item in the public market is a lawyers' crookedness. Pretend you purposely murdered your mother; they'll promise their extensive special divinings in the law will get you off if they think you have money."* Hays, Jeffrey. *Facts and Details [About] Ancient Roman Justice System* (online article) as found on 7/21/16 at: http://factsanddetails.com/world/cat56/sub369/item2056.html

[58] The intrusive meddling of the King and the usurpation of Common Law jurisdiction over merchant disputes got so bad that during the reign of Edward III (1312-1377) there became irreconcilable differences between what was deemed to be "*admiralty*" and "*maritime*" jurisdiction. John Hall, the author of the book, *The Practice and Jurisdiction of the Court of Admiralty* (1809), took pains to describe

(pp. xvi—xvii) how those differences were eventually resolved, first by a formal declaration of offenses by the King as forth by "*eighteen expert seamen*" (who are noted by footnote as being probably the body of "*a Grand Jury of Mariners*"), and second – two hundred years later – by a formal complaint presented to judges under employ of Queen Elizabeth I.

This author considered the monarch's answer to the latter of these above–two actions relevant to the meaning of the construction of Article III, §2 of the "*constitution of the United States*" empowering the federal judiciary to hear "*all Cases of admiralty and maritime Jurisdiction*." Hall set forth a question that he indicated was answered by Common Law precedence, or in violation by expansion of the jurisdiction thereof, in light of rulings that the Supreme Court of the United States ("SCOTUS") had made at the turn of the early 19th Century: "*Is [the SCOTUS'] jurisdiction the same which the high court of admiralty formally possessed; or is it restricted by the statutes of Richard II, and the adjudication of the English courts founded upon them?*"

Hall's book (i.e., *see* again p. xvii) pointed out that the difference between what was then otherwise known as the "*Common Law*" jurisdiction of the English courts and the jurisdiction of the Supreme Court of the United States was clarified by a ruling set forth by the case of "*Stevens v. The Sandwich*" I Pet. Adm. 233, Fed. Cas. No. 13-409, decided in 1801 in the district court of Maryland by Judge Winchester. (Note: This was not a parody case on the popular phrase that grand juries are so dumbed down and complicit [now] that lawyers, as prosecutors, could "*indict a ham sandwich*" if they wished.) Specifically, Winchester stated, "*that the statutes 13 and 15 Richard II have received in England a construction which must at all times prohibit their extension to this country, and he goes on to mention some instances of irreconcilable decisions under those statutes by different judges*."

The Federal Reporter, Vol. 119 (Feb-Mar, 1903; West Publishing), "*Cases Argued and Determined in the Circuit Court of Appeals and Circuit and District Courts of the United States*" presented further clarity about that the federal Supreme Court had done by elaborating more on the "*Stevens v. The Sandwich*" by stating (pp. 739–740):

> "*Judge Winchester held that the courts of admiralty created by the constitution were not limited in their jurisdiction by the prohibitions issued by the English courts of common law, and that they could take cognizance of contracts and debts for building and repairing ships. He therefore sustained a libel in rem for repairs, apparently made in the home port.* ***This was the first, and for some time the only, reported case, which suggested that the jurisdiction of the American admiralty courts was different from that of the English.***"
>
> *According to the late Judge John Lowell, the unreported practice of the admiralty court in the district agreed with Stevens v. The Sandwich.... **This practice may have arisen from the broad jurisdiction assumed by the colonial court of vice Admiralty in Massachusetts.** In The Jerusalem, 2 Gall. 345, 348 Cas. No. 7,294, Mr. Justice Story said: '**The admiralty court has***

always rightfully possesses jurisdiction over all maritime contracts; and the decisions of the courts of common law, prohibiting its exercise, are neither consistent in themselves nor reconcilable with principle.' It will be recollected that this is a foreign ship, and that by the general maritime law [i.e., common and customary international law] ***every contract of the master for repairs and supplies imports an hypothecation.*** [Note: The term "*hypothecation*" is a pledge of collateral on a debt].

It has been supposed that the rule of the common law is different. But it has never yet been extended to the cases of repairs of foreign ships, or of ships of foreign ports. I hold, therefore, that the contract for repairs in this case, being of a foreign ship, is to be governed by the maritime law, and created a lien. *Whether, in case of a domestic ship, materialmen have a lien for supplies and repairs furnished at the port where the owner resided, I give no opinion. There are great authorities on both sides of the question, though upon principle, independent of common–law authorities, it does not seem to me that there is much room for doubt. Be this as it may,* ***it cannot affect the jurisdiction of the admiralty in such cases, for that stands altogether independent of the doctrine of liens, and may be enforced as well by process in personam as in rem'...."***

(Hall continues...) "*From these quotations it will be seen that Mr. Justice Story, while undoubtedly accepting the general jurisdiction of the admiralty in case of maritime contracts, yet doubted whether a court of admiralty should apply the general maritime law to the case of domestic repairs.* ***With all his great learning, [Justice Story] seems to have forgotten that no English admiralty court ordinarily applied the common law to any question before it, and that no English court of common law ever dreamed of making it do so. In other words, even he confused jurisdiction and substantive law, as it has been shown that other judges were doing elsewhere at about the same time.***

In De Lovio v. Boit, 2 Gall. 398, Fed. Cas. No. 3,776, decided in 1815 in an opinion which is now classic, Justice Story decided that the admiralty court had jurisdiction, concurrently with the courts of common law, over maritime contracts, and that the federal courts of admiralty were not confined by the English limitations. ***The law then stood thus: Several circuit and district courts decided that the American admiralty jurisdiction was the same as the English, although, in determining that jurisdiction, they had sometimes failed to observe correctly what the English jurisdiction actually was, and so had taken jurisdiction of suits in rem against a vessel for supplies furnished in foreign port without express hypothecation, – a matter of which the English court of admiralty was not permitted to take jurisdiction.***

See the web link to The Federal Reporter. Volume 119 Cases Argued and Determined in the Circuit Courts of Appeals and Circuit and District Courts of the United States. February-March, 1903 as found online on 7/22/16 at: http://digital.library.unt.edu/ark:/67531/metadc38165/m1/

Thus, in short, whether in whole or in part, the *Customary Law* (of merchants and admirals) is still found today, in terms of the local, state, and federal governments' *Common Law* and *Civil Laws* systems that provide much of the substance of today's domestic and international Commercial Law.[59] It is from these underpinnings then, that the substantive and procedural operations, and the rule–making authority of the Law Merchants and Admirals got undermined and usurped.

Each of the merchants' and admirals' respective private, *customary* laws and jurisdictional courts thus historically evolved, for better or for worse, as a result of the takeover of customary practices for dispute resolution by *common law* government institutions. Thus through government participation in *laissez faire* capitalism, governments eventually sought to control the market on law. Eventually, as is always the tendency, the governments' competitiveness turned coercive as the royal and other courts attempted to harness and make absolute that which is otherwise dynamic and ever–changing in *common* and *customary* laws,

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[59] *See* Benson, *The Spontaneous Evolution of Commercial Law*" (2001) *supra*. (p.651) In continuing, Benson also clarified that in the context of *Law Merchant* history,

> *"Several competing court systems existed in England prior to the seventeenth century. Separate royal common law courts (e.g., Common Pleas, King's Bench, Exchequer), the cannon law courts, the royal maritime courts, and the merchant courts, among others, were all in competition with one another for various parts of the dispute resolution business. The common law courts ultimately triumphed over most of the competition, however. The method of victory was similar in each instance, so [while] the emphasis...is on the competition between the common law and merchant courts...it must be stressed that other courts also actively pursued commercial disputes."* (Citations omitted)

through the coercive standardization of governmental rules, procedure,

interpretation and enforcement. [60]

> *"After the common law court system gained control of the market for disputes, it began acting like a coercive monopolist, dictating or administering law rather than recognizing the more important source of law evolving business practice. Consequently, as common law developed through judicial precedent, the evolution of merchant custom and practice was altered from what it might have been without such coercive influence."* [61]

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[60] *Ibid.* (p.651-52) Benson sheds light on how beginning around the Twelfth Century the various governments in Europe began codifying the Law of Merchants (with slight modifications), to snare lawful jurisdiction of the state *in rem* (i.e., to impose a liability against an object, such as property and thus, against all whom have interest in the object or property) and *in persona* (i.e., to impose a liability directly against the person); and to divert merchants away from their private courts toward the *common law* courts of the monarchies, through formal processes of *appeals* and state *enforcement* mechanisms. "*The potential for appeal made the Law Merchant appear to be less decisive law*" even though the ostracizing and boycotting of uncooperative merchants was still a widely accepted and effective practice when implemented according to the unwritten *Customary Law*.

That freedom to choose between the two types of courts created competition by other courts too (i.e., *Common Pleas*, *King's Bench*, *Exchequer*, cannon law, royal maritime, Ecclesiastical, Chancery, etc.) each in vying for a their share in that commerce through litigation fees for lawyers and judges, and by other service–related or filing charges. This caused a popularity shift in merchant preferences toward state appellate and enforcement guarantees; until those incentives turned into constrictions in terms of time, restricted definitions, and complications of the cases being litigated. Such popularity was also constrained by broader increases in international trade.

[61] *Id.* Benson, pp. 653-55.

> *"Merchants became increasingly constrained under the common law system as the informal, speedy institutions they had developed disappeared for well over two centuries. Furthermore, English common law courts either refused to admit custom into law, or custom was required to satisfy onerous admissibility tests. In particular, the origins of a business practice had to be demonstrated to be truly "ancient" and the practice had to be consistently employed for a long period in order for it to be considered as law – this despite a rapidly changing business environment.*
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> *Thus, English common law restricted the evolution and use of business practice as a source of commercial law. 'In this way, the Law Merchant became rigid as post-medieval English judges sought to integrate the Law Merchant into the established confines of a centralized common law'. Many of the desirable characteristics of the Law Merchant in England*

As a result, the judge–made legal precedence of parliamentary and royal courts were incorporated into the English *common law* system throughout the 17th Century. Meanwhile, the rigidity and coercion of these *state* courts pushed merchants back into their own private domains while drastically constricting the power and authority of admirals within the domain of Maritime Law.[62]

The shift of the Law Merchant was more gradual and with oscillating pendulum swings between various government–run national courts and private international merchant courts, depending upon market factors. This swing toward international customs and away from the royal courts of England was also initially exacerbated when the markets opened to Colonial America. Thus, during the 18th Century private forms of arbitration and mediation became inexpensive, convenient

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> *had been lost by the nineteenth century, including its universal character, its flexibility and dynamic ability to grow, its informality and speed, and its reliance on commercial custom and practice."* (Citations omitted)

[62] As alluded to in earlier footnotes referencing John Hall's (1809) work, The Federal Reporter (1903), and "*The Sandwich*" case (1801), when the overreach of the monarch's *common law* courts resulted in such a vast usurpation of the Admiral's jurisdiction that it amounted to a near complete "*prohibition*" of the Admiral's lawful power and castration of his assumed authority in maritime affairs, "*eighteen expert seamen*" initiated a formal *Inquisition* near the end of the reign of Edward III (1367-1377), which was followed a couple of hundred years later with a formal protest called *The Articuli Admiralitatis*, with complaints against certain violations alleged to have been committed by the judges of King James I (1603-1625), which were accompanied by the demand for answers in redress of their written grievances.

It was not until 1632 that a resolution to this jurisdictional conflict arrived, by way of the Judges of the Courts at Westminster. It was resolved that the Admiral would have jurisdiction over: a) contracts or other things produced on the high seas; b) resolves of wage dispute that do not result in a suit for penalties; c) disputes or claims regarding the storage of food or provisions, not involving parties; d) concurrent jurisdiction with the King's Courts while navigating certain rivers and other waterways; e) that if anyone is imprisoned for anything related to the above, that upon presentment of habeas corpus, the imprisoned person will be remanded over to the demanders.

and eventually popular alternatives to the unpleasantness and restrictiveness encapsulating the various state and royal *common law* court systems.[63]

Nevertheless, it was not long before the engagement of private commercial enterprises being set up in the United States under private and c*ustomary* laws fell under the coercive influence of English government as modeled upon the common law introduced by the English aristocrats, and European lawyers trained in the procedural practices of the royal courts.[64] Still, the Law Merchant could not be

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[63] Id. Benson, p. 655:

> *"Merchants brought their law to colonial America and quickly moved to establish their own systems of rules and dispute resolution even as common law was subjugating the Law Merchant and its courts in England. Commercial law and its enforcement were dominated by custom and private arbitration in North America through the eighteenth century. Merchants avoided government courts because those tribunals did not apply commercial law in a just, and inexpensive fashion. Furthermore, public courts did not accept new commercial practices rapidly enough. Indeed, it was not until the end of the eighteenth century that public judges began to convince merchants that they could understand complex business issues and practices, and that they accepted as law, agreements established to facilitate the reciprocal self-interest motives of traders.* ***Once the government courts began to apply the merchants' law as the merchants had established it, without delay, the commercial arbitration system began to disappear.***

[64] *Id.* Benson (continued from p. 655):

> *Public judges in America have been somewhat more receptive of the Law Merchant than their English counterparts. Indeed,* ***the Uniform Commercial Code indicates that business practices and customs have served as the primary source of substantive business law, as 'the positive law of the realm was forced to conform to the mandate of the merchants, not vice versa'.*** *This probably reflects the widespread acceptance of commercial arbitration prior to 1800 (and its revitalization since 1900, as discussed below). In addition, many litigants can choose among different jurisdictions. Two or more state court systems might have jurisdictional claims over a case, for example, or perhaps both state and federal courts can be considered. With the jurisdictional divisions that exist in the United States, competition for disputes may be much more significant than in England."* (Citations omitted)
>
> *"The Law Merchant, rather than influencing the growth of common law, has often been influenced–indeed changed in character – by the*

completely eliminated[65], for very good reason. **Private resolves of disputes using *Customary Law* simply prevailed when it came to international trading.**[66]

> *International commercial law is a universal law.* ***The merchants themselves are the only potential source of legal uniformity, of course. Their agreements have to produce it since agreements between governments are not likely to.*** *Many international trade associations have their own conflict resolution procedures. Other traders rely on the International Chamber of Commerce (ICC) which has established a substantial arbitration institution. ICC arbitrators are experts in international commerce; their procedures are speedy and flexible reflections of commercial interest.* ***These private commercial adjudication processes are modem versions of the medieval fair and market courts. The decisions and agreements that arise are backed by the reciprocal arrangements of the international commercial community."***[67]

Essentially then, it is clear to see that the evolution of the international Merchant and the maritime Admiral have changed since their ancient beginnings with the Customary Law. **What has not changed substantially however, are the primary principles – the *maxims* – underlying customary business law, being the basic rights and rules governing private property and the right to contract, locally**

> *common law. Customs of the Law Merchant which were adopted in the early common law have sometimes been so rigidified in legal content that they have varied from their merchant origins'.* ***The rigid definition of custom and requirement that it be consistent with the state's law remained integral parts of British common law as applied to commercial disputes and British merchants became accustomed to operating under [these] common law rigidities."*** (Citations omitted)

[65] Id. Benson, p. 653.

> *"**The Law Merchant did not die.** It changed in the seventeenth century, becoming less universal and more localized under state influence; it began to reflect the policies, interests and procedures of kings.* ***Merchant custom remained the underlying source of much of commercial law in Europe, and to a lesser degree in England, but it differed from place to place.*** *'National states inevitably required that their indigenous policies and concerns be given direct consideration in the regulation of commerce. As a result, distinctly domestic systems of law evolved as the official regulators of both domestic and international business'."*

[66] *Id.* Benson, p. 654.

[67] *Id.* Benson, p. 659.

and/or internationally, in commerce. "*The point is that [as] customary law grows, it does not change in the sense that an old law is suddenly overturned and replaced by a new law. That growth tends to be gradual, but fairly continuous, through spontaneous collaboration*;" which is quite different from the way legislative law – even common law, as judge–made law – grows.[68] The growth of Customary Law tends to be gradual, yet fairly spontaneous,[69] being continuous and responsive to the coerciveness of government efforts to dominate and control natural customs. [70]

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[68] *Id.* Benson, p. 659-60.

> "*Legislation imposed by a coercive authority (king, legislature, bureaucracy) can make major alterations in law without the consent of all parties affected. It becomes enforceable law for everyone in the society whether it is useful law or not. Judge made common law precedents take on the same authority as statute law, of course....*
>
> *Most economists have assumed that for markets to work government must define and enforce 'the rules of the game' – private property rights, contract law, etc. An exploration of the rise and continued domination of the Law Merchant casts considerable doubt on this widely held premise.* ***The merchant community actually developed its own law in order to avoid the inefficiencies and political nature of royal law and government*** *(e.g., common law)* ***courts.*** *Indeed, as Hayek explained 'the growth of the purpose–independent rules of conduct which can produce a spontaneous order will ... often have taken place in conflict with the aims of the rulers who tended to turn their domain into an organization proper. It is in the ius gentuim, the law merchant, and the practices of the ports and fairs that we must chiefly seek the steps in the evolution of law which ultimately made an open society possible.'"* (Citations omitted)

[69] *Id.* Benson, p. 660-6.

> *"Adam Smith described the spontaneous order evolving out of market processes as developing as though guided by an 'invisible hand.' The market process could not develop and evolve without a coterminously evolving, clearly defined and enforceable set of rules of property and contract, of course. Thus, the invisible hand guiding the development of the market's spontaneous order had to be supported by another invisible hand which guided the evolution of commercial law.* ***Neither of these evolutionary processes could have been***

achieved by intentional design. *Development of trade required simultaneous development of law, but commercial law could not develop without changing requirements in trade.* ***Thus, evolving trade practices provided the primary rules of evolving commercial law. Both were 'produced' by the same people – the merchant community. They had to be, and they continue to be cooperating evolutionary processes – two invisible hands, fingers intertwined to produce commercial order.***

Customary law continues to 'govern' most commercial interaction even today. It is difficult to visualize this, in part because customary law 'owes its force to the fact that it has found direct expression in the conduct of men toward one another'. Customary law's authority is based on voluntary recognition of rules of obligation because of reciprocal gains from recognition. Thus, it is much less likely to be violated than enacted law, imposed by a state and lacking reciprocity. Its role and impact are simply less likely to be noticed as a consequence. Nonetheless, customary commercial law flourishes and promotes order in most of our modem merchant society, much as it did in the medieval period. Differences arise only because various governments have been partially successful at subjugating the Law Merchant, not because government has had to provide and enforce certain rules of the game.

Actually, the private sector has to be the primary source of law necessary for the support of a market system. Politically dictated rules are not designed to support the market process; in fact government made law is likely to do precisely the opposite. Indeed, it appears that the increasing governmentalization of law making has been associated with increasing transfers of property rights from private individuals to government, or perhaps more accurately in representative democracies, to interest groups. *In other words, public production of law undermines the private property and contract arrangements which support a free market system. Government statutes may appear to be creating and enforcing private rights and contract law in many countries, but that simply reflects the demands of powerful interest groups (the business community naturally prefers to shift the cost of enforcing their laws onto others), and/or the competitive/coercive efforts of public courts to attract/takeover business disputes."* (Citations omitted)

[70] *Id.* Benson, p. 660.

"Beyond its ability to grow and adapt, the international Law Merchant has proven to be a very effective source of order. The fact is that the international Law Merchant, free from the dominant influences of governments and localized politics, has developed and

The (Common) Law of Nations
(And Its Obligatory Alliance with the "*Law of Nature*")

In essence, the *Law of Nations* is rooted in *time out of mind*. It was also derived of the same foundational *maxims* and *customs* of the ancient Admirals and Merchants, being binding upon men whether their involvement was in commerce or politics. As with the *Law of Merchants*, the *Law of Nations* was, and remains, predicated upon the *natural* and *voluntary* regulation of international commerce and of political societies built upon private property rights, individual rights to contract, **and upon *honest* business dealings by *informed consent*.** [71]

> *grown much more easily and effectively than has intranational commercial law constrained by the government imposed laws of most (probably all) nation-states."*

[71] Roland, Jon. *The meaning of "Offenses Against the Law of Nations"*. Constitution Society. (1998) as found on 7/24/16 at: http://www.constitution.org/cmt/law_of_nations.htm

> *"**Art. I, Sec. 8, Cl. 10 of the Constitution for the United States delegates the power to Congress to 'define and punish ... Offenses against the Law of Nations'.** It is important to understand what is and is not included in the term of art 'law of nations', and not confuse it with 'international law'. They are not the same thing.*
>
> ***The phrase 'law of nations'** is a direct translation of the Latin jus gentium, which **means the underlying principles of right and justice among nations**, and during the founding era was **not considered the same as the 'laws',** that is, the body of treaties and conventions between nations, the jus inter gentes, which, combined with jus gentium, **comprise the field of 'international law'.** The distinction goes back to ancient Roman Law."* †

† **Note: In fact, what has been seen in for more than a half a century by the people of America is the treasonous tendency of the fiduciary officials in the Legislative and Executive branches of the United States government to both encumber Americans with unconstitutional treaties, and to disparage America's international reputation through seditious acts of blatantly and/or repeatedly violating treaties in unconstitutional fashion. Consider the following:**

CASE–IN–POINT #1: Just shortly before President Dwight Eisenhower named John Foster Dulles the Secretary of State for the United States (1953-1959), whereas Dulles went on to become a prominent international figure during the Cold War, Dulles stated the following at a Regional Meeting of the American Bar Association in Louisville, Kentucky on April 11, 1952:

"The treaty-making power 1s an extraordinary power, liable to abuse. Treaties make international law and also they make domestic law. Under our Constitution, Treaties become the supreme law of the land. They are, indeed, more supreme than ord1nary laws for Congress1onal laws are invalid if they do not conform to the Constitution, whereas Treaty law can over-ride the Constitution. Treaties, for example, can take powers away from the Congress and give them to the President; they can take powers from the States and give them to the Federal government or to some international body, and they can cut across the rights given the people by their Constitutional Bill of Rights."
See John Foster Dulles Papers, Call No. MC016 as found on 7/24/16 at: http://findingaids.princeton.edu/MC016/c9472.pdf

CASE–IN–POINT #2: David A. Koplow, Former Special Counsel for Arms Control to the General Counsel of the U.S. Department of Defense in Washington, DC from 2009 to 2011, published an article in the The Fletcher Forum on World Affairs [Vol. 37:1; (2013)] detailing just a few of the "*Indisputable Violations*" of international treaties that has been seen as regularly occurring against other nations of the world, as a treasonous detriment to all Americans as dependent upon their own government to uphold the various Articles of the organic Constitution for the United States broadly delegating the terms under which treaties can be made; **"*notwithstanding*" that anything in those treaties are "*Contrary*" to the overriding other stipulating Articles of the Constitution itself, as *The Supreme Law of the Land*.** That article underscored the following as typical international incidents constituting not only treaty violations but also criminal human rights violations, for which the United States government had nothing to assert in its own defense, and apparently no one was ever prosecuted either.

1) The United States has persistently been in gross violation of the Treaty borne out of the 1993 Chemical Weapons Convention disarmament commitment by joint declaration that "*for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons*" and despite the U.S. commitment stipulated that each party "*shall assign the highest priority to ensuring the safety of people and to protecting the environment*."
2) The United States has been repeatedly in violation of the 1963 Vienna Convention on Consular Relations requiring nations to provide immediate notification of international rights to foreign detainees to have the consuls of their home country put on notice of the detainees' arrest or imprisonment. In multiple case examples provided in Koplow's article, detainees have been denied those rights while instead being tried, convicted, sentenced, and incarcerated – **and some being even executed** – being by a "Catch–

This instant "*Memorandum on Rights of (We), The People*..." has already discussed how, in parallel fashion, there has been an evolutionary change between Merchant Law and Common Law, brought about by the spontaneous interplay and interchange between merchants and various courts. The evolutionary result was independent growth to each domain of the private and the public sectors of commercial law. Herein, similarly and in parallel fashion, there has long existed an

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22" and a "*procedural default*" imposed by the United States government abdicating their compliance responsibility.

3) The United State has repeatedly failed to pay its proper dues and expenses to the United Nations, as required under treaty to do so, and despite being the main benefactor and main beneficiary to the UN's global programs; despite the implication that occurs against the American people when other nations see the world's strongest State flipping is proverbial "*nose*" at the political fabric of international law, and while the people of the United States have a predominating interest in promoting a stable, robust, reliable system for international exchange.

As found on 7/24/16 at: http://www.fletcherforum.org/wp-content/uploads/2013/02/Koplow_37-1.pdf

CASE–IN–POINT #3: Complaints by the American people can be found all over the Internet in response to another United States Secretary of State, this time John Kerry, signing the United Nations Small Arms Treaty in September, 2015. This is a treaty, said to have been written in secret and in partnership with Russia, China, France and Britain (i.e., nations not known to be champions of liberty), that purports to disarm civilians and to consolidate the "*control of all weapons and ammunition in the hands of the United Nations and its approved member [S]tates*." Purportedly, this "*UN gun grab*" measure, "*fails to expressly recognize the fundamental, individual right to keep and to bear arms and the individual right of personal self–defense, as well as the legitimacy of hunting, sports shooting, and other lawful activities pertaining to the private ownership of firearms and related materials, and thus risks infringing on freedoms protected by the Second Amendment*." (See for example an article written by Joe Wolverton, II (J.D.) as found on 7/25/16 at: http://www.thenewamerican.com/usnews/constitution/item/16621-attn-john-kerry-treaties-violating-the-constitution-are-not-law-of-the-land)

evolutionary growth pattern between the socio–political and cultural sphere of the *Law of Nations* and the politico–legislative sphere of *International Law*.

As such, there is a correlation between the evolution of these two separate and independent but spontaneous and intertwined systems that help to distinguish between what is defined as "*lawful*" and that which is defined as "*legal*;" and between what is deemed the "*Voluntary*" law and that which is *Necessary*" law, with both "*voluntary*" and "*necessary*" being established by the *Law of Nature*, however in very different ways. [72]

The former, relating to law that is *voluntary* for natural persons living as private individuals, can be properly described as Nature's precepts and rules that are recognized as *maxims* of human conduct.[73] These customary precepts have

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[72] Chitty, Joseph. *The Law of Nations or Principles of the Law of Nature Applied to the Conduct and Affairs of Nations and Sovereigns, 6th American Ed*. T. & J.W. Johnson, Law Booksellers. (1844); p. xiii (*Preface*).

[73] *Ibid*. pp. lvii—lix (*Preface*).

> *"The study of the science of the law or nations presupposes an acquaintance with the ordinary law of nature, of which human individuals are the objects. Nevertheless, for the sake of those who have not systematically studied that law, it will not be amis to give in this place a general idea of it. The Natural law is the science of the law of nature, of those laws which imposes on mankind, or to which they are subject by the very circumstance of their being men; a science, whose first principle is this axiom of incontestable truth – 'The great end of every being endowed with intellect and sentiment, is happiness.' It is by the desire alone of that happiness, that we can bind a creature possessed of the faculty of thought, and form the ties of that obligation which shall make him submit to any rule....*
>
> *We call these rules 'natural laws' or the 'laws of nature.' They are certain, they are sacred, they are obligatory on every man possessed of reason independent of every other consideration than that of his nature, and even though we should suppose him totally ignorant of the existence of a God.*
>
> *But the sublime, consideration of an eternal, necessary, infinite Being, the author of the universe adds the most lively energy to the law of*

become "*law*" by means of the fact that they have been consistently implemented by the people of nations all over, and by a manifest utility of these *customary* rules (i.e., "*customary laws*") themselves.[74] On the other hand, the latter is *necessary*

> *nature, and carries it to the highest degree of perfection. That necessary Being necessarily unites in himself all perfection: he is therefore superlatively good, and displays his goodness by forming creatures susceptible to happiness. It is then his wish that his creatures should be as happy as is consistent with their nature; consequently it is his will, that they should, in their whole conduct, follow the rules which that same nature lays down for them, as the most certain road to happiness.*
>
> *Thus, the will of the Creator perfectly coincides with the simple indications of nature; and those two sources producing the same law, unite in forming the same obligation. The whole reverts to the first great end of man, which is happiness. It was to conduct him to that great end that the laws of nature were ordained; it is from the desire of happiness that his obligation to observe those laws arises. There is, therefore, no man, – whatsoever may be his ideas respecting the origin of the universe, – even if he had the misfortune to be an atheist, who is not bound to obey the laws of nature. They are necessary to the general happiness of mankind; and whoever should reject them, whoever should openly despise them, would by such conduct alone declare himself an enemy to the human race, and deserve to be treated as such.*"

[74] *Id.* p. lxiv. See also p. lxvi stating,

> *"Certain maxims and customs, consecrated by long use, and observed by nations in their mutual intercourse with each other as a kind of law, form the Customary law of Nations, or the Custom of Nations. This law is founded on a tacit consent, or, if you please, on a tacit convention of the nations that observe it towards each other. Whence it appears that it is not obligatory except on those nations who have adopted it, and that it is not universal, any more than the conventional law.' The same remark, therefore, is equally applicable to this customary law, viz. that a minute detail of its particulars does not belong to a systematic treatise on the. law of nations, but that we must content ourselves with giving a general theory of it; that is to say, the rules which are to be observed in it, as well as with a view to its effects, as to its substance; and with respect to the latter, those rules will serve to distinguish lawful and innocent customs from those that are unjust and unlawful.*
>
> *When a custom or usage is generally established, either between all the civilized nations in the world, or only between those of a certain continent, as of Europe, for example, or between those who have a more frequent intercourse with each other; if that ""custom is in its own nature indifferent, and much more, if it be useful and reasonable, it becomes obligatory on all the nations in question, who are considered as having giving their consent to it, and are bound to observe it towards each other, as*

because Nature's precepts and rules exist as obligations to whole Nations,[75] being also applied as obligations by the individuals under employ of the government *States*, who are *absolutely bound* to observe these precepts and rules.

The *Law of Nations* then, distinguishes another correlative relationship, between "*internal*" and "*external*" laws, governing the actions of people in both the public and the private sectors,[76] prompting the need for participants' observance, by

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> *long as they have not expressly declared their resolution of not observing it in future. But if that custom contains any thing unjust or unlawful, it is not obligatory; on the contrary, every nation is bound to relinquish it, since nothing can oblige or authorize her to violate the law of nature.* (Citations omitted)
>
> *These three kinds of law of nations, the Voluntary, the Conventional, and the Customary, together constitute the Positive Law of Nations. For they all proceed from the will of Nations; the Voluntary from their presumed consent, the Conventional from an express consent, and the Customary from tacit consent; and as there can be no other mode of deducing any law from the will of nations, there are only these three kinds of Positive law of Nations.* (Citations omitted)

[75] *Id. See again,* p. lviii (of *Preface*); and *see* p. xiv (of *Preface*) which states:

> *"**The law of nations is the law of sovereigns. It is principally for them, and for their ministers, that it ought to be written.** All mankind are indeed interested in it and, in a free country, **the study of its maxims is a proper employment for every citizen**: but **it would be of little consequence to impart the knowledge of it only to private individuals, who are not called to the councils of nations, and who have no influence in directing the public measures.***
>
> ***If the conductors of states, if all those who are employed in public affairs, condescended to apply seriously to the study of a science which ought to be their law, and, as it were, the compass by which to steer their course, what happy effects might we not expect from a good treatise on the law of nations!** We every day feel the advantages of a good body of laws in civil society:-the law of nations is, in point of importance, as much superior to the civil law, as **the proceedings of nations and sovereigns are more momentous in their consequences than those of private persons."*** (Citations omitted)

[76] *Id.* (p. xii—xiii) – Chitty contends that when it comes to the consequences of personal actions, the expression of *internal* rights places the *obligation* within the sphere of one's own *conscience*, being deduced from the rules of our duty to ourselves (i.e., to follow a path of *right* living in order to reach the end–goal of being happy). The expression then of *external* rights pertains to our relationships with

other people, and therefore relates an individual's actions to the impact these actions have upon others in terms of consequences between that individual and all others.

> *"The obligation is internal, as it binds the conscience, and is deduced from the rules of our duty; it is external, as it is considered relatively to other men, and produces some right between them."*

Chitty professes that such a doctrine is easy to apply to nations...

> *"...by carefully drawing the distinction between internal and external right – between the necessary and voluntary laws of nations –* ***to teach [them] not to indulge themselves in the commission of every act which they may do with impunity, unless it be approved by the immutable laws of justice, and the voice of conscience.***"

In essence,

> "*Since the object of natural society established between all mankind is – that they should lend each other mutual assistance, in order to obtain perfection themselves, and to render their condition as perfect as possible, – and since nations, considered as so many free persons living together in a state of nature being all nations[,] is also the interchange of mutual assistance for their own improvement and that of their condition.*
>
> *The first general law that we discover in the very object of the society of nations, is that each individual nation is bound to contribute everything in her power to the happiness and perfection of all the others.*
>
> *But the duty that we owe ourselves, being unquestionably paramount to those we owe to others, – a nation owes herself in the first instance, and in preference to all other nations to everything she can to promote her own happiness and perfection....When, therefore, she cannot contribute to the welfare of another nation without doing an essential injury to herself, her obligation ceases on that particular occasion, and she is considered as lying under a disability to perform the office in question.*
>
> *Nations, being free and independent of each other, in the same manner as men are naturally free and independent, the second general law of their society is that each nation should be left in the peaceable enjoyment of that liberty which she inherits from nature. The natural society of nations cannot subsist, unless the natural rights of each be duly respected. No nation is willing to renounce her liberty; she will rather break off all commerce with those states that should attempt to infringe upon it."*
>
> *As a consequence of that liberty and independence, it exclusively belongs to each nation to form her own judgment of what her conscience prescribes to her, of what she can or cannot do, – what it is proper or improper for her to do; and of course it rests solely with her to examine and determine whether she can perform any office for another nation without neglecting the duty which she owes to herself. In all cases, therefore, in which a nation has the right of judging what her duty requires, no other nation can compel her to act in such particular manner; for any attempt at such compulsion would be an infringement on the liberty of nations. We have no right to use constraint against a free person except in those cases where such person is bound to perform some particular thing for us, and for*

the impact of interactive decision-making upon common safety, mutual correspondence, reciprocal duties, and various rights, being both *perfect* and *imperfect*.[77]

The *Law of Nations* adds yet another dimension to the interactions between nations by way of the acquisition of rights and the duties of obligation to other nations through their respective contracting powers with those other nations. As such, these rights and duties may be created and exercised by the *expressed* consent of compacts and treaties; or by *tacit* consent, in which certain available customs are amicably applied because they constitute conduct governed by maxims, laws and rules that are already mutually sanctioned between the particular states and/or nations.[78]

> *some particular reason which does not depend on his judgment, in those cases, in short, where we have a perfect right against him.*
>
> *In order perfectly to understand this, it is necessary to observe, that the obligation, and the right which corresponds to or is derived from it, are distinguished into external and internal.*

[77] *Id.* (p. lxii)

> *"The internal obligation is always the same in its nature, though it varies in degree; but the external obligation is divided into* ***perfect*** *and* ***imperfect****; and the right that results from it is also perfect or imperfect. The perfect right is that which is accompanied by the right of compelling those who refuse to fulfil the correspondent obligation; the imperfect right is unaccompanied by that right of compulsion. The perfect obligation is that which gives to the opposite party the right of compulsion;* ***the imperfect gives him only a right to ask****."*

[78] *Id.* (p. lxii)

> *"It is evident that [laws founded on custom] cannot impose any obligation except on those particular nations who have, by long use, given their sanction to its maxims; it is a peculiar law, and limited in its operation, as the conventional law:* ***both the one and the other derive all their obligatory force from that maxim of the natural law which makes it the duty of nations to fulfil their engagements, whether express or tacit. The same maxim ought to regulate the conduct of states with regard to the treaties they conclude, and the customs they adopt.****"*

The focus herein is that, in light of maxims found in the ***Law of Nature***, under the corresponding ***Law of Nations***, states (and nations)[79] are bound to regulate their own actions (and contracts) accordingly in terms of their ***rights*** (i.e., the first priority of each nation is for self-preservation and to promote happiness for each of its constituent citizens) and in terms of their ***obligations*** (i.e., the second priority of each nation is to honor the rights of the people of all other nations to the peaceful enjoyment of their own liberty and independence).[80]

It is important to recognize that the "*State*" – being in America the state and federal governments – constitute under the *Law of Nations*, a very different type of "*subject*" than are people, as private individuals. Private persons living under the *Law of Nature*, being part of the world's human race, include in its membership a majority segment of the population with an inherent jurisdiction that resides over and above the jurisdiction of governments themselves. This condition exists by the

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[79] *Id.* (p. lv) – "*Nations being composed of men naturally free and independent, and who, before the establishment of civil societies, lived together in the state of nature, – Nations, or sovereign states, are to be considered as so many free persons living together in the state of nature.*

It is a settled point with writers on the natural law, that all men inherit from nature a perfect liberty and independence, of which they cannot be deprived without their own consent. In a State, individual citizens do not enjoy [rights] fully and absolutely, because they have made a partial surrender of them to the sovereign. But the body of the nation, the State, remains absolutely free and independent with respect to all other men, and all other Nations, as long as it has not voluntarily submitted to them."

[80] *Id.* – *"Right[s] [are] nothing more than the power of doing what is morally possible, that is to say, what is proper and consistent with duty....[I]t is evident that right is derived from duty, or passive obligation, – the obligation we lie under to act in such or such manner. It is therefore necessary that a nation should acquire a knowledge of the obligations incumbent on her, in order that she may not only avoid all violation of her duty, but also be able to distinctly to ascertain her rights, or what she may lawfully require of other nations."*

fact that it was the *People* who had originally "*ordained and established*" the constitutions of all the states and the United States, from which all public and private corporations, quasi–government agencies, government franchises, and government sponsored enterprises (GSEs) have derived their *delegated powers and authorities*.[81] As such, those under employ as "*officers*" of the State, as opposed to those *natural persons* who are not, are *absolutely* duty-bound[82] to observe and to act[83] in accordance with the "*necessary*" aspect of the Law of Nations.[84]

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[81] Indeed, Justice James Wilson made clear in *Chisholm v. State of Georgia*, 2 U.S. 419, (1793) the distinction between the *artificial* person and the *natural* person when distinguishing between "*The United States*" and the "*People of the United States*." Justice stated that, while a State "*is the noblest work of Man...Man himself, free and honest, is, the noblest work of God*." He added,

> *"[I]n the science of politics,* ***there has been frequently a strong current against the natural order of things; and an inconsiderate or an interested disposition to sacrifice the end to the means.*** *This remark deserves a more particular illustration. Even in almost every nation, which has been denominated free,* ***the state has assumed a supercilious preeminence above the people, who have formed it[.] Hence the haughty notions of state independence, state sovereignty and state supremacy. In despotic Governments, the Government has usurped, in a similar manner, both upon the state and the people: Hence all arbitrary doctrines and pretensions concerning the Supreme, absolute, and incontrollable*** (sic)***, power of Government. In each, man is degraded from the prime rank, which he ought to hold in human affairs: In the latter, the state as well as the man is degraded."***

[82] These types of absolute duties attach *fiduciary* obligations, as well as *enunciated* rights in America, to *positions* – not people – of power and authority. *"[T]he contractual obligation to act in good faith is like fiduciary obligation, which...focuses on parties' positions after their relationships have been established."* DeMott, Deborah. *Beyond Metaphor: An Analysis of Fiduciary Obligation*. Duke Law Journal, Vol. 1988; 879 (p.893) citing Weinrib, *The Fiduciary Obligation*, 25 U. Toronto L.J. 1, 1-3 (1975), *("fiduciary obligation looks to parties' relative positions following, not preceding, their agreement")* The DeMott article was located on 7/23/16 at: http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1284&context=faculty_scholarship

See also, Callahan, Hana. *Public Officials as Fiduciaries*. Published May 31, 2016 by the Markkula Center for Applied Ethics; as found on 7/23/16 at: https://www.scu.edu/ethics/focus-areas/government-ethics/resources/public-officials-as-fiduciaries/

> *"The relationship between public officials and the public has been described by scholars as fiduciary in nature. (See e.g. Rave, 2013; Leib, Ponet & Serota, 2013; Ponet & Lieb, 2011; Natelson, 2004)....[W]hen we refer to public officials, we are referring to all public actors, be they elected, appointed or hired."*
>
> *"Government Ethics refer to the unique set of duties that public officials owe to the public that they serve. These duties arise upon entering the public work force either as an elected representative, an appointed official, or a member of government staff....Fiduciary relationships [can] include those of the attorney/client, trustee/trust beneficiary...and...public official/citizen relationship[s]...The public delegates governing authority to public officials to exercise discretion over the public treasury and to create laws that will impact their lives. The public official, once elected, appointed, or hired, is in a superior position to that of the individual citizen due to specialized governmental knowledge and the ability to advise, deliberate, and participate in the representative process. And finally, the public trusts that the public official will act in the public's best interest."*
>
> *"According to U.S. constitutional historian Robert Natelson many delegates attending the constitutional convention of 1787 advocated for a fiduciary form of government, including James Madison and Alexander Hamilton....Natelson notes that the concepts of fiduciary government were also held by the states charged with ratifying the new convention. Maryland representatives literally declared themselves to be the trustees of the public. [Citing Natelson, R. (2004) The Constitution and the Public Trust, Buff. L. Rev. 1077. Available at http://scholarship.law.umt.edu/cgi/viewcontent.cgi?article=1018&context=faculty_lawreviews]"*
>
> *"In 1776, our Declaration of Independence acknowledged the concept of delegated authority, "We hold these truths to be self-evident that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — **That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."** (emphasis added. U.S., 1776)"*

83 Chitty; *supra*, (p. lvi)

> *"[P]ursuant to the law of nature itself, there result, in many cases, very different obligations and rights; since the same general rule, applied to two subjects, cannot produce exactly the same decisions, when the subjects are different; and a particular rule which is perfectly just with respect to one subject, is not applicable to another subject of a quite different nature. There are many cases, therefore, in which the Law of Nature does not decide between state and state in the same manner as it would between man and man. We must therefore know how to accommodate the application of it to*

Moreover, the *Law of Nations* requires people who are employed by the State to: a) measure all (manmade) law against God's law;[85] b) to teach all of Mankind the

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different subjects; and it is the art of thus applying it with a precision founded on right reason, that renders the Law of Nations a distinct science." (Citations omitted).

[84] Chitty; *supra*, (pp. lviii – lix): "*It follows, that the Necessary law of nations is immutable*."

> ***"Whence, as this law is immutable, and the obligations that arise from it necessary and indispensable, nations can neither make any changes in it by their conventions, dispense with it in their own conduct, nor reciprocally release each other from the observance of it. This is the principle by which we may distinguish lawful conventions or treaties, from those that are not lawful, and innocent and rational customs from those that are unjust and censorable."*** (Bold emphasis.)

[85] Marcus Tullius Cicero (106-43 B.C.) was a prominent Roman statesman, a moral and political philosopher that is credited with inspiring the tradition of "*public right*" in teachings about the principles of natural law, for fostering reason as the basis for the rights of colonists to revolt against the unjust power structure of the English King, and informing the content of Thomas Jefferson's draft of the *Declaration of Independence*. *See* Nicgorski, Walter. *Cicero and the Natural Law*. Published by The Witherspoon Institute as found on 7/24/16 at: http://www.nlnrac.org/classical/cicero

> "*To Cicero, the building of a society on principles of Natural Law was nothing more nor less than recognizing and identifying the rules of 'right conduct' with the laws of the Supreme Creator of the universe....A fundamental presupposition of Natural Law is that man's reasoning power is a special dispensation of the Creator and is closely akin to the rational power of the Creator himself. In other words, man shares with his Creator this quality of utilizing a rational approach to solving problems, and the reasoning of the mind will generally lead to common–sense conclusions based on what Jefferson called "the laws of Nature and of Nature's God" (The Declaration of Independence).*" Skousen, Cleon. *The 5000 Year Leap: The 28 Great Ideas That Changed the World*. (Seventeenth printing in 2009) National Center for Constitutional Studies. (1981; 1991; 2006) pp. 38–40.

Skousen continued,

> "*Cicero define[d] Natural Law as 'true law.' Then he sa[id]: 'True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions....It is a sin to try to alter this law, nor is it allowable to abolish it entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one*

virtues of God's laws, and that "*a free people cannot survive under a republican constitution unless they remain virtuous and morally strong*;"[86] c) "*to protect equal*

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eternal and unchangeable law will be valid for all nations and all times, and there will be one master and ruler, that is God, over us all, for he is the author of this law, it promulgator, and its enforcing judge. Whoever is disobedient is fleeing from himself and denying his human nature, and by reason of this very fact he will suffer the worst punishment." (Citation omitted)

[86] *Ibid*. Skousen. See p.50 as the "*2nd Principle*" in a list of 28 fundamental principles "on which the American Founders established the first free people in modern times.

See also, Chitty; *supra*, (p. 13)

"Goodness, friendship, gratitude are still virtues on the Throne; and would to God they were always to be found there! But a wise king does not yield an undiscerning obedience to their impulse. He cherishes them, he cultivates them in his private life; but in state affairs he listens only to justice and sound policy. And why? because he knows that the government was intrusted to him only for the happiness of society, and that, therefore, he ought not to consult his own pleasure in the use he makes of his power. He tempers his goodness with wisdom; he gives to friendship his domestic and private favours; he distributes posts and employments according to merit; public rewards to services done to the state. In a word, be uses the public power only with a view to the public welfare."

(p.52) *The grand secret of giving to the virtues of individuals a turn so advantageous to the state, is to inspire the citizens with an ardent love for their country. It will then naturally follow, that each will endeavour to serve the state, and to apply all his powers and abilities to the advantage and glory of the nation. This love of their country is natural. to all men. The good and wise author of nature has taken care to bind them, by a kind of instinct, to the places where they received their first breath, and they love their own nation, as a thing with which they are intimate."*

(p. 51) *"To instruct the nation is not sufficient – in order to conduct it to happiness, it is still more necessary to inspire the people with the love of virtue, and the abhorrence of vice. Those who are deeply versed in the study of morality are convinced that virtue is the true and only path that leads to happiness; so that its maxims are but the art of living happily; and he must be very ignorant of politics, who does nor perceive how much more capable a virtuous nation will be, than any other, of forming a state that shall be at once happy, tranquil, flourishing, solid, respected by its neighbours, and formidable to its enemies."*

(p.52) *"A nation, while she acts in common, or in a body, is a moral person....that has an understanding and will of her own, and is not less obliged than any individual to obey the laws of nature..., and to improve her faculties.... That moral person resides in those who are invested with the public authority, and represent the entire nation. Whether this be the*

rights, not provide equal things;"[87] d) to "*foster and protect the integrity of the family*" as the core unit for ensuring nationalistic stability and integrity;[88] and, e) to

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> *common council of the nation, an aristocratic body, or a monarch, this conductor and representative of the nation, this sovereign, of whatever kind, is therefore indispensably obliged to procure all the knowledge and information necessary to govern well, and to acquire the practice and habit of all the virtues suitable to a sovereign.*
>
> *And as this obligation is imposed with a view to the public welfare, he ought to direct all his knowledge, and all his virtues, to the safety of the state, the end of civil society."*
>
> (pp. 13–14) ***"A political society is a moral person...inasmuch as it has an understanding and a will, of which it makes use for the conduct of its affairs, and is capable of obligations and rights.*** *When, therefore, a people confer the sovereignty on anyone person, they invest him with their understanding and will, and make over to him their obligations and rights, so far as relates to the administration of the state, and to the exercise of the public authority. The sovereign, or conductor of the state thus becoming the depositary of the obligations and rights relative to government, in him is found the moral person, who, without absolutely ceasing to exist in the nation, acts thenceforwards only in him and by him.*
>
> *The sovereign, thus clothed with the public authority, with every thing that constitutes the moral personality of the nation, of course becomes bound by the obligations of that nation, and invested with its rights."*

[87] *Ibid*. Skousen. *See* p. 115 as the "*7th [Fundamental] Principle*" – "*The people cannot delegate to their government the power to do anything except that which they have the lawful right to do themselves [in their sovereignty]*."

> (p.116–18) "*The American Founders recognized that the moment the government is authorized to start leveling the material possessions of the rich in order to have an 'equal distribution of goods,' the government thereafter has the power to deprive ANY of the people of their 'equal' rights to enjoy their lives, liberties, and property....The Founders felt that America would become a nation dominated by a prosperous middle class with a few people becoming rich. As for the poor, the important thing was to insure the freedom to prosper so that no one would be locked into the poverty level the way people have been in all other parts of the world."*

See also, Chitty; *supra*. (p. 99):

> "*All mankind have an equal right to things that have not yet fallen into possession of anyone; and those things belong to the person who first takes possession of them*;"

and, (p. 96)

> "*But the several members of one individual state, as they all participate in the advantages it procures, are bound uniformly to support it....*"

insure a proper defense of liberty by **rigorously ensuring that ALL transgressors against the integrity of the nation are equally arrested, prosecuted, convicted, and appropriately punished for "*Treason, Bribery, or other High Crimes and Misdemeanors*."**[89] (Bold emphasis)

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[88] See Skousen, pp. 282–88. ("*26th Principle*"):

> "*The core unit which determines the strength of any society is the Family; therefore, the Government should foster and protect its integrity.*"
>
> Home is where [Americans'] "*pleasures are simple and natural, [their] joys are innocent and calm, as [they] find[s] that an orderly life is the surest path to happiness, [they] accustoms [themselves] easily to moderate [their] opinions as well as [their] tastes....[T]he American derives from his own home th[e] love of order which he afterwards carries with him into public affairs.*"

See also, Chitty; *supra*. (p. 99)

> *"If a number of free families, scattered over an independent country, come to unite for the purpose of forming a nation or state, they altogether acquire the sovereignty over the whole country they inhabit...and since they are willing to form together a political society, and establish a public authority. which every member of the society shall be bound to obey, it is evidently their intention to attribute to that public ,authority the right of command over the whole country.*

[89] *See* the organic Constitution for the United States, Art. I, § 6; Art. II, § 4; Art. III, § 3; and Art. IV, § 2 for references to Treason, and note that "*all civil Officers of the United States*" are not beyond Impeachment and Conviction.

See also, Chitty; *supra*. (p. 81) with regard to the punishment of transgressors:

> *"And as it is a moral person, capable also of being injured, it has a right to provide for its own safety, by punishing those who trespass against it;-that is to say, it has a right to punish public delinquents. Hence arises the right of the sword, which belongs to a nation, or to its conductor. When the society use it against another nation, they make war: when they exert it in punishing an individual, they exercise vindictive justice. Two things are to be· considered in this part of Government – the laws, and their execution.....*
>
> ***It would be dangerous to leave the punishment of transgressors entirely to the discretion of those who are invested with authority. The passions might interfere in business which ought to be regulated only by justice and wisdom. The punishment pre-ordained for an evil action, lays a more effectual restraint on the wicked, than a vague fear, in which they may deceive themselves. In short, the people, who are commonly moved at the sight of a suffering wretch, are better convinced of the justice of his punishment, when it is inflicted by the laws themselves."*** (Bold emphasis)

and, (p. 81) with regard to victimless crimes, racial profiling, and the overcrowding of prisons in proportion to the punishments awarded to crooked lawyers, judges, CIA operatives, corporate executives, and Wall Street securities traders and bankers doing even greater injustices to the American economy and society:

> *"Since [laws] are designed to procure the safety of the state and of the citizens, they ought never to be extended beyond what that safety requires.* ***To say that any punishment is just since the transgressor knew beforehand the penalty he was about to incur, is using a barbarous language, repugnant to humanity, and to the law of nature, which forbids our doing any ill to others, unless they lay us under the necessity of inflicting it in our own defence*** (sic) ***and for our own security.*** *Whenever then a particular crime is not much to be feared in society, as, when the opportunities of committing it are very rare, or when the subjects are not inclined to it, too rigorous punishments ought not to be used to suppress it. Attention ought also to be paid to the nature of the crime; and the punishment should be proportioned to the degree of injury done to the public tranquility and the safety of society, and the wickedness it supposes in the criminal."*

and, (p. 473) with regard to corruption of fiduciary officials in government:

> *"It is but too common for ambassadors to tamper with the fidelity of the ministers of the court to which they are sent, and of the secretaries and other persons employed in the public offices. What ideas are we to intertain* (sic) *of this practice? To corrupt a person–to seduce him – to engage him by the powerful allurement of gold to betray his prince, and violate his duty, is, according to all the established principles of morality, undoubtedly a wicked action. How comes it then that so little scruple is made of it in public affairs? A wise and virtuous politician sufficiently gives us to understand that he absolutely condemns that scandalous recourse: but, fearful of provoking the whole tribe of politicians to assail him at once, like a nest of hornets, he proceeds no farther than barely advising them not to practise such manoeuvres* (sic) *except when every other resource fails.*
>
> *As to me, whose pen is employed in developing the sacred and immutable principles of justice, I must, in duty to the moral world, openly aver that the mode of corruption is directly repugnant to all the rules of virtue and probity, and a flagrant violation of the law of nature. It is impossible to conceive an act of a more flagitious nature, or more glaringly militant against the reciprocal duties of men, than that of inducing any one to _ do evil. The corruptor is undoubtedly guilty of a crime against the wretch whom he seduces: and as to the sovereign whose secrets are thus treacherously explored, is it not both an offence and an injury committed against him, to abuse the friendly reception given at his court, and to take advantage of it for the purpose of corrupting the fidelity of his servants? He has a right to banish the corruptor from his dominions, and to demand justice of his employer."*

and, (pp. 83–84) with regard to the stripping away of personal honor "*under color of law*" through prejudicial misinterpretations and misapplications of the law, the

The *Law of Nature*, and the *Law of Nations* – like *Merchant Law* – understands that the classification of "*rights*" and "*wrongs*" in terms of absolutes, by the combined codification and enforcement authority of government, creates a diversion from the natural principles governing the Sovereigns' (i.e., the people's) moral decision–making while promoting the potential for fiduciary abuses by the Trustees of the Sovereigns' power and authority.[90]

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dispensing of INJUSTICE by denial of due process, exculpatory evidence, and impartial juries, and the denial of redress for harmed parties:

> *And, certainly, while the prejudice subsists,....I do not know whether we can justly punish him who is forced to submit to its tyranny, or whether he be very guilty with respect to morality.*
>
> *That worldly honour, be it as false and chimerical as you please, is to him a substantial and necessary possession, since without it he can neither live with his equals, nor exercise a profession that is often his only resource. When, therefore, any insolent fellow would unjustly ravish from him that chimera so esteemed and so necessary, why may he not defend it as he would his life and property against a robber?*
>
> ***As the state does not permit an individual to pursue with arms in his hand the usurper of his property, because he may obtain justice from the magistrate so, if the sovereign will not allow him to draw his sword against the man from whom he has received an insult, he ought necessarily to take such measures that the patience and obedience of the citizen who has been insulted shall not prove prejudicial to him.***
>
> ***Society cannot deprive man of his natural right of making war against an aggressor, without furnishing him with some other means of securing himself from the evil his enemy would do him. On all those occasions where the public authority cannot lend us its assistance, we resume our original and natural right of self–defence.*** *Thus a traveller may, without hesitation, kill the robber who attacks him on the highway; because it would, at that moment, be in vain for him to implore the protection of the laws and of the magistrate. Thus a chaste virgin would be praised for taking away the life of a brutal ravisher who attempted to force her to his desires."* (Bold emphasis added)

[90] *Id.* When applying these *legal* definitions of *right* and *wrong* as *positive law* to *subjects* (i.e., "*people*" who are *subjected* to the laws), and to objects (i.e., "*things*" such as property to which *rights* are associated), it is important to recognize that, in the context of the various State(s) and federal constitutions being "*created and ordained*" by the Sovereign, (i.e., the "*People,*" written in the federal Constitution with a capital "*P*" as opposed to the lower–case "*p*"), it reasons that...

For clarification, it shall be acknowledged that the definition and uses of words like "*right*" and "*wrong*" have different connotations when they are used grammatically as adjectives as opposed to when they are used as nouns. [91] In analyzing the way in which Blackstone defined these words, "*right*" and "*wrong*," the author(s) of *American Law and Procedure* point out that, in Blackstone's view, "*Because the law is a rule commanding what is right and prohibiting what is wrong, it follows that the primary and principal objects of the law are 'rights and wrongs.'"*

As these writers also point out however,....

> *"[As] a very thoughtful writer sa[id] concerning the development of the law: 'At first* ***only rights arising between subjects are determined and protected by the law****, whilst* ***the Sovereign remains above the law****.'"* (p.105)

[91] Hall, James; and, Andrews, James. *American Law and Procedure*. (*supra*)

> *"The transition from the adjective use of the words to their use as nouns is so bold and sudden that it requires an effort of the mind to detect that the same words in the two situations have entirely different meanings. In the definition, the words 'right' and 'wrong' are used to express the idea of abstract moral qualities as applied to certain acts."* (p.123) When used "*adjectively, 'right' and 'wrong' denote an affirmative or negative quality of morality and [are] synonymous with 'good' and 'evil.'* [However,] *the same words, when used as nouns [as used by the law to propagate rules commanding what is 'right' and prohibiting what is 'wrong'], indicat[e] something a man is entitled to."* (p.124)
>
> *"Blackstone...attempts to apply the Roman definition of natural law to municipal law, without observing the distinction that a natural law, being of divine origin, must necessarily conform to what is right, while municipal law, emanating from man, may or may not; for the simple reason that a body of men are no more certain to do right than an individual.*
>
> *This, so far from covering the point, is a departure from it. It is saying that, having classified into rights and wrongs, the definition is necessary. Hence law commands what is right and prohibits what is wrong, and from the definition the division follows; while the question is: Does a law always command what is right and prohibit what is wrong? Does it necessarily conform to what is morally right? If not, the definition is untrue."* (p.127)

> "*Rights are, by Blackstone, nowhere defined, nor their nature investigated, although they are the principal and primary objects of the law. 'Rights' and 'wrongs' are nouns. The latter conveys no ideas separable from the former.* ***A wrong must have a right to operate against.*** *Every rule of law in a body of municipal law involves a right, but not necessarily what is right."* (Hall & Andrews, pp. 124-25)

Thus, by Blackstone's definition and usage of "*right*" and "*wrong*" as a noun....

> *"****Jurisprudence....is specifically concerned only with such rights as are recognized by law and enforced by the powers of a state. We may, therefore, define a legal right****, in what we shall hereafter see is the strictest sense of that term,* ***as a capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others. That which gives validity to a legal right is in every case the force which is lent to it by the state. Anything else may be the occasion, but not the cause of its obligatory character****."* (Hall & Andrews, p.129)

These *absolute* definitions then, of what constitutes a *legal* right and *legal* wrong, creates not only great confusion, in terms of the application of the law, but a greater potential for both semantic and actionable *abuse* of the law (by a wide range of people from legislators to judges and lawyers to everyday citizens engaged in litigation):

> "[Because] *'right'* [as a noun] *ow[es] its similarly to 'right,' an abstract term formed from the adjective 'right' in the same way that 'justice' is formed from the adjective 'just,'...Blackstone actually opposes rights in the sense of capacities to wrong – in the sense of unrighteous acts."* (Hall & Andrews, p.129)

In citing other political philosophers, authors Hall & Andrews also point out...

> *"[S]peaking of Blackstone's division into rights and wrongs: 'As a scientific distribution, this is no doubt open to criticism, since a wrong can no more exist apart from right in law than a shadow without substance in optics, a negative without positive in logic....We confess that seems to us the weak side of Blackstone's entire system."* (p.129)

In other words, putting such complexities of definitions in the wrong hands,[92] classifying these definitions in terms of absolute laws, and giving the absolute right to the "*Sovereign*" to interpret, apply and enforce those definitions against people who are wrongfully deemed *subject* to the laws, issues the setting and the potential for corruption of that unharnessed *discretionary* power. [93] As we know this today,

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[92] *Ibid.* (Hall and Andrews); pp. 105-06:

> *"'Under barbaric despotism the Sovereign acknowledges no legal rule binding upon him in his conduct towards his subjects. But in time the relations between the Government and the people become subjected to certain positive laws. And the body of laws determining the relations between individuals and their government, is generally termed Constitutional Law or Political Law; the latter term is preferable'....The Political Law of a nation is the whole of the legal relations existing between the governors and governed."* (Citations omitted)

[93] *Id.* (Hall and Andrews)

> **"***All legal right and wrong had its origin after human society was put in motion and began to reflect and act*." Statutory law "*constitutes a very small part of the body of our jurisprudence. The bulk of our law is composed of those unwritten precepts and rules which are recognized and enforced as law by the judicial tribunals, irrespective of any legislative sanction*." (pp. 36-37)
>
> *"There have been two schools of thought existent from the earliest times and while one of these lay dormant for centuries, it has at last gained the supremacy in the most civilized portions of the World. Both assume to trace their origin to the same ultimate source, Natural Law. The one bases the right to rule on divine selection and is commonly called the theory of the divine right. Persons of the other school affirm this tenure to rest on fraud and force. This other school of thought assumes the natural equality of men and bases the existence of all social institutions on some form of agreement. A differing conception as to the nature of this agreement divides the members of this latter school of thought into two classes, whose views pass respectively under the names, Divine Right, original compact and consent."* (p. 39)

It shall suffice herein to simply state that the school of "*Divine Right*" contends that the *Law of Nature* produces "*slaves by nature*;" which follows the adage that "*might makes right*" (except under the maxim for "*justice*"). Meanwhile, the school of "*original compact and consent*" follows a premise of "*equal rights*" based upon a constitution of some sort. (p. 49)

Contrary to the popular thought of today, it was the "*compact*" or "*contract*" line of thinking that fostered ancient feudalism.

> *"It is this free of individual liberty which is the characteristic feature of feudal civilization. It is the actual existence of the independent spirit*

this describes attorneys, judges, and other fiduciary officials of government – at all levels and jurisdictions – who are being expected to be righteously self–regulating, self–policing, self–reporting, and self–disciplining, while instead acting with impunity and awarding themselves with various forms of government "*immunity*" for their own unlawful conduct.[94]

> *which gives color to the forms of all political documents adjusting the relations between men in society. They take the form as they partook of the character of agreements between free-men. It should be remembered that the vassal was in truth a free man and that the peers of the realm were vassals. In the feudal political society, the basic idea of Right and Law takes on a new form....*
>
> *In the feudal state, in fact and in form, the individual right is never lost sight of, the contract, the binding word is pronounced by the man to the Sovereign. The charters are signed by the Sovereign and run to individuals, though at times including classes. It is said by a recent writer, 'That this contract idea is indeed to all the varying forms and transformations of the feudal age, the one thing which is permanent and distinctive, the one constantly controlling element.'...*
>
> *[A]t the beginning of English constitutional history, the public law of the state was brought under the controlling influence of private contract, [and] public duties were,... transformed into private obligations. It was upon this idea that feudalism took its stand for self–defence against the attack of a powerful monarchy...."* (Remember that "*the warriors who followed the distinguished leaders in the inroads upon the Roman Empire and who subjugated it, were regarded as free men whom no leader however powerful, whether his name be Agamemnon or Attila, would have attempted, much less have succeeded in despoiling.*") (pp. 49-50)

[94] According to the quantitative research analysis conducted by Dr. Richard Cordero, using the statistical data provided by the Administrative Office of the U.S. Courts, of the 9,466 "*judicial misconduct*" complaints filed against federal judges during the twelve (12) year period between October 1996 and September 2008, 99.82 % were dismissed with no investigation. "*Moreover, in the 13-year period to [September 2009], the all-judge judicial councils of the federal circuits, charged with their respective administrative disciplinary matters, have systematically denied complainants' petitions to review such dismissals.*" Cordero, Richard. *Exposing Judges' Unaccountability And Consequent Reckless Wrongdoing*, *Vol. I.* Judicial Discipline Reform. NYC. as of June 14, 2016. (p.89 of 886 pages) as found on 7/31/16 at: http://judicial-discipline-reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf

> *"This denial of 100% -- and even anything close to it – of petitions for review of peer wrongdoing complaint dismissal reveals perfect implicit or*

THE CONSTITUTIONS OF THE STATES AND THE UNITED STATES OF AMERICA WERE ORIGINALLY DESIGNED AS A "*PUBLIC TRUST*" DOCUMENT, ESTABLISHING FIDUCIARY OBLIGATIONS OF "*TRUSTEES*" TOWARD THE "*TRUST BENEFICIARIES*," WITH CERTAIN PENALTIES FOR BREACHES OF DUTIES OF PUBLIC "*SERVANTS*" CONSTITUTING *CRIMES* OF TREASON AGAINST BOTH THE *PEOPLE* AND THE *STATES*

It is a FACT that the organic Constitution for the United States was constructed as a "*trust*" instrument. "*At the federal convention, ideals of fiduciary government were enunciated by James Madison, Alexander Hamilton, Pierce Butler, Nathaniel Gorham, Gouverneur Morris, Elbridge Gerry, Luther Martin, Rufus King, and John Dickson*" (Citations omitted) [95]; with "*public officers*" being

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> *explicit coordination between judicial peers to reciprocally protect themselves on the understanding that 'today I dismiss a complaint against you, tomorrow you dismiss any against me or my buddies whatever the charge…no questions asked!' This establishes complicit collegiality among judicial peers: They provide to each other the wrongful benefit of such reciprocal protection at the expense of complainants, who are deprived of any rightful relief from the cause for complaint. They also impair the integrity of both the administration of justice and themselves, for partiality toward peers replaces 'the equal protection of the laws' required by the 14th [Amendment], and through it, the 5th Amendment[s]; and breaches the oath that they took to 'do equal right to the poor [in judicial connections] and to the rich [in judicial decision-making power to reciprocate a wrongful benefit]'"* (Citations omitted)

[95] Natelson, Robert. *The Constitution and the Public Trust*. 52 Buff. L. Rev. 1077 (2004). (p. 1083) Found on 7/31/16 at: http://scholarship.law.umt.edu/faculty_lawreviews/19

Note that for each of the names listed in this quote, there was footnote of reference supplied by Natelson reflected as follows in italics as direct quotations:

> James Madison – *James Madison, Journal (June 7, 1787), reprinted in 1 FARRAND, RECORDS, supra note 2, at 152 (referring to the Roman tribunes "fulfilling [public] trust"); id. at 361 (June 21, 1787) (referring to the "trust" of representatives); id. at 428 (June 26, 1787) (stating that senators ought to be "Guardians of justice and general Good"); 2 id. at 66 (stating of the executive, "[h]e might betray his trust to foreign powers").*
>
> Alexander Hamilton – *1 id. at 290 (June 18, 1787) ("public trust"); id. at 424 (June 26, 1787) (stating that the House of Representatives was to be "particularly the guardians of the poorer orders").*

subordinated to the federal and state constitutions[96] as the "*servants"* of the American people.[97]

The organic Constitution of 1787, as ratified by the states in 1789, established and defined the newly-formed relationships between the federal government, the people, and the states. That "*expression of the constitution*" was

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Pierce Butler – *Id. at 391 (June 23, 1787) (paraphrasing Montesquieu as stating that "it is unwise to entrust persons with power, which by being abused operates to the advantage of those entrusted with it.").*
Nathaniel Gorham – *2 id. at 42 (July 18, 1787) (referring to the executive's "faithful discharge of his trust").*
Gouverneur Morris – *Id. at 52 (July 19, 1787) ("It is necessary then that the Executive Magistrate should be the guardian of the people ... ."); id. at 53 (arguing for popular election of the chief magistrate so he will be the guardian of the people); id. at 68 (July 20, 1787) (speaking of impeachment as a remedy for breach of trust); id. at 76 (July 21, 1787) (stating that the legislature should be the guardian of liberty); id. at 104 (July 24, 1787) (speaking of identity of interest as preventing an abuse of trust); id. at 541 (Sept. 7, 1787) (referring to the President as "the general Guardian of the National interests").*
Elbridge Gerry – *Id. at 170 (June 8, 1787) (discussing the national legislature's proposed veto over state laws and his own role as a delegate); 2 id. at 75 (July 21, 1787) (stating that judges should be the guardians of the rights of the people).*
Luther Martin – *1 id. at 453 (June 28, 1787) (referring to state governments as the guardians of the people).*
Rufus King –*Id. at 502 (June 30, 1787) (expressing the hope that the general government will be "the guardian of the state rights").*
John Dickson – 2 *id.* at 123 (referring to "*public trust*").

[96] *Ibid.* Natelson. (p. 1083) – "*When the federal constitutional convention met in 1787, most of the state constitutions already contained fiduciary language."*

[97] *Id.* Natelson cited (p. 1083) the "*Pamphlets on the Constitution of the United States Published During Its Discussion By The People, 1787-1788 (Paul Leicester Ford ed., 1888)*" at 146; and cited Tench Coxe, *An American Citizen III,* Phila. Indep. Gazetteer, Sept. 29, 1787, *reprinted in [13] The Documentary History of the Ratification of the Constitution*. (Merrill Jensen et al. eds., 1976) at 273 (referring to public officers as "*servants of the people*"). *See also*, Natelson, (p. 1084-85), "*[L]eading proponents of the new government repeatedly characterized officials as the people's servants, agents, guardians, or trustees...This was a subject on which there was no disagreement from the Constitution's opponents*."

clearly articulated in *Chisholm v. State of Georgia*, 2 U.S. 419 (1793) as provided in the following summary statements:

1) "*The sovereignty of the nation is in the people of the nation [;] and the residuary sovereignty of each State [,] in the people of each State.*"

2) The "*sovereignty devolved on the people*" at the time of the Revolution and thereafter, revealed the American people as being "*joint tenants in sovereignty*;"[98] being "*sovereigns without subjects*," equal to one another, and each free to govern no other but themselves.

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[98] In addressing the question of whether a "*State [is] suable by individual citizens of another state*," Chief Justice Jay clarified that "*every citizen partakes*" in what was at that time coined as "*popular sovereignty*." Thus as "*joint tenants in sovereignty,*" the people were the highest authority. As the "*central pillar of Republican government*," popular sovereignty "*required that the day-to-day government – the Constitution – be derived from 'The People*'" who can lawfully alter or abolish their government (by a "majority" of those qualified and entitled by their suffrage.) See more on this topic: Amar, Akhil. *The Central Meaning of Republican Government: Popular Sovereignty, Majority Rule, and the Problem of the Denominator*. Yale Law School. (1994). *Faculty Scholarship Series.* Paper 981. Found on 7/31/16 at: http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1969&context=fss_papers
See also, *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) which clarifies the sentiment of the people at that time with regard to those placed into positions of government authority:

> *"When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.* ***Sovereignty itself is, of course, not subject to law, for it is the author and source of law****; but, in our system,* ***while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power****. It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision, and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the*

3) "Sovereignty is the right to govern...."

> "*...In Europe, the sovereignty is generally ascribed to the Prince; here [in America], it rests with the people. [T]here, the sovereignty actually administers the Government; here [in America], never a single instance. [O]ur Governors are the agents of the people and at most stand in the same relation to their sovereign [in which regents in Europe stand to their sovereigns]. Their Princes have personal power, dignities, and pre—eminences; our rulers have none but official; nor do they partake in the sovereignty otherwise, or in any other capacity, than as private citizens.* "

4) "*Every State constitution is a compact made by and between the citizens of a State to govern themselves [collectively] in a certain manner* ;" with all rights not delegated being clearly retained by the people.[99]

5) The people of the several states drafted and ratified the federal Constitution with the intention of binding "*the several states"* – not themselves – "*by the Executive power of the national government.*"[100]

> *pressure of opinion or by means of the suffrage.* ***But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law*** *which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth* ***'may be a government of laws, and not of men.'*** *For* ***the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life at the mere will of another seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."***

[99] See: *Bill of Rights*, the Tenth Amendment to the Constitution, *"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."* Note also that per the U.S. Supreme Court ruling in *Bond v. United States*, 564 U.S. __ (2011) and 572 U.S. __ (2014) affirming that individuals, not just States, have *standing* to raise Tenth Amendment challenges to a federal law, when the State turns down the opportunity to argue, that the actions of the federal government have intruded upon areas of police powers reserved to the states, and thus, undermined the sovereign interests of the States.

6) [Nevertheless,] the United States (i.e., the national government) should NOT have any claim to authority that the people of the States have not delegated and surrendered to her. Thus, the States retain their Sovereignty relative to each other; and relative to all sovereign powers and authorities *not* consented to be transferred by the people of the States, from the States to the United States.[101]

7) *"[T]he Constitution of the United States is likewise a compact made by the people of the United States to govern themselves [as to 'general objects'] in a certain manner*."[102]

Hence, as *trustees* of the *public trust*,[103] those inhabiting government offices have always been laden with fiduciary duties[104] "*that legally bind public officials to*

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[100] The "*object*" of the Constitution was to form a "*more perfect union*" that included an enforcement mechanism upon the States.

[101] See again, *Bond v. United States*, *supra*.

[102] These "*general objects*" are depicted in the *Articles* of the Constitution as "*enunciated*" rights and "*delegated*" duties of the various offices of the Three Branches.

[103] Natelson, *supra*, (p. 1086) – "*The new Constitution itself referred in several places to 'public trust' and to public offices being 'of Trust.'*" (*See* Art. I, § 3, Cl. 7, "*Office of...Trust*"; *id.* Art. I, § 9, Cl. 8; *id.* Art. II, § 1, Cl. 2, "*Office of Trust*") "*The fiduciary metaphor seems to rank just below 'liberty' and 'republicanism' as an element of the ideology of the day. Although the founders frequently used the metaphors of guardianship, master-servant, and agency to describe the relationship between elector and elected, the phrase they used most often was 'public trust.'*" Thus, the ideal of fiduciary government is conveyed as the *public trust doctrine.* Notably, Natelson points out that "*the Founders' 'public trust doctrine' was far more comprehensive than modern tenets that share the name*" such as is found by the statutory rule applied in some states holding that some or all of the state's natural resources are held in "*public trust*." (Citation omitted)

[104] Callaghan, Hana. *Public Officials as Fiduciaries*. Markkula Center for Applied Ethics. "*The relationship between public officials and the public has been described by scholars as fiduciary in nature. (See e.g. Rave, 2013; Leib, Ponet & Serota, 2013; Ponet & Lieb, 2011; Natelson, 2004)"* Found on 7/23/16 at:

standards borrowed from the laws regulating private fiduciaries."[105] These duties go beyond the fiduciary obligations of contract laws, and private and corporate trusts, for some very obvious reasons:

> *"In the public sector, of course, the consequences of governmental abuse can be very serious, potentially including not merely the loss of a citizen's property, but of life, liberty, or reputation.* ***Avoidance of consequences of governmental abuse is difficult, because while citizens can elect most higher officials, the bureaucracy is effectively beyond direct citizen control and exit from the government–citizen relationship requires physically removing oneself from the government's territorial jurisdiction.***[106] *For these reasons, the logic of fiduciary law suggests that the standards of conduct binding public trustees* [107] *ought to be fairly demanding."*

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https://www.scu.edu/ethics/focus-areas/government-ethics/resources/public-officials-as-fiduciaries/

[105] Natelson, *supra*; (p. 1088); citing Natelson, Robert. *The Government as Fiduciary: Lessons from the Reign of the Emperor Trajan*, 35 U. Rich. L. Rev. 191 (2001).

[106] In recent years there has been a massive drive by dedicated Americans referring to themselves as liberty-minded "*patriots*" who have found no other means of dealing with what they see as a rogue and treasonous "*government*." Feeling helpless to change the underlying means by which these "*foreign occupiers*" have come to power and sustain their power through what is perceived as a long history of mass deception combining corporate/administrative structuring and paramilitary police force to undermine what are otherwise constitutional guarantees, these people are renouncing their "*14th Amendment personhood*" status and "U.S. Citizenship," and altogether exercising their rights to "*expatriate*," in the effort to extricate themselves from the so-called "*government's*" territorial, subject matter and personal jurisdictions.

[107] *See The Code of Federal Regulations of the United States of America*. National Archives and Records Administration. (1992) 10 CFR Ch. 1; Annex A – Code of Ethics for Government Service (5 U.S.C. 7301) – ***"Any person in government service should: ....9) Expose corruption wherever discovered. 10) Uphold these principles, ever conscious that public office is a public trust."*** (Bold emphasis) Found on 8/6/16 at: https://books.google.com/books?id=2Bg5AAAAIAAJ&pg=PA26&lpg=PA26&dq=5+USCS+7301+-+expose+corruption&source=bl&ots=4uWTZl9iWJ&sig=8xxk1jNt1eNpjV9uZW8bkeR_6E4&hl=en&sa=X&ved=0ahUKEwjdrsG7nK7OAhXLdSYKHU5qBsoQ6AEIJDAB#v=onepage&q=5%20USCS%207301%20-%20expose%20corruption&f=false

Thus, all public officials have both moral and legal obligations to the public for which they serve. Government ethics refer to those moral conduct requirements while trust laws – as well as criminal laws – provide the means of enforcing those commitments and punishing breaches thereof through impeachments, liens and/or criminal prosecutions.

The notion of government officials having special fiduciary duties for which they are to be held accountable has been around since "*time immemorial*." For instance, dating back to the 18th Century B.C.E. the *Code of Hammurabi* was set into stone and propagated by the King of Babylon.[108] In Ancient Greece, Plato called advocated death as punishment for public officials accepting bribes. In Medieval England, King John's signing of the Magna Carta presented his assurance that, among other things, "*to no one we will sell, to no one deny or delay right or justice*."[109] About that same time in France (1254), King Louis IX "*promulgated conflict of interest rules for provincial governors in the Grande Ordonnance Pour la Réforme du Royaume*."[110]

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[108] The Code of Hammurabi (§ 5) stated, "*If a judge has given a verdict, rendered a decision, granted a written judgment, and afterward has altered his judgment, that judge shall be prosecuted for altering the judgment he gave and shall pay twelvefold the penalty laid down in that judgment. Further, he shall be publicly expelled from his judgment-seat and shall not return nor take his seat with the judges at a trial.* As found on 8/1/16 in translation at: http://oll.libertyfund.org/pages/1750-the-code-of-hammurabi-johns-translation

[109] *Magna Carta*, Clause 40, as found on 8/1/16 at: http://www.bl.uk/magna-carta/articles/magna-carta-english-translation

[110] Callaghan, *supra*; citing Davies, M., Leventhal, S., & Mullaney, T. (2013) *An Abbreviated History of Government Ethics Laws, Part 1*. NYSBA Municipal Lawyer, Summer 2013 Vol. 27, No. 2., available at:

In America, the *Declaration of Independence* (July 4, 1776) also recognized the longstanding practice of delegated authority:

> *"We hold these truths to be self–evidenct* (sic)*, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. – That to secure these rights, Governments are instituted among Men,* ***deriving their just powers from the consent of the governed.****"*

In looking at the pattern and practices of American government today – and using Dr. Richard Cordero's (*supra*) research into "*judicial oversight*" in response to public outcries of "*judicial misconduct*" as a prime example of how difficult it is for the American people to monitor the self–regulating, self–policing, self–reporting, and self–disciplining of public officials, it should suffice to state that these fiduciary employees, as public "*servants*," **need to be held to a strict code of ethics and rigorous auditing by private American citizens to ensure their faithful compliance with their delegated fiduciary oaths and duties of office.** (Bold emphasis)

As a matter of fiduciary policy and practice, this entails the following "*duties*" to be carried out by measure of a very high standard, by anyone *privileged* to hold the title, power and authority of public service for and on behalf of the people of the United States or for and on behalf of the people of any State:

a) The Duty to follow instructions – This is "*the obligation to act in accordance with the purpose and rules of the relationship as set forth in the governing*

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http://www.nyc.gov/html/conflicts/downloads/pdf2/municipal_ethics_laws_ny_state/history_govt_ethicslaws_davies.pdf

instruments"[111] Importantly, working outside of the governing laws and regulatory system, whether in deception or blatantly, constitutes a *usurpation* of power and authority, being the equivalent of criminal dereliction, malfeasance, and theft.

b) The Duty to work with reasonable care – This "*applies irrespective of good intent and comprehends obligations to manage assets competently, select and supervise agents diligently, and undertake appropriate factual and legal investigations before making decisions*."[112]

c) The Duty of being loyal – This is the public officer's obligation to subordinate his or her own interests to that determined by the Trust, and to act in good faith[113] for the sole welfare of the beneficiaries of that Trust.[114]

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111 Natelson, *supra*. (pp. 1088–89) "*In the government context, this means that officials should work only in accordance with the purposes of their offices and honor the rules set by pre-established law and administrative regulations*."

112 *Id.* Natelson. (p. 1089) *See also*, Callaghan, *supra*. The duty of care "*requires that the public official competently and faithfully execute the duties of the office. Under duty of care fall such obligations as the duty to manage assets competently and be good stewards of the public treasury, to use due diligence in the selection and supervision of staff, to follow the rules and to uphold the constitution and laws of the jurisdiction. Examples of breach of this duty include failure to attend meetings, failure to investigate, failure to engage in the deliberative process, and failure to vote."*

113 It is noted here that fiduciary law has in common with contract law certain characteristics in defining and evaluating acts of "*good faith*." Generally speaking, one way the obligation to act in good faith can be understood is by the process of "*exclusion*," being the elimination of actions which, without definition of their own are instead defined within certain contexts, and used to identify (and exclude) acts which constitute "*bad faith*." An express Public Trust agreements such as a written Constitution, help to clarify the guidelines for evaluating specific acts and/or the negligence to act, however. In addition, the obligation to act in good faith can be viewed as opportunistic behavior, in which there is evidence of the use of discretion

d) The Duty of being impartial [115] –

> *"The duty of impartiality requires the decision maker to avoid favoring some beneficiaries over others, unless otherwise directed by the governing documents." Thus, a trustee, for example, must act*

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in effort to recapture opportunities previously foregone. *See* DeMott, *supra*, (pp. 892-94).

Also, "*when an agreement creates a relationship in which one party's decisions can severely limit the benefit that the other party will derive from the agreement or drastically increase the cost of performance, the obligation to act in good faith may constrain decisions that would otherwise be within the parties' independent discretion*." Indeed, when the duty arises from the fiduciary relationship established by the Public Trust, the action called upon the Trustee(s) carries the obligation of being performed with the "*utmost good faith*" in the interest in the beneficiary or beneficiaries.

In the example cases at hand, as well as in regard to the various media stories cited within this "*Memorandum on Rights of (We) The People*...," the exercise of discretion to summarily dismiss cases in response to requests for judicial review, and/or the affirmative denial of such reviews by the appellate "*Clerk of the Court*" as the agent for each of the named *magistrates*, *judges*, and *justices* as in any way connected to this or previous cases, constitute acts of "*bad faith*" given the nature of the requests for such a "*call to action*" and the need to perform with the "*utmost of good faith*" to ensure not even the *appearance* of impropriety. Similarly, the proclivity of each *magistrate*, *judge*, and *justice* to not actively seek cases to address the atrocities being popularized by the media as being committed by government actors in the Executive and Legislative branches are also construed to be acts of bad faith. This is because such non-action fails to affirm and perpetuate the best interests of the American people as the beneficiaries to the Public Trust.

[114] *Id.* Natelson. (p. 1089) "*Acting in a self-serving way ('self-dealing') violates the duty of loyalty because of the risk that the fiduciary may be enriched at the expense of the beneficiary."* Also, Callaghan, *Id;*

> *"Public fiduciaries have an absolute obligation to put the public's interest before their own direct or indirect personal interests. The public fiduciary breaches this obligation when he or she benefits at the public expense. Prohibited benefits can be financial (such as engaging in pay to play politics- or participating in decisions that favorably impact an official's business, property, or investments), career related (such as using public office and/or public resources to obtain future employment or political position), or personal such as benefits to family members or close associates. Note that when general ethical duties to family or friends conflict with duty to the public, the public duty must prevail."*

[115] *Id.* Callaghan (*supra*) cites Natelson (2004) in pointing out that *"[t]he Equal Protection Clause of the Constitution is in essence a codification of the duty of impartiality*."

with due regard to each beneficiary's respective interests. By analogy, public trustees should avoid targeting particular constituencies for favor or for punishment." (Citations omitted) [116]

e) The Duty of being accountable – This is the duty not only to account for one's conduct,[117] but also includes the obligation to repair any harm caused by any other breach of duty.[118]

f) The Duty to maintain the *public trust* in government –

> *"Without public trust, government doesn't work. The public is willing to delegate authority and sacrifice some freedoms in exchange for an orderly and civilized society, but only if it believes that government is acting in the public's best interest. When the public loses trust in government, public cooperation suffers, compliance with laws fail, and investors and consumers lose confidence."* [119]

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[116] Natelson, *supra*; (pp. 1089–90)

[117] *Id.* Natelson, *supra*; pp. 1090–91. See also, Callaghan, (*supra*):

> *"From the duty of accountability flow the duty of transparency and the concepts of disclosure, open meetings, and accessibility of public records....In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process."* (Citation omitted)

[118] *Id.* Natelson (pp. 1090–91), references *"Restatement (Second) Of Trusts § 173 (1959) (trustee's duty to furnish information to beneficiary); id. § 243 (explaining that breach of trust may result in reduced or no compensation)."* Natelson also adds, "*Only if fiduciaries honor all [the above listed] duties, does the law grant them a fairly broad realm of managerial discretion....[and]....**where discretion is granted to aa trustee, the exercise is not subject to control of the court except to prevent abuse**." Id. § 187.*

[119] *Id.* Callaghan – (Citations omitted)

> ***"Trust in government is so important, public fiduciaries are charged with protecting and maintaining the public trust. Toward this end, as stewards of the public trust, public fiduciaries have a duty to avoid even the appearance of impropriety. That is to say, even if a particular course of conduct does not meet all of the elements necessary to constitute a violation of law, it nevertheless may be unethical if it creates the perception of wrongdoing that will harm the public trust.***
>
> *For example, even if a public official believes that he can be impartial in spite of what might appear to be a potential conflict of interest, the official should be mindful that the public is not privy to*

The Preamble[120] of the *organic* Constitution for the United States of America clearly established the purpose of that *Trust* document, which included the promoting of the "*general Welfare*" of the people of the States comprising the same (people) of the United States. While this wording, to some extent, provides fiduciaries of the Public Trust with discretionary powers over the beneficiaries national assets and interests, to use specialized government knowledge and skills to manage the public Treasury and to create laws that impact the lives of beneficiaries, the implied, as well as the expressed, priority for these fiduciaries is to act in the American people's best interest and NOT in the best interest of the American government itself, being otherwise to the detriment of the American people. It is the latter that is what we see today,[121] being the reason for the instant case now at hand with the given facts.

> *all the facts, can't know what is in the official's mind, and may perceive that the conduct is not in the public's best interest. The Institute for Local Government advises public officials to always ask themselves whether it would be a bad thing for a particular course of conduct to be reported on the front page of the local newspaper."*

[120] The Preamble of the U.S. Constitution reads: "*We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."*

[121] Aside from the scores of individual cases being presented in the filings accompanying this instant "*Memorandum on Rights of (We,) 'The People'...*" there are many acts of atrocities and deception against the general populace of America laden in both the distant and recent history of the United States. Many such acts that will *not* be elaborated upon here are covered to a greater extent in a future "*Memorandum of Factual History...*" **Other acts for which further consideration should be made includes historical acts committed against: a) Native Americans** ("*Trail of Tears*" for example); **b) American war veterans** (i.e., the unfathomable

For fiduciary officials wishing to claim that their actions remained within the confines of the law, it is important to recognize that fiduciary duties are contextual. Additionally, it is a fact that law only become supremely relevant when they were enacted and are applied "*pursuant to 'the enumerated and legitimate objects'*" of their legislated jurisdiction. [122]

> ***"If the United States go beyond their powers, if they make a law which the Constitution does not authorize, it is void; and the judicial power, the national judges, who, to secure their impartiality, are to be made independent, will declare it to be void. On the other hand, if the states go beyond their limits, if they make a law which is a usurpation upon the general government, the law is void; and upright, independent judges will declare it to be so."***[123] (Bold and underlined emphasis added)

To ensure that federal judges got the point, the anti-federalists from the original State of Maryland, with the added leadership of Luther Martin, Patrick

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treatment of the "*Bonus Army*" during the Great Depression); **c) America's servicemen and homeland heros** (e.g., per the books written by Hartford Van Dyke, "*The Truth About Pearl Harbor*," and Robert Stinnett's "*The Truth About FDR and Pearl Harbor*," the United States government was complicit with the murder of thousands of American servicemen on December 7, 1941); **d) the American people** (e.g., defrauding the public concerning the assassination of President Kennedy; the monopoly of the private Federal Reserve banking system and practices of the IRS private corporation; the massacre at *My Lai* in Vietnam; the pardoning of Nixon after "*Watergate*;" the scandal surrounding the "9/11" terrorist attacks); **e) the American workers** (i.e., the outsourcing of American manufacturing jobs through international treaties); **f) the American youths** (i.e., "*dumbing–down*" the populace by...promoting secular values over religious ethics; ...by substituting liberal arts with specialized programs; ...by focusing upon socialist/Marxist values over American constitutionalism); and, **g) future generations of Americans** (i.e., through the encumbrances of insurmountable national debt and resulting enslavement through reckless spending on the expansiveness of federal government and its powers).

[122] *See* Natelson, *supra*; p. 1140 citing Alexander Hamilton in *The Federalist, No. 27*.

[123] *Id.* (p. 1140–41) citing the comments of Oliver Ellsworth (who later became chief justice of the United States) at the ratifying convention of the organic Constitution in Connecticut.

Henry and George Mason, insisted on adding the *Bill of Rights* to the terms of the Public Trust, as set forth by the federal Constitution. To ensure that the federal judges could never forget that their duties to deliver the "*steady, upright and impartial administration of the laws*"[124] the Congressional State delegates ratifying the Constitution assured the "*independence*"[125] of the federal judiciary by uniquely providing them with the privilege of "*life tenure,*" and with the added benefit of employment compensation outside of the purview of Congress.[126] The only condition upon which these important fiduciary duties were contingently granted however, was that based upon "*good [fiduciary] behavior*."[127] This stemmed from the

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[124] *Id.* (pp. 1156–57) citing again, Alexander Hamilton in *The Federalist, No. 78*.

[125] In accordance with the Separation of Powers doctrine, "*checks and balances*" was assured against the federal Judicial Branch by way of nomination of judges by the Executive Branch and approval by the Legislative Branch. Once in office, federal judges are deemed "*untouchable*," except through impeachment proceedings. The reason for this is to insure the integrity of the judges against bribes or political maneuvering, and to eliminate interference or retribution against judicial decision–making by either of the other two Branches.

[126] Contrary to the thinking of some federal judges, a wide degree of discretion, lifetime employment and the guarantee against wage decrease are not things that are "*owed*" and awarded to these federal judges because of some sort of *superior* status; but instead are conditionally provided as a "*privilege*" and a "*benefit*" of their position as fiduciary "*servants*" to the people as the beneficiaries of the Trust.

[127] In general, there is legitimate criticism about the "*lifetime employment*" available to federal judges, given the tendency of judges to move incrementally into a more legislative, politicalized cultural stance that favors the "*equality*" of some Americans over others, through their picking and choosing which issues should have the most decision–making prominence. As such, the federal judiciary has long been blending the boundaries between dutifully maintaining the standards induced (and required to maintained) by the Constitution itself in terms of "*checks and balances*" on the behaviors of its sister branches of federal government (while assuming responsibility for "*self–regulating*" its own behaviors under threat of impeachment by Congress that has long been acting unconstitutionally), and unconstitutionally setting standards of "*political–correctness*" for the American people and businesses to follow and the mainstream media to promote.

Founders' belief that "*by providing a fixed provision for [their] support…the power over [federal judges'] sustenance [would] amount to [a] power over [their] will*"[128] to serve the Public Trust rather than themselves or their political allies.

Hence, the documents of America's "*Founders*" have long established – and (the late) Justice Antonin Scalia has more recently reinforced in *United States v. Williams* (*supra*) – that *"[W]hen in the Course of human events*"[129] there has been a history of *usurpation* and *corruption* in office (such as how we see things today with a "*revolving door*" between the Three Branches and other factors undermining constitutionally guaranteed "*checks and balances*"), there are times when the Fourth Branch of government[130] needs to step in to declare violations of the Public Trust. This is needed so to define such breaches of fiduciary duties,[131] and to

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[128] *Id.* Natelson (p. 1156) *supra*, citing Hamilton in *The Federal, No. 79* – "*Next to permanency in office, nothing can contribute more to the independence of judges than for a fixed provision for their support…In the general course of human nature, a power over a man's substance amounts to a power over his will.*"

[129] These are the opening words to the unanimous Declaration of the thirteen united States of America written on July 4, 1776 (a.k.a. the "*Declaration of Independence*").

[130] See again, Donofrio (supra), "*The Federal Grand Jury is the Fourth Branch of Government*."

[131] Natelson, *supra* (pp. 1148–49):

> *"The drafters sought to make each branch of government – federal and state, legislative, executive, and judicial – relatively independent from the others' undue influence. To prevent executive and state 'corruption' of Congress, Senators and Representatives were privileged from arrest in most cases, and their statements on the floor immune. Moreover, Senators and Representatives were not to serve in the executive branch nor accept, even on resignation, newly-created or newly enhanced executive offices".* (Note: Evidence that whether or not former United States "Presidents" are explicitly or implicitly forbidden from the same accepting executive offices – i.e., lending their prestige and political clout to lobbyists and others with political might and other strengths in the private sector – former U.S.

provide impeachments and other remedies against what could otherwise bring fatality upon the American nation of united States, and their rule as a unified Republic.[132]

President Bill Clinton clearly offered "*the appearance*" of such impropriety by accepting the title of "*Honorary Chancellor*" of the private company of Laureate Education, Inc. allowing the school become a dominating force internationally by "spending $200 million on aggressive telemarketing, flashy Internet banner ads, and billboards designed to lure often unprepared students from impoverished countries to enroll in its for–profit classes"....and with a kickback to Bill Clinton of $16.46 MILLION over five years while Hillary Clinton, as Secretary of State, used her federal Department pump $55 million to a group run by Laureate's founder and chairman, who has long had strong ties for the Clinton Global Initiative. *See* article, "*Hillary University: Bill Clinton Bagged $16.46 Million From For–Profit College As State Dept. Funneled $55 Million Back*" as found on 8/3/16 at: http://www.breitbart.com/2016-presidential-race/2016/06/02/hillary-university-bill-clinton-bagged-16-46-million-from-for-profit-college-as-state-dept-funneled-55-million-back/)

"Correspondingly, to prevent congressional corruption of the President, the legislature could not vary his compensation during his term. To reduce the chances of foreign corruption of the President, only natural–born citizens could be elected to that office. To reduce the chances of foreign corruption of the Senate age and length–of–residency requirements were imposed. To reduce the likelihood of factional corruption, the President was to be selected in the most impartial manner the drafters could design."

[132] *Id.* Natelson (p. 1146) citing the *Journal of James Madison* (July 20, 1787) in which it was written:

"[I]t [is] indispensable that some provision should be made for defending the Community agst [sic] the incapacity, negligence or perfidy of the chief Magistrate. The limitation of the period of his service, was not a sufficient security. He might lose his capacity after his appointment. He might pervert his administration into a scheme of peculation or oppression. He might betray his trust to foreign powers.

The case of the Executive Magistracy was very distinguishable, from that of the Legislative or of any other public body, holding offices of limited duration. It could not be presumed that all or even a majority of the members of an Assembly would either lose their capacity for discharging, or be bribed to betray, their trust. Besides the restraints of their personal integrity & honor, the difficulty of acting in concert for purposes of corruption was a security to the public. And if one or a few members only should be seduced, the soundness of the remaining members, would maintain the integrity and fidelity of the body.

In the case of the Executive Magistracy which was to be administered by a single man, loss of capacity or corruption was more

As found today – as in a "*pattern and practice*" of several decades past and dating at least as far back as Abraham Lincoln's "*General Order 100*,"[133] which demonstrate as matters of FACT – the acts committed by agents in the Executive and Legislative branches of government have long been out of compliance with the federal Constitution and are in violation of that Public Trust. Yet the *magistrates*, *judges*, and *justices* of our State and United States courts, despite their "*discretionary*" independence and ability to bring causes of action based upon their own "*sua sponte motions,*"[134] have chosen to abuse their discretion by doing nothing.

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within the compass of probable events, and either of them might be fatal to the Republic."

[133] Extensive examples will be provided in the future with a "*Memorandum of Factual History...*" showing how, throughout the constitutional history of the United States, both Congress and the U.S. Presidents have co–opted and turned upside down the "*general welfare*" of the people of the United States. It is only through such acts of Treason that would allow America's Central Intelligence Agency ("CIA") to be excused from their fostering of covert operations of poppy growth (at a cost to Americans) and the exporting of opium and heroin to the United States for consumption by American youths and downtrodden; so as to help finance even more of their covert international terrorist offensives in other nations of the world. (See more on this as published by the American Free Press newspaper, shown by example in one article written by Victor Thorn as found on 8/3/16 at: https://americanfreepress.net/is-cia-fueling-new-u-s-drug-epidemic-using-cheap-heroin-from-afghanistan-cia-obama-team-up-to-hide-darkest-secrets/)

[134] Krimbel, Rosemary. *Rehearing SUA Sponte in the U.S. Supreme Court: A Procedure for Judicial Policymaking*. Chicago–Kent Law Rev. (Vol. 65, Issue 3), pp. 919–46 as found on 8/3/16 at: http://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=3234&context=cklawreview

With regard to the Supreme Court power to independently assert its "*original jurisdiction*,"

> *"Although [28 U.S.C.] § 1251 speaks of the Court's original jurisdiction, the Court itself has said that "It]he original jurisdiction of the Supreme Court is conferred not by Congress but by the Constitution itself. **This jurisdiction is self-executing and needs no legislative implementation."** California v. Arizona, 440 U.S. 59, 65 (1979) (Court avoided the question of congressional power to limit Court's original jurisdiction)."* (p.922)

With regard to the Supreme Court's power to independently rule upon the unconstitutionality of acts committed by the agents of either of the other two Branches:

> *"The Supreme Court did address the scope of congressional control of the Court's appellate jurisdiction in Ex parte McCardle, 74 U.S. (7 Wall.) 506 (1868), which arose when Congress removed the Court's appellate jurisdiction in habeas corpus cases. McCardle had appealed a denial of a writ of habeas corpus in a case that arose under the Reconstruction statutes, and Congress, fearing that the Court would invalidate much of the Reconstruction legislation, did not want the Court to hear the case. The Court held that Congress had the power to make such an exception. In dicta, however, the Court said that it still had the power to issue original writs of habeas corpus, and therefore, Congress' action did not totally remove the Court's jurisdiction to reach the Reconstruction statutes. Id. at 515 (referring to Ex parte McCardle, 73 (6 Wall.) 318, 324 (1867)). Although this case is often cited for the proposition that Congress has full control of the Court's appellate jurisdiction, more recent literature suggests that Congress cannot destroy as in McCardle the essential role of the Court by limiting access to constitutional cases that involve the supremacy of federal law. See Sager, Constitutional Limitations on Congress' Authority to Regulate the Jurisdiction of the Federal Courts, 95 HARV. L. REV. 17, 42-68 (1981); see also Merry, Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis, 47 MINN. L. REV. 53 (1962) (proposing that exceptions clause applies to questions of fact and not to questions of law)."* (p.924)

And,

> *"And be it further enacted, that a final judgment or decree in any suit, in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the constitution, treaties or laws of the United States, and the decision is in favour of such their validity, or where is drawn in question the construction of any clause of the constitution, or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, privilege or exemption specially set up or claimed by either party, under such clause of the said constitution, treaty, statute or com- mission, may be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error ....*
>
> *Judiciary Act, ch. 20, § 25, 1 Stat. 73, 85-86 (1789)."* (p.924)

This amounts to "*accessory after the fact*" of not only constitutional violations but also human rights atrocities[135] against the *Law of Nature*, the *Law of Nations*, and international Human Rights laws.

It is important to recognize that there is some level of covert influence by the American Bar Association, the Federalist Society, and other groups of attorney and judge as "*cohorts*" that are determining who gets politically considered and eventually nominated by the President of the United States for open positions on the Supreme Court of the United States.[136] These are the same BAR association

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[135] See the commentary in the New York Times (6/24/12) written by former (39th) United States President Jimmy Carter captioned, "*A Cruel and Unusual Record*," which points to such human rights atrocities put into government counter-terrorism *policies and practices* that "*violates at least 10 of the [Universal Declaration of Human Rights], including the prohibition against 'cruel, inhumane, or degrading treatment or punishment"* by acts of : **a) detaining people indefinitely; b) targeting American citizens for assassination or indefinite detention; c) unrestrained violations of privacy by wiretapping and "government mining" of electronic communications; d) using drones for airstrikes on civilian homes and killing hundreds of innocent people; e) the torturing of prisoners using egregious tactics. As former President Carter points out, these unrestrained and atrocious acts have had the overwhelming counter–effect of harming the "*general welfare*" of the American people, by: 1) turning aggrieved families toward terrorists organizations; 2) arousing civilian populations against the American people; 3) giving just cause and examples for repressive governments to justify their own despotic actions; 4) alienating Americans from former American allies.** (Found on 8/3/16 at: http://www.nytimes.com/2012/06/25/opinion/americas-shameful-human-rights-record.html?_r=0)

[136] See the American Bar Association's publication Spring 2005 (Vol. XX, No. 2) of *Focus on Law Studies* newsletter article captioned, "*Selecting Supreme Court Justices: A Dialogue*" found on 8/3/16 at: http://www.americanbar.org/content/dam/aba/publishing/focus_on_law_studies/publiced_focus_spring05.authcheckdam.pdf
See also p. 36 of the ABA "*constitution and bylaws*" for 2013–14 which states:

> *The* ***Standing Committee on the Federal Judiciary consists of 15 members, two from the ninth federal judicial circuit, one from each other federal judicial circuit, one representing the Federal Circuit, and one at-large who serves for one year.*** *The Committee may, on behalf of the*

members running a thoroughly *corrupted* private monopoly on the judicial and prosecutorial systems, and from whence such members come that have strategically infiltrated and virtually taken over all three Branches of America's governance.[137]

> *Association,* ***promote the nomination and confirmation of competent persons for appointment as judges of courts of the United States.*** *It may* ***also oppose the nomination and confirmation of persons who it considers insufficiently qualified.*** *It may also report to the House of Delegates on questions relating to the* ***behavior of federal judges and on matters relating to the sufficiency of the number of federal judges.***

Found on 8/11/16 at: http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/aba_constitution_and_bylaws_2013.authcheckdam.pdf

[137] This writer has found the "*revolving door*" system between the Three Branches of Michigan state government, and the federal prosecutorial system in the Eastern District of Michigan, operating more like a profiteering three–ring circus than as any form of constitutional "*government*." One clear example was documented whereby criminal allegations being brought against former Michigan Court of Appeals judge Richard Bandstra (and others of his peer group) were being brought again through the state courts years later in another "*round*" of complaints regarding the "*denial of access to the courts*" and the criminal cover–up of reported judicial crimes by higher levels of judicial officials that had occurred years earlier. With the Michigan Attorney General Bill Schuette and his predecessor Mike Cox having full knowledge of these ongoing and unresolved criminal complaints, filed in both the judicial and executive branches of Michigan government, when it was clear that litigant David Schied was making his way toward the Michigan Court of Appeals again – while suing the State for its criminal negligence and malfeasance – Bandstra colluded with Schuette to slip through the "*revolving door*" between branches to become "*lead counsel*" for the AG Schuette, while using his new position as the State's defense attorney and his clout with the Michigan Court of Appeals, to insure the persistent dismissal of David Schied's case. Bandstra took such actions despite the clear ethical violation, and the conflict of interest of his using his newly awarded government position to defend against factually–supported allegations in which he (Richard Bandstra) had been personally named as a criminal co–conspirator. For more on that story, as well as sworn accounts about other corrupt Michigan judges, see the "*Affidavit of Facts....and Evidence of Domestic Terrorism*" of Private Attorney General ("PAG") Cornell Squires, as filed in the federal court on 3/31/16, found on 8/3/16 at: http://cases.michigan.constitutionalgov.us/david-schied/2015_SchiedvJudgeKarenKhaliletalinUSDCEDM/033116_PAGsSchied&Squires_Joinderof-14-ClaimantsCrimeVictims/Affidavit-Cornell.pdf

Such acts as described above only scratch the surface of those being carried out routinely upon the Michigan populace, giving credibility and credence to such

Granted, at the time the Public Trust was negotiated "*nearly two-thirds of the delegates to the Constitutional Convention had received formal training in law*[138]*...*[however,]*...many, if not most of the lawyers among the [F]ounders had extensive experience in private law, of which the law of fiduciaries [has long been] a part, and [the Founders] were accustomed to thinking of government in private law terms*." As such, the Founders based their Public Trust document upon the same (if not higher) obligations[139] that are expected of private fiduciaries under the maxims set for contracts and trust relationships.[140]

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publications that underscore these FACTS about corruption in Michigan government. This would include such publications as the book written by former Supreme Court "*chief*" Justice–turned–whistleblower Elizabeth Weaver (*supra*), "*Judicial Deceit*," and the investigative report published by the Center for Public Integrity in 2015, which rated Michigan as the state fostering the greatest conditions (i.e., lack of transparency and the prevalence of "*dark money*") for public corruption (i.e., Michigan was rated 50 out of 50 – dead last – in the scoring criteria for States' public integrity investigation). *See* that report as last found on 8/3/16 at: https://www.publicintegrity.org/2015/11/09/18427/michigan-gets-f-grade-2015-state-integrity-investigation

See also the article by Robert Mundheim, "*Conflict of Interest and the Former Government Employee: Rethinking the Revolving Door*," that expounds upon the problem of government officials taking frequent unethical advantage of their former positions in government, both before and after moving through the "*revolving door*" between government and the private sector. (Found on 8/3/16 at: http://dspace.creighton.edu:8080/xmlui/bitstream/handle/10504/39269/41_14CreightonLRev707(1980-1981).pdf?sequence=1)

[138] Natelson, *supra*, pp. 1124–25. (Citation omitted)

[139] *See* Callaghan, *supra* – "*Government Ethics refer to the unique set of duties that public officials owe to the public that they serve. These duties arise upon entering the public work force either as an elected representative, an appointed official, or a member of government staff. (...[W]hen we refer to public officials, we are referring to all public actors, be they elected, appointed or hired.) Public ethical obligations exist in addition to general ethical obligations and sometimes government ethics may conflict with personal ethical duties [as well as the law itself]....Laws can't cover every ethical dilemma and thus, merely set the floor for ethical conduct, not*

Additionally, these Founders were aware that where there were breaches of fiduciary trust, there were equitable remedies[141] through *customary* practices of impeachments,[142] criminal prosecutions,[143] and through the use of non–judicial commercial liens[144] placed in commerce.

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the ceiling...[and]...just because something is legal, does not necessarily make it ethical." Again, fiduciary laws prohibit even the "*appearance*" of impropriety.

[140] Natelson, *supra*, (p. 1125) – *"The broad standards of private fiduciary conduct, particularly the duties of agents, guardians, executors, and trustees, were not greatly different* [during the post–Revolutionary period] *from what they are today."*

Generally speaking, though the laws governing fiduciary obligations can become quite complex, they fundamentally address two rather simple questions: "*First, in what circumstances does fiduciary obligation apply? Second, what does the obligation require a person to do?*" Further, "*the fiduciary's duties go beyond mere fairness and honesty; they oblige him to further the beneficiary's best interest*" and to act candidly with the utmost of good faith. *See* DeMott, *supra*, (p.882).

[141] Natelson, *supra,* (p. 1126–27):

> *"Eighteenth-century fiduciary law was, of course, administered by the courts of equity. 'Trust,' said one maxim, 'is a creature of Equity, and to be governed and disposed by its Rules.'... As to the content of the rules governing fiduciaries, the contemporary sources make clear that by the time of the American Founding, the fundamental fiduciary responsibilities were already well established."*

[142] *Id.* Natelson (pp. 1134 and 1147; 1165–66) wrote, "*By 1787....[William] Blackstone [had] identified legislators, judges and magistrates as being in public trust, noting that, unlike some other offices, offices of public trust could not be incorporeal hereditaments; and he reported that those who violated the public trust through maladministration could be impeached.*"

At the Constitutional Convention, Gouverneur Morris was one of those attending who argued for impeachment as a proper remedy for breach of trust. In fact, impeachment was the foremost punitive measure in mind when it came to breach of the public trust. Alexander Hamilton underscored this role of impeachment when he stated,

> *"A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust."*

(Here Natelson is citing from *The Federalist, No. 65*, citations omitted)

[143] *Id.* (pp. 1170 – 71; citations omitted)

> *"The Constitution authorizes the House of Representatives to impeach federal officers for 'high Crimes and Misdemeanors.' The Constitution designates the Senate as the court for trial. There is a long–standing interpretative dispute over whether an impeachable 'Misdemeanor' must constitute a violation of criminal law. Although the answer is far from certain, the founding generation's devotion to the public trust doctrine supports the view that* ***impeachment was to be a potential response to any significant breach of fiduciary duty****.*
>
> ***Accordingly, at the federal convention Madison listed as impeachable offenses some outside the criminal law. During the ratification debate, Hamilton affirmed that impeachment was the remedy for breach of public trust, and that one could violate that trust without committing a crime. Other contemporary writers suggested the same. Thus, a public trust interpretation of the Constitution might support impeachment and removal of an official for such non–criminal acts as violating the fiduciary duty of care."***

Taking the topic of criminal offenses a step further, Natelson went on to state: (pp. 1122–23; 1160–61) (citations omitted)

> *"The Whig view [was] that officials were accountable to the people....English political writers agreed that public officials should adhere to standards comparable to those imposed on private–sector fiduciaries. Many – if not all – Whig writers would have agreed...[that]...[government officials] possess no power beyond the limits of the trust for the execution of which they were formed.* ***If they contradict this trust, they betray their constituents and dissolve themselves****....[For]...none but bad men would justify [trust] in abuse, none but* ***traitors*** *would barter [trust] away for their own personal advantage....*
>
> ***If a public official committed a crime, he*** *(immediately or* ***eventually****)* ***could be held accountable under the criminal law.*** *To breach one's public trust was not necessarily to commit a crime, however. (As Hamilton observed, 'Men, in public trust, will much oftener act in such a manner as to render them unworthy of being any longer trusted, than in such a manner as to make them obnoxious to legal punishment. It was therefore necessary to devise ways to respond to non–criminal breaches.')"*

144 *See again*, the previous footnote referencing The Federal Reporter (supra), pertaining to "*The Sandwich*" case for post-Revolutionary reference to maritime liens in the United States courts.

Note also that as of 8/4/16, the definition of "*commercial lien*" was found on a blog site with a captioned page called "*The Application of Commercial Law*," located at: https://www.1215.org/lawnotes/work-in-progress/redemption/redemption3.htm

> "*A commercial lien is a non–judicial claim or charge against property of a Lien Debtor for payment of a debt or discharge of a duty or obligation. A lien has the effect of permanently seizing property in three months, ninety days, upon failure of the lien debtor to rebut the Affidavit of Claim of Lien. The commercial grace of a lien is provided by the three month delay of the*

THE REMEDIES TO THE PEOPLE ARE A MATTER OF RIGHT: THEY ARE THE VICTIMS OF *JUDICIARY ABUSES*, THE HOLDERS OF EVIDENCE OF *CONSTRUCTIVE FRAUD*, AND THE ONLY ONES EMPOWERED TO DETERMINE FOR THEMSELVES WHEN "*BAD*" GOVERNMENT *OFFICERS'* BEHAVIOR HAS "*NULLIFIED*" AND "*DISSOLVED*" ANY LAST VESTIGE OF *PRIVILEGE* TO GOVERNMENT OFFICES

The *natural* principle, fiduciary obligation, has its origin in the equity of Customary Law, i.e., the *Law of Nature* and the *Law of Nations*.[145] The *legal* origin

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execution process, allowing resolution either verbally, in writing, or by jury trial within the 90 day grace period."

As an added matter of significance, citing in 2012 two Florida court cases, the case of *Hirchert Family Trust v. Hirchert*,__So.3d__, 2011 WL 2415787 (Fla. 5 Dist. Jun 17, 2011) and the case of *In re Gosman*, 2007 WL 707365 (Bankr. S.D. Fla. Mar 05), 2007) the law firm of Stokes McMillan Antúnez P.A. asserted on their website that "***a Trustee's breach of fiduciary duty is the equivalent of [constructive] FRAUD for Equitable Lien purposes*,"** and justifying the levying of Equitable Liens that can encumber homestead properties.

Presenting additional cases in furthering their elaboration on fraud being defined by a breach of fiduciary duty, the law firm's post stated the following:

> "*Constructive fraud is the term typically applied where a duty under a confidential or fiduciary relationship has been abused, or where an unconscionable advantage has been taken. Constructive fraud may be based on misrepresentation or concealment, or the fraud may consist of taking an improper advantage of the fiduciary relationship at the expense of the confiding party."* *First Union National Bank of Florida v. Whitener*, 715 So.2d 979, 982 (Fla. 5th DCA 1998)

And,

> *"Florida courts have recognized that constructive fraud may exist independently of an intent to defraud. It is a term which is applied to a great variety of transactions that equity regards as wrongful, to which it attributes the same or similar effects of those that follow from actual fraud and for which it gives the same or similar relief."* *Allie v. Ionata*, 466 So.2d 1108, 1110 (Fla. 5th DCA 1985)

Found on 7/26/16 at: http://www.flprobatelitigation.com/2012/11/articles/new-probate-cases/homestead-litigation/5th-dca-does-a-trustees-breach-of-fiduciary-duty-fraud-for-equitable-lien-on-homestead-purposes/

[145] Chitty, *supra*, pp. v–vi ("*Preface*"):

> *"The definitions given by the emperor Justinian, of the law of nature, the law of nations, and the civil law, are well known. 'The law of nature,' says he, 'is that which nature teaches to all animals:' thus he definites* (sic) *the natural law in its most extensive sense, not that natural law which is peculiar to man, and which is derived as well from his rational*

of equity and the principle of fiduciary obligation is derived of the equity and international courts,[146] each having their respective roots, again dating back to the time of Edward I, in the rulings of Chancellors.[147]

> *as from his animal nature....'The* ***civil law****,' that emperor adds,* ***'is that which each nation has established for herself, and which peculiarly belongs to each state or civil society****. And that law, which natural reason has established among all mankind, and which is equally observed by all people, is called the* ***law of nations****, as being a law which all nations follow.....that* ***almost all kinds of contracts****, those of buying and selling, of hire, partnership,* ***trust****, and an infinite number of others,* ***owe their origin to that law of nation****.' [Thus,] it plainly appears to have been Justinian's idea, that, according to the situations and circumstances in which men were placed, right reason has dictated to them certain* ***maxims of equity, so founded on the nature of things, that they have been universally acknowledged and adopted.****"*

[146] Recent research shows there to be a wide range of international courts which, at a minimum included: a) the International Court of Justice (a.k.a. the "*World Court*") as the principal judicial organ of the United Nations; b) the International Criminal Court unrelated to the United Nations system seated in The Hague for hearing cases on international crimes and human rights issues; c) several Tribunals set up to address more particular international issues pertaining to world trade and international crimes against specific nations; d) a few Hybrid Courts focusing on particular types of human rights issues or crimes occurring in particular regions of the world or during particular eras in time; and, e) a multitude of Regional Courts across Europe, America, Africa, and Asia for hearing cases on any combination of the above. (*See* the *Selected International Courts and Tribunals: Online Sources of Translation Into English*, compiled in 2012 by Wendy Zeldon found on 8/5/16 at: https://www.loc.gov/law/find/pdfs/2012-007612_courts_RPT.pdf)

[147] As defined by Wikipedia:

> "*The Court of Chancery was a court of equity in England and Wales that followed a set of loose rules to avoid the slow pace of change and possible harshness (or "inequity") of the common law. The Chancery had jurisdiction over all matters of equity, including trusts, land law, the administration of the estates of lunatics and the guardianship of infants. Its initial role was somewhat different, however; as an extension of the Lord Chancellor's role as Keeper of the King's Conscience, the Court was an administrative body primarily concerned with conscientious law. Thus the Court of Chancery had a far greater remit than the common law courts, whose decisions it had the jurisdiction to overrule for much of its existence, and was far more flexible. Until the 19th century, the Court of Chancery could apply a far wider range of remedies than the common law courts, such as specific*

Equity courts have been used in the past because they provide a wider range of remedies than are typically provided in the more restrictive statutory and common law courts.[148] Equity then, for persons looking for remedies with the

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performance and injunctions, and also had some power to grant damages in special circumstances." (Citations omitted)

Found on 8/4/16 at: https://en.wikipedia.org/wiki/Court_of_Chancery

[148] As previously discussed, *common law* is a body of law based in an amalgamation of custom and general principles developed by judge–made rulings of "*precedence,*" which are sometimes subsequently codified as statutes by legislators to enable government entities to capture these matters within their claimed jurisdiction.

> "*In other words, common law includes those principles, usages and rules of action applicable to the government and security of person and property, which do not [yet] rest for their authority upon any express and positive declaration of the will of the legislature*....[Thus, in the following ways]*, the origin of common law in the U.S. can be traced back to various sources such as the common law principles of England, [the] equity principles, Christianity and ecclesiastical courts.*
>
> *[Today's] U.S. courts do not solely depend upon the expositions of [yesterday's common law] courts of England. In order to ascertain the principles and rules of the common law, the courts may look to the decisions of other states of the Union, as well as to those of the English courts. [Therefore], the U.S. courts are not required to adhere to the decisions of the English common law courts, regardless of whether they were rendered before or after the American Revolution. Similarly, the English statutes passed subsequent to the adoption of the common law in the U.S. are not part of common law in the U.S.*
>
> *[P]rinciples of equity are regarded as a part of the common law [that were] adopted in the U.S. [Again,] [t]he term 'common law' includes those doctrines of equity jurisprudence not mentioned in the legislative enactments. Similarly, a law merchant is recognized as part of the common law. It is defined as the system of rules and customs and usages generally recognized and adopted by traders as the law for the regulation of their commercial transactions. However, the law merchant cannot override the local laws and commercial usages of any state* [when operating within that state's statutory jurisdiction].
>
> *Christianity is [also] part of the origin of the common law. Although Christianity is considered part of the origin of the common law, the courts did not regard it as controlling or imposing in nature while discussing a religious duty of any narrow view or things related to morality and decency. It was observed that even if Christianity is not a part of the law of the land, if it is the popular religion of the country, then an insult to it can disturb the public peace.*

government Court,[149] have typically been preferred – when the confinements of common law appeared unsuitable for certain types of relief;[150] and purportedly, where there had been no analogous previous case in "*precedence*" to be found.

> *Ecclesiastical laws are English laws pertaining to matters concerning the church. These laws were administered by ecclesiastical courts and are considered a branch of English common law. There is a difference in opinion about the adoption of Ecclesiastical laws in the U.S. On one hand, since ecclesiastical courts were not established in the U.S., the code of laws enforced in [foreign] ecclesiastical courts cannot be considered part of the common law. On the other hand, the canon and civil laws administered by the ecclesiastical courts come under the unwritten laws of England. And by custom, these laws are adopted and used in a certain jurisdiction. It is maintained [then] that such laws must be used in the U.S. if the tribunal has jurisdiction[,] especially if the rule of the ecclesiastical courts is considered to be better law than the one in the common law court.*
>
> Found on 8/4/16 at: http://commonlaw.uslegal.com/origins-of-common-law/

[149] Hartford Van Dyke (*supra*), an acclaimed Public Servant (since 1967) and commercial non-union lawyer, has provided some very enlightening insights about the surreptitious "*pattern and practice*" of both State and United States judges in obtaining jurisdiction and dismissing the causes and challenges presented to them by natural persons otherwise seeking "*justice*" by these otherwise mandated as "*constitutional*" fixtures. In a recorded telephone conversation in August, 2016, Van Dyke started by importantly classifying the types of courts as follows, then distinguishing the lawful and unlawful features of these courts relative to the natural and corporate bodies so often found to be presented before each of these courts.

Van Dyke emphasized that, in the context of these judges operating under the commercial provisions of the Public Trust, with the Constitution to which they have sworn Oaths and Duties being a Commercial Instrument, whenever there is an abridgement of either Oath or Duty (or more likely both), there is a corresponding abridgement taking place in commerce. However, "*commercial provisions that abridge commerce constitutes fraud!*" said Van Dyke.

> "*Under the Law of Commerce…there are no allowances for abridgements in commerce…[because]…commerce makes no allowances for abridgements.*"

Van Dyke further explained,

> "*It's the strictness form of law there is. It's based upon fairness of practice, the 'clean hands doctrine,' actions taken in 'good faith,' and so forth. Those are the graces of it. And there's no tolerance at all in commerce for violating The Contract. So…there can be no*

commercial abridgements. The constitution contains all of the correct provisions [for right actions] in commerce. There's nothing to curtail or 'abridge.'"

With regard to the various types of courts and their varied processes, Van Dyke categorized them as follows:

"*There are four types of processes involved in the judicial system: a) Summary Process; b) the Equity or Chancery process; c) the common law jury system; d) the Court of Public Opinion. The Court of Public Opinion is operating strictly on commerce. It doesn't involve the constitution; and it doesn't involve any other parliamentary procedures of law. The Court of Public Opinion is the highest court, not the lowest court. It's the strongest of all of them.* ***It's a 'government of the people [who are running the courts] by the people for the people'*** *as the courts are themselves such a form of governance.*

That's government. When people step in and operate that courtroom, it has to have all of the good qualities of a good government, or it runs against the system of commerce. Common law courts are a bridge between commerce and society. Civilization has to have rules. What we call the rules of civilization is identified by the rules which we make called 'tolerable.' The [human] world is not a food chain like what the other animals have. Man, because of his intelligence, is supposed to rise above the limitations of animals eating each other; and [they are expected] to arrive at a point where people can conduct their lives in a peaceful manner. Now, it takes a knowledge of Nature to do it...to learn how to engage the power and energy of Nature and the material supply of Nature; and to let that take the place of eating each other.

So when we look at the four types of courts: summary court, equity court, common law court, and the court of public opinion...If you understand what these courts are and what they can do, things automatically get straightened out. You need to understand the difference between 'the court' and the 'process' as you would know the difference between "the vehicle" and how it "drives." Not all are the same. Those four courts are like describing four different kinds of automobiles. They have nothing to do with how they are used, they are defined by their fundamental structures and what they are fundamentally capable of doing. Once you are familiar with these fundamental structures and their processes, you can then deduce all types of consequences that are derived from using one type of court or another.

Thus, you must understand all these courts, otherwise you will not be able to navigate between them, nor will you be able to recognize what court they are operating in nefariously. The fact is that you are only subject to a certain type of court, and you have every right to reject all others in which they attempt to subject you and to confine you to unconstitutionally. Moreover, you need to understand that, like a car, a court can do all kinds of things, depending upon who is the 'driver.' You have then to separate the vehicle from the driver in order to understand the courts. The 'court' is only a vehicle, and never anything but a vehicle. But when 'people' have that

vehicle in their hands, they can either run people down or they can drive reasonably on the 'road.' That is characteristic of 'human nature.' [Therefore,] [o]nce you know what the vehicle's capabilities are, that gives you all the liberty in the world to question them ['the court'] as to whether or not <u>they</u> are using the vehicle correctly. But if you don't understand the process, and the nature of the vehicle, you can be making accusations about the behaviors of their 'drivers' [i.e., 'the judges'].

What characterizes a "common law" court – when it is run correctly – is that the court is run by a jury. The jury runs the court…'we, the people;' and the judge only sits there to keep order and decorum in the court. S/he's a referee. If he tries to give you any testimony or judgment of any sort beyond being the referee, he has violated his position in the courtroom and must be removed. Important to also remember:

Now there is another rule there that they break [in common law courts.] In equity courts they [typically] break it even more severely. In summary courts they ruin it entirely. [That rule is…] [t]here can be NO CASE LAW IN A TRIAL-BY-JURY. [The reason being is] because juries only work with 'legislated' law. But even legislated law is secondary to the 'common law.' In the <u>third</u> place away is commercial law, of course. Commercial law is the <u>ultimate</u> law. Commercial law is even superior to the constitutional law. If a person violates a commercial law, that's more serious than violating the constitutional law. [This is because] Commercial Laws are based on the Laws of Nature. Nobody violates those. …

What characterizes an "equity" court – when it is run correctly – the judge actually makes the judgment. There is no jury. Whatever comes out of that courtroom happens at the judge's whim.

What characterizes a "summary" court (which most people are not aware of and which the people operating the courts keep clandestine) "

Hartford Van Dyke moved on in the recorded phone conversation (on 8/13/16) to clarify the limiting differences between what comports to a "*summary*" proceeding and an "*equity*" proceeding in terms of who can be present at either and from whence the jurisdiction of the judge can be obtained or should be ascertained.

*"There is a clear difference between who can appear in a 'summary' proceeding and who can appear in an 'equity' [a.k.a. a 'chancery' court] proceeding, despite that in both proceedings the judge acts unilaterally and apparently guided by their own discretion. In an equity proceeding, say a proceeding between two parties, of the two parties one can be a flesh-and-blood person – it MUST be a flesh and blood person – and the other one can be either a corporation or a flesh-and-blood person. One of the parties of an equity court has to be flesh-and-blood. … **The 'summary court' process is ONLY between corporations; there can be no flesh-and-blood parties in the 'summary' process."***

Van Dyke then dropped his "*cannon ball*" in the conversation by explaining the role of the <u>State</u> in a *summary* proceeding, relative to what are otherwise supposed to be <u>ONLY corporations licensed by the State</u> and <u>being engaged by the State</u> in that summary proceeding:

"All corporations have something in common; they're all owe their existence to the government through licensing under the State, regardless of what State those corporations are in. In an equity proceedings, when there is a problem between a natural person and a corporation, ***the equity process cannot proceed without the mutual consent – the direct written consent – of both the opposing parties.*** *Why? Because there is no jury and nobody has to trust the judge [as a 'trustee' of constitutional guarantees]. (If you are a flesh-and-blood person and you do not trust the judge, you absolutely have that right. …Just because s/he's sitting on that bench doesn't make that individual an honorable person.)*

So when you've got a corporation and a common citizen coming before the equity court – which must have (mutual) consent to proceed in equity – the corporation actually has a problem in giving its consent! That's impossible because a corporation has no brain, has no feeling, and has no other capacity to give their consent. Moreover, they cannot give their consent through their attorney because the attorney is not the party. Only the parties can give consent. Even if you wanted to claim that the corporation itself could give its consent through another form of representation, you would then also have to ask [yourself first and then the judge] who [or what] it is that ranks above the corporation with the authority to provide the corporation with the permission to do anything…which would be the "person" that licensed the corporation….The State!

The corporation is the consequence of licensing, and licensing is "permission" to break the [Natural] law. The corporations are all in violations of the Natural Law; *and it was the States (where the corporations are licensed) that gave them the licenses to break the law. So it is the STATE that gives the judge permission to proceed in the equity process; and the CEO of the corporation cannot outrank the State. If they do, the State will close the corporation. Therefore, in equity proceedings, the State is the power on the corporate side when it comes to giving the part[ies] consent to the judge. And the judge knows that the consent is automatically there, so s/he doesn't need to have it told to him or put into writing. He knows that the State that licensed the corporation will give the consent, and if the judge is not sure he'll simply call the CEO on the phone and ask, 'Do you consent to this hearing?' Now you see the power of the State's involvement in the corporations.*

In other words, [in court proceedings] the corporation has a silent partner called the 'State,' which is the 'person' behind the corporation.

This will help you now to understand the "summary process" too….entirely. The reason why the judge has permission through the summary process – entirely – because he knows that the two opposing 'corporations' before him have already given him carte blanche permission to run that court case proceeding. … The State knows that it can intervene at any time and take power over [a case proceeding]. [These judges] sit back and watch the battle; if it isn't going the way they want it to go, the State can step in and push the CEO aside. …So you see it's all an illusion and the

CEO's, the attorneys, and all the rest of them…they're just puppets. The State is the puppet–master. If you want to challenge the summary process in the court, you'll have to challenge the State that issued the license to the corporation. …

So [the natural person] don't belong in the summary proceeding at all because you're not a corporation, and because no State can give the corporation a license for [the natural person's] side. You are an individual person who is sovereign.

They don't like that word 'sovereign.' The reason why they don't like the word 'sovereign' is because they know they can't dictate what the sovereign does in an equity or a summary court [without resorting to fraud and treason]. Your sovereign is your flesh-and-blood. The only ones that can't possibly be sovereign are the ones who needed to have special licenses in order to operate. They're the ones on [legal] crutches. Legal crutches aren't sovereign. [The natural man] doesn't have to rely upon the State for anything. [He] is a 'sole proprietor.'

If you go to a corporation commission and put your full name in to get a license for your business [as a sole proprietor], and you've got your full name in the name of your business, you will be told [by the State…as (Hartford Van Dyke) was told by the State] that the State does not license sole proprietors; because [sole proprietors] assume commercial liability for everything [they] do.

So in any summary proceeding, all [one] has to do is politely ask the judge why you are even in the courtroom; and to respond by pointing out that [non-jury] courtrooms are the place where corporations come, under permission of the State; and that the State is the only entity that can 'appear' in the summary court process….and that [the natural man] is not the State; but instead, 'the sole proprietor.'…That is what a 'sovereign' is, a 'sole proprietor' that makes his or her own commercial decisions.

Hartford Van Dyke next provided a brief analogy reasoning as to why the induction process into the government military requires an explicit recitation of an "oath" as a surety contract in commerce. He then illustrated what a hypothetical situation might look like in a 'summary proceeding' courtroom with a Natural person being put on the spot in such a case. He stated…

"We have something called the 'selective service;' for military. When a person submits himself to the military, he had choice. He has to make an oath. They won't accept him without the oath. He has to make a conscience decision whether he wants to give them the oath, otherwise they can't use him….not really, because he's a 'sole proprietor.' He's commercially liable for his actions. And he's 'sovereign.' They wouldn't require the oath if he wasn't sovereign. They could [otherwise] just tell him what to do."

So you have no place in 'summary court;' because summary courts are operated and controlled by the State. They have nothing to do with sole proprietors. When you go into an 'equity process' you are the sole proprietor against the other side, which could be a sole proprietor <u>or</u> a corporation. But if you want to ask why the other party is in the courtroom, then [they – being the judge and attorneys] will just hum-n-haw.

This is the very circumstance we have now – with the instant conglomerate of case history examples at the very doorstep of every one of the fiduciary "*Trustees of the Public Trust*," the so-called "*magistrates*," "*judges*" and "*justices"* of the States and United States courts – with remedies being sought that are inclusive of those readily available as previously discussed: impeachments, criminal indictments, and non–judicial commercial liens placed in commerce.

The Reason Why "*Civil Courts*" Will Not Work in Resolving This Matter is Because The Evidence Shows It is These Courts That Provide the Means and the Modes for Top–To–Bottom Discretionary (and Treasonous) Abuses by the Agents of the Judiciary

Only by understanding the history of laws[151] and their developmental changes from ancient times to the present – and with clear focus on those changes

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> *So you just state, 'because the corporation is established by a license from the State, what is the State's interest in this process? ...I'm not interested in the CEO, I'm not interested in talking to the Board of Directors, I'm not interested in talking about by-laws. I want to know why the State gave you consent to run this case in this courtroom ... because they're the licensor. They licensed these people to have a corporation so they must know the motive for having that corporation. [The State] must know the motive for allowing it to exist. And that's not supposed to be secret in this courtroom, because this is a courtroom where, if it's equity it has to be 'full disclosure.' So I want to know why the State has given the corporation 'consent' to appear in this equity process.'"*

[150] *See* DeMott, supra, (p. 881) *"Equity developed to correct and supplement the common law, [thus,] the interstitial nature of Equity's doctrines and functions made these [fiduciary] doctrines and functions resistant to precise definition."*

[151] Government ethics and fiduciary laws follow the same pattern that has been found all along in tracking the relationships between *customary* laws built upon the private honoring of maxims, judge-made laws or other forms of *common law*, and what is written by the English Parliament or American Congress and other legislators into statutory laws.

Private interactions between people and amongst communities create the value systems upon which *patterns and practices* of behaviors are governed by voluntary consent of the stakeholders. This consensual process of exercising reciprocal rights and duties is aligned with the *Law of Nature*, being dynamic and

occurring during the post–Civil War era and throughout the Twentieth Century – does one come to truly understand that **the tragedies befalling Americans have been by a slow and systematic design to *treasonously* reverse the tables of power between government officials and the people they serve, through an equally slow and systematic shifting of wealth[152] toward a *seditious* oligarchy of rulers and a Fascist form of dominating "*corporatocracy*."[153]**

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changing while yet operating within certain maxims of mutual expectation between individuals and between nations. This is known as the (natural) *Law of Nations*, until some outside force of governance seeks to "*codify*" and *legalize* (or criminalize) these interactions through the *science of law*, by rationally dividing and defining these interactions, and ultimately enforcing the expectations afforded by the behavioral maxims as the precursor.

The tendency thereafter is for governments to systematically affix absolute characteristics upon what are otherwise dynamic behaviors and agreements, and to impart coercive tactics in the interpretation and enforcement of whatever determinations are made between parties. The *substantive* aspects of what is defined by the legislators here in American is referred to then as "*positive*" law. The *procedural* design, the rules by which the maxim of "*due process*" is to be assured is known as "*adjective*" law.

[152] Roberts, Archibald. Lt. Col. (AUS, ret.) *The Most Secret Science*. (Published 1987; ISBN–13: 978-0934120081; ISBN–10: 0934120080). This book, purported to be "*A 'solution' to the Federal Reserve 'problem'*," is touted to reveal "*a science which outdates history…the science of control over people, governments and civilizations…[and with]…the foundation of this ultimate discipline [being] the control of wealth*." As it relates to official proceedings about the *Federal Reserve Act*, the book states the following:

> *"FEDERAL RESERVE ACT: A CONSPIRACY AGAINST AMERICA: Interest payments (tax money to the Federal Reserve System, a consortium of private bankers) are the third–largest component of the Federal budget, after Defense and Social Security, according to the Office of Management and Budget.*
>
> *The Federal government spent a whopping one hundred eleven billion, eight–hundred million dollars paying interest on the national debt in the 1983 budge year ending 30, September.*
>
> *Gannet News Service, 'Interest Drains Budget as Federal Debt Grows,' 16 November, 1983, reported that interest on the national debt is taking an even–larger share of Federal funds, thirteen point eight percent of all spending in 1983.*

The Federal Reserve Act (Act of December 23, 1913; 38 Stat: 251; 12 United States Code section 221 et seq.) is an unauthorized act by Congress, an agency of the sovereign states.

Being illegal, it must be put down by appropriate corrective action by the sovereign states.

Violations of the Constitution inherent in the Federal Reserve Act are illustrated in the following citations:

The Constitution of the United States, Article 1, section 8 provides that only the Congress of the United States shall have the power 'to borrow Money on the credit of the United States.'

The Federal Reserve Act illegally transferred the power to borrow money on the credit of the United States to a consortium of private bankers, the Federal Reserve Board, in violation of the prohibitions of Article 1, section 8, Constitution of the United States.

The Constitution of the United States, Article 1, section 8, directs that only the Congress of the United States is permitted 'to coin Money, regulate the Value thereof, and the foreign coin, and fix the Standard of Weights and Measures.'

The Federal Reserve Act illegally transferred the power to coin money, regulate the value thereof, and the foreign coin, to a consortium of private bankers, the Federal Reserve Board, in violation of the prohibitions of Article 1, section 8, Constitution of the United States.

The Constitution of the United States, Article 1, section 1, provides that 'all legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.'

The Congress of the United States is without authority to delegate any powers which it has received under the Constitution of the United States, established by the People of the United States.

CHAPTER THREE. ARKANSAS ACTS ON FED: Citizens Seek Escape From Impending Economic Debacle:

First hearing on Arkansas' House Concurrent Resolution #18, 'Urging the Congress of the United States to Repeal the Federal Reserve At,' introduced by Representative Jim Smithson, House Committee on Aging and Legislative Affairs, held 16 February, revealed that the Fed is a private banking cartel.

Pointing to a decision by the United States Court of Appeals, Ninth Circuit, in the case of, Lewis v. United States, Archibald Roberts, Lt. Col, AUS ret., Director, Committee to Restore the Constitution, Inc., charged that, Federal Reserve banks are not federal instrumentalities...but are independent, privately owned and locally controlled corporations...' and, 'Each Federal Reserve Bank is a separate corporation owned by commercial banks in its region. The stockholding commercial banks elect two thirds of each Bank's nine member board of directors. The remaining three directors are appointed by the Federal Reserve Board. The Federal Reserve Board regulates the Reserve

Banks, but direct supervision and control of each Bank is exercised by its board of directors."

Congressman Wright Patman, House Banking and Currency Committee, Congress of the United States, said in 1952: 'The Open Market Committee (of the Federal Reserve System) has the power to obtain, and does obtain, the printed money of the United States Federal Reserve Notes – (free) from the Bureau of Engraving and Printing,' quoting Colonel Roberts.

'The Fed exchanges these printed notes, which of course are not interest bearing, for United States Government obligations that are interest bearing. After making the exchange,' Patman explained, 'the interest bearing obligation are retained by the 12 Federal Reserve banks and the interest collected annually on these Government obligations goes into the funds of the 12 Federal Reserve Banks.'

'U.S. Treasury financial report for 1982 placed the Federal debt (money borrowed from the Federal Reserve System) at one trillion, seventy billion, two hundred forty–one million dollars, said Roberts. 'Interest paid to Federal Reserve stockholders by American taxpayers on the $1,070,241,000,000 debt,' Roberts stated in his testimony, 'is one hundred fifteen billion, eight hundred million dollars.'

Charging that the federal debt is a lien on all property, both public and private, in the United States, Roberts said that the Open Market Committee of the Federal Reserve System determines the course of the U.S. economy by setting interest rates charged by member banks, regulating the volume of Federal Reserve notes in circulation, determining the value of money, regulating the stock market, and by controlling other economic factors.

'The Fed,' he state, 'controls the government and determines whether American citizens will live in a prosperous or bankrupt society.' Congress has no authority to transfer these vast powers to a cartel of private bankers. The Constitution is very specific about this. Article 1, section eight of the Constitution of the United States directs that, 'The Congress is authorized to borrow money on the credit of the United States,' and, '…to coin money and regulate the value thereof.'

Quoting Constitution Law (16 Am Jur 2d), Roberts said, 'The general rule is that an unconstitutional statute, whether federal or state, though having the form and name of law, is 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. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed.'

'Being unconstitutional,' Roberts told panel members, 'the Federal Reserve Act (H.R. 7837) must be put down.

The State of Arkansas, operating at its highest sovereign capacity, has the power to correct the 'unconstitutional' Federal Reserve Act of the 1913 Congress by directing its agents in Washington to 'enact such

legislation as is necessary to repeal the Federal Reserve,' as they are authorized to do under the provisions of section 30 of the Act.

Corrective action in the twenty–fifth state, inspired by a coalition of conservative organizations headed by Mathias Frank, is supported by parallel legislation in Arizona, Washington, Nebraska, North Carolina, Montana, Pennsylvania, Utah, Alabama, Idaho, Illinois, Texas, Virginia, Oregon, and Indiana.

In special session, the Arkansas house of Representatives heard Roberts summarize the effect on the state's economy passage of HCR #18 would ultimately have. By supporting U.S. Congressman Ron Paul's bill to rescind the Federal Reserve Act, Arkansas agriculture would be energized, business and industry rejuvenated, and the freedoms of person and property guaranteed to the people of Arkansas by the Constitution would be restored and preserved."

See Lt. Col. Roberts' book pp. 41–43 as found on 8/6/16 at: http://documents.mx/documents/the-most-secret-science-by-archibald-e-roberts.html and at: https://issuu.com/guraja/docs/roberts__archibald_e._-_the_most_se

153 As a relatively new word to the English language, "*corporatocracy*" is becoming popularly recognized as describing the character of operation of what President Dwight Eisenhower popularly coined as the "*military–industrial complex*" as it has evolved and privatized over the last several decades.

On 3/16/11, Bruce Levine of the Huffington Post referred to the *corporatocracy* taking over America as the "*too–big–to–fail*" corporations, the extremely wealthy elite, and corporate–collaborator government officials. (Found on 8/5/16 at: http://www.huffingtonpost.com/bruce-e-levine/the-myth-of-us-democracy-corporatocracy_b_836573.html) Robert Gibson of the Huffington Post, on 11/2/11, called the corporatocracy – being the above-described people – "*the 1 Percent*." (Found on 8/5/16 at: http://www.huffingtonpost.com/carl-gibson/the-corporatocracy-is-the_b_1070659.html) He pointed out then that "*Congressional approval [was then] in the single digits*," an all–time low. Gibson added:

"The federal government is certainly complicit in the oppression of the 99%. And the people are rightly upset....The Federal Reserve's first audit showed trillions in secret bailouts to the same Wall Street banks foreclosing on our homes and laying off thousands, as well as trillions in bailouts to banks outside of the United States. And if that wasn't enough, it appears that the Fed is letting Bank of America dump $74 trillion in derivatives into taxpayer-insured FDIC accounts. President Obama's support for Occupy Wall Street seems hollow when such rampant greed and corruption is allowed to continue under the nose of our supposed regulators."

Meanwhile, the Mises Institute, an organization specializing in economics and number–crunching calculates that "*1–percent*" as follows:

*"[T]here is a long intellectual tradition, dating back to the late Middle Ages, that draws attention to the strange reality that a tiny minority lives off the productive labor of the overwhelming majority. **I'm***

The seditious and treasonous activity is quite thoroughly found in the history of lawmaking; as it is played out in the Halls of Congress, much of what is clearly *unconstitutional,*[154] and with many legislative bills getting passed without even

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> ***speaking of the state, which even today is made up of a tiny sliver of the population but is the direct cause of all the impoverishing wars, inflation, taxes, regimentation, and social conflict.*** *This 1 percent is the direct cause of the violence, the censorship, the unemployment, and vast amounts of poverty, too.*
>
> *Look at the numbers, rounding from latest data. The US population is 307 million. There are about 20 million government employees at all levels, which makes 6.5 percent. But 6.2 million of these people are public-school teachers, whom I think we can say are not really the ruling elite. That takes us down to 4.4 percent. We can knock of another half million who work for the post office, and probably the same who work for various service department bureaus. Probably another million do not work in any enforcement arm of the state, and there's also the amazing labor-pool fluff that comes with any government work. Local governments do not cause nationwide problems (usually), and the same might be said of the 50 states. The real problem is at the federal level (8.5 million), from which we can subtract fluff, drones, and service workers.*
>
> *In the end, we end up with about 3 million people who constitute what is commonly called the state. For short, we can just call these people the 1 percent. The 1 percent do not generate any wealth of their own.* ***Everything they have they get by taking from others under the cover of law.*** *They live at our expense. Without us, the state as an institution would die....[Yet,]* ***[t]he state is the only institution in society that is permitted by law to use aggressive force against person and property.****"*

[154] The "*Necessary and Proper Clause*" of the Public Trust (i.e., the U.S. Constitution Art. I, § 8, Cl. 18) instructs the fiduciaries in Congress: "*To make all Laws which shall be necessary and proper for carrying into Execution...*" the "*enumerated and legitimate object of federal jurisdiction*." [*See* Natelson, *id*, (p. 1140) citing *The Federalist No. 27*, (Alexander Hamilton)] Yet what we see today clearly shows that every member of Congress is regularly violating their own fiduciary duty to follow this cardinal instruction to "*limit*" such legislation to only that which is "*necessary and proper*." Underscoring this claim are the facts, published publicly on 3/29/15 and in plain view of all state and federal legislators by the USA Today newspaper with the headline reading, "*You Are Probably Breaking the Law Right Now: When lawmakers don't even know how many laws exist, how can citizens be expected to follow them?*" (Article written by Glenn Harlan Reynolds as found on 8/5/16 at: http://www.usatoday.com/story/opinion/2015/03/29/crime-law-criminal-unfair-column/70630978/)

As not only pointed out by USA Today, but also by other highly visible publications, not only are there countless laws that are outdated and inapplicable by today's changes in conditions or behavioral standards...

> *"[A] century or two ago nearly all crime was traditional common-law crime — rape, murder, theft and other things that pretty much everyone should know are bad — nowadays we face all sorts of 'regulatory crimes' in which intuitions of right and wrong play no role, but for which the penalties are high....Regulatory crimes [are]...likely to trap unwary individuals into being felons without knowing it."*
>
> Now, the old adage of "Ignorance of the law is no excuse," taken from the legal aphorism that *"[e]very man in presumed to know the law... is outdated, unfair and maybe even unconstitutional. '[N]o exact count of the number of federal statutes that impose criminal sanctions has ever been given, but estimates from the last 15 years range from 3,600 to approximately 4,500.' Meanwhile, according to recent congressional testimony, the number of federal regulations (enacted by administrative agencies under loose authority from Congress) carrying criminal penalties may be as many as 300,000.*
>
> *And it gets worse. While the old-fashioned common law crimes typically required a culpable mental state — you had to realize you were doing something wrong — the regulatory crimes generally don't require any knowledge that you're breaking the law....'How can people be expected to know all the laws governing their conduct when no one even knows exactly how many criminal laws exist?'"*

And it DOES get even worse:

> *"'Justice' is harsher in America than in any other rich country. Between 2.3m and 2.4m Americans are behind bars, roughly one in every 100 adults. If those on parole or probation are included, one adult in 31 is under "correctional" supervision. As a proportion of its total population, America incarcerates five times more people than Britain, nine times more than Germany and 12 times more than Japan. Overcrowding is the norm. Federal prisons house 60% more inmates than they were designed for. State lock-ups are only slightly less stuffed....It [purportedly] costs [taxpayers] upwards of $50,000 a year to have [anyone] in state prison..."* [The Economist, published on 7/22/10; "*Rough Justice: Too Many Laws, Too Many Prisoners (Never in the civili[z]ed world have so many been locked up for so little)*"] Found on 8/5/16 at: http://www.economist.com/node/16636027

And the causes of these American woes are not only senseless, they are both preventable and correctable.

> *"Two forces make American laws too complex. One is hubris. Many lawmakers seem to believe that they can lay down rules to govern every eventuality. Examples range from the merely annoying (eg, a proposed code for nurseries in Colorado that specifies how many crayons each box must contain) to the delusional (eg, the conceit of Dodd-Frank that you can anticipate and ban every nasty trick financiers will dream up in the future). Far from preventing abuses, complexity creates loopholes that the shrewd can abuse with impunity.*

getting read by the majority (or even a healthy minority).[155] Likewise, sedition and treason are played out in the State and United States courts,[156] with rulings being

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> *The other force that makes American laws complex is lobbying. The government's drive to micromanage so many activities creates a huge incentive for interest groups to push for special favours. When a bill is hundreds of pages long, it is not hard for congressmen to slip in clauses that benefit their chums and campaign donors. The health-care bill included tons of favours for the pushy. Congress's last, failed attempt to regulate greenhouse gases was even worse.*
>
> *Complexity costs money. Sarbanes-Oxley, a law aimed at preventing Enron-style frauds, has made it so difficult to list shares on an American stock market that firms increasingly look elsewhere or stay private. America's share of initial public offerings fell from 67% in 2002 (when Sarbox passed) to 16% last year, despite some benign tweaks to the law. A study for the Small Business Administration, a government body, found that regulations in general add $10,585 in costs per employee. It's a wonder the jobless rate isn't even higher than it is."* [The Economist, 2/18/12; "*United States Economy: (Over-regulated America, The Home of Laissez-faire is being suffocated by excessive and badly written regulation)*"] Found on 8/5/16 at: http://www.economist.com/node/21547789

[155] As we shall recall, during his interview with filmmaker Michael Moore at the time he made "*Fahrenheit 9/11,*" it was the longstanding career Michigan legislator, ("Rep.") John Conyers, who admitted before the world that "*no lawmaker reads all the bills in Congress*." For an explanation of why that might be, the Patriot Act will serve as a prime example:

> *"The PATRIOT Act, introduced in the House of Representatives on October 23, 2001. [T]he bill contained provisions aimed at expanding the federal government's ability to gather intelligence, engage in domestic surveillance and secret searches and detain immigrants with little restraint. The provisions in the PATRIOT Act became immediately controversial, as civil liberties groups argued that these provisions gutted constitutional protections provided to citizens for generations.*
>
> *The bill was brought to the floor of the House of Representatives on October 23, the same day it was introduced. Many Democrats expressed extreme displeasure over the hurried nature of the process. Rep. Bobby Scott said, 'I think it is appropriate to comment on the process by which the bill is coming to us. This is not the bill that was reported and deliberated on in the Committee on the Judiciary. It came to us late on the floor. No one has really had an opportunity to look at the bill to see what is in it since we have been out of our offices.' Rep. John Conyers, the ranking member of the Judiciary Committee, declared, 'we are now debating at this hour of night, with only two copies of the bill that we are being asked to vote on available to Members on this side of the aisle.' ...The bill passed on October 24 by a vote of 357-66. The Senate passed the bill the very next day and the president signed the bill on October 26, 2001."*

unconstitutionally issued and criminally contrived "*under color of law,*"[157] bearing little semblance to the actual facts[158] presented to (and too often barred from being presented to) these so–called "*[kangaroo] courts*."[159]

The above was found on 8/5/16 in an article written by Blumenthal, Paul. "*Congress Had No Time to Read the USA Patriot Act*." Sunlight Foundation, (3/2/09); as located at: https://sunlightfoundation.com/blog/2009/03/02/congress-had-no-time-to-read-the-usa-patriot-act/

156 Despite the multitude of opportunities, at any level of "*judicial review*" of cases, counterclaims and crime reports calling out the criminal activities of government usurpers, or by way of review of judicial misconduct complaints, do federal judges – including the justices of the U.S. Supreme Court – file their own discretionary motion or crime report against the treachery about which they have been made privy. Such missed opportunities completely disregard the following very applicable federal codes:

USC TITLE 18 SEC. 2381 – *Whoever, owing allegiance to the United States, levies War against them or adheres to their enemies, giving them aid and comfort within The United States or elsewhere is guilty of treason and shall suffer death.*

USC TITLE 18 SEC. 2382 – *Whoever, owing allegiance to the United States, and having knowledge of the commission of any treason against them, conceals and does not as soon as may be, disclose and make known the same to the President or to some judge of the United States, is guilty of Misprision of Treason and shall be fined not more than $10,000, or imprisoned not more than seven years, or both.*

USC TITLE 18 SEC. 2383 – *Whoever, engages in rebellion or* ***insurrection against the authority of the United States****, or the laws thereof, or* ***gives aid and comfort*** *thereto, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.*

USC TITLE 18 SEC. 2384 – *If two or more persons in any State or Territory, conspires to overthrow, put down, or destroy by force the Government of the United States* ***or delay the execution of any law of the United States contrary to the authority thereof****, they shall each be fined not more than $20,000 or imprisoned not' more than twenty years or both.*

157 Jon Roland refers to 16 American Jurisprudence 2d, Sec. 256 when writing, "*Strictly speaking, an unconstitutional statute is not a 'law', and should not be called a 'law',* ***even if it is sustained by a court, for a finding that a statute or other official act is constitutional does not make it so, or confer any authority to anyone to enforce it.****"* (Bold emphasis added) See his webpage captioned, "*Unconstitutional Official Acts*," found on 8/6/16 at: http://www.constitution.org/uslaw/16amjur2nd.htm . Also.....

In providing well–rounded clarity as to the actual duties of federal judges as fiduciaries of the Public Trust, both sections 255 and 256 are provided herein of 16 American Jurisprudence:

16Am Jur 2d., Sec. 255: *"In all instances, where the court exercise it's power to invalidate legislation on constitutional grounds, the conflict of the statute, with the constitution must be irreconcilable. Thus a statute is not to be declared unconstitutional unless so inconsistent with the constitution that it cannot be enforced without a violation thereof. A clear incompatibility between law and the constitution must exist before the judiciary is justified holding the law unconstitutional. This principle is of course in line with the rule that doubts as the constitutionality should be resolved in favor of the constitutionality and the beneficiary."*

16Am Jur 2d., Sec. 256: *"The general rule is that a unconstitutional statute, whether Federal or State, though having the form and name of law as in reality no law, but is wholly void and ineffective for any purpose since unconstitutionality dates from the enactment and not merrily from the date of the decision so braining it. An unconstitutional law in legal contemplation is as inoperative as if it never had been passed. Such a statute lives a question that is purports to settle just as it would be had the statute not ever been enacted. No repeal of an enactment is necessary, since an unconstitutional law is void. The general principles follows that it imposes no duty, converse no rights, creates no office, bestows no power of authority on anyone, affords no protection and justifies no acts performed under it. A contract which rests on a unconstitutional statute creates no obligation to be impaired by subsequent legislation. No one is bound to obey an unconstitutional law. No courts are bound to enforce it. Persons convicted and fined under a statute subsequently held unconstitutional may recover the fines paid. A void act cannot be legally inconsistent with a valid one and an unconstitutional law cannot operate to supersede an existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. Since an unconstitutional statute cannot repeal, or in anyway effect an existing one, if a repealing statute is unconstitutional, the statute which it attempts to repeal, remains in full force and effect and where a statute in which it attempts to repeal remains in full force and effect and where a clause repealing a prior law is inserted in the act, which act is unconstitutional and void, the provision of the repeal of the prior law will usually fall with it and will not be permitted to operate as repealing such prior law. The general principle stated above applied to the constitution as well as the laws of the several states insofar as they are repugnant to the constitution and laws of the United States."*

As found on 8/6/16 at: https://ia801703.us.archive.org/8/items/ConstitutionalLaw/Constitutional%20Law%20-%20Your%20Ironclad%20Guarantee%20of%20Freedom.pdf

158 The overwhelming Evidence submitted by the scores of court case examples affiliated with this instant overall filing against state and federal judges and their syndicated network of other judges, court and legal clerks, and fellow BAR member attorneys, shows that even more so than the oral and written rulings being presented to the public creating the "*precedence*" in case law history, are the "*unpublished*" state and federal rulings, which altogether demonstrate that not only

With regard to State and Federal magistrates, *judges*, and *justices*, all the way up the chain to the respective State and Federal Supreme Court(s), they are otherwise *personally* responsible, particularly those with "*lifetime–employment, as "independent"* fiduciaries of the Public Trust, for ensuring that the federal judiciary keeps NOT ONLY the other two (Legislative and Executive) Branches constitutionally in "*check*" but so too the governments of all of the States in

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are the judges and "*justices*" grossly misinterpreting and misapplying the laws but so too are distinguishing the FACTS based upon significant "*errors and omissions*;" thus allowing them to find their way to misapplying laws to lesser–significant facts while failing to litigate more relevant facts which corrupt appellant judges subsequently further bury in obscurity with another layer of the same. This "*pattern and practice*" is criminal in nature, because it intentionally denies litigant proper *litigation of the merits* of their stated claims and thus, denies them the Constitution's First Amendment guarantee of "*meaningful*" access to the Court for a substantive address of their "*redress of grievances*."

159 The overwhelming Evidence presented with this instant action now personally naming the State and Federal judges in their private capacities, shows that these public functionaries have been repeated informed that a broad spectrum of judicial misconduct exists, not the least of which manifests in the *pattern and practice* of "*cherry–picking*" which facts to "*litigate*" and which to suppress; while prejudicially misapplying analogies of case law in the attempt to justify these judges otherwise blatantly committing *constructive frauds* in both their oral and written rulings to the official *Court of Record*.

Other unethical tactics used by judges includes "***passing the buck***" (i.e., judges dismissing legitimate claims against corporate and/or government "*actors*" or convicting a defendant while relying upon the "*losing*" litigant to pay the costs of an appellate review); "***bait and switch***" (i.e., judges stringing litigants along until an incriminating or case–turning motion is set for hearing and then having a "substitute" judge throw the case, and with the returning judge dismissing any subsequent "motion for reconsideration" or for a rehearing on the original matter dismissed); and "***gagging the truth***" (i.e., judges postponing proceedings, getting themselves replaced to add further delays, holding closed hearing and ex–parte meetings, barring personal recording devices in the courtroom, and/or outright issuing gag–orders to thwart and inconvenience independent court-watchers and others auditing the activities of the court, who may otherwise become witnesses to the numerous forms of due process deprivations that frequently, blatantly, and corruptively take place "*at the bench*.")

constitutional compliance. It is therefore well beyond a reasonable time for exposing the *pattern and practice* of how the federal "*system*" being operated by the *agents* of SCOTUS,[160] really functions to create and sustain social chaos, political anarchy, and what amounts to the wholesaling of *domestic terrorism*.[161]

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[160] While it was Congress that acted under its Article 1 constitutional authority to "*ordain and establish*" the federal judiciary by the Judiciary Act of 1789, through its Article III powers of "*judicial review*" of "*all cases in law and equity, arising under the Constitution, the laws of the United States and Treaties…to controversies to which the United States shall be a party….to all cases of admiralty and maritime, etc. etc.,"* the individual SCOTUS judges have failed time and time again to use their rulings to alert the Senate, and the public, about the gross miscarriages of injustices – the breaches of fiduciary duties and the constructive crimes of fraud – that are regularly taking place at the lower court levels. Similarly, though there is plenty of evidence of the population using the system set into place (i.e., the process of reporting judicial misconduct to the Article III appellate courts), which includes complaints by both litigants without attorneys and even some whistleblower attorneys, as Dr. Richard Cordero's analysis of the data shows, in nearly all cases, nothing is being done by this grossly negligent judicial oversight. **(*See again*, Cordero, *supra*, reporting of his analysis of over a decade of the federal courts' own data history revealing "*their motive, means, and opportunity to engage in financial and non-financial wrongdoing so [systemically] routine, widespread, and coordinated among themselves and between them and insiders as to have turned wrongdoing into their Judiciary's institutionalized modus operandi.*")**

[161] Importantly, at this time of writing this instant "*Memorandum on Rights of (We), The People*…" PAG/Grievant David Schied has had a case sitting in the hands of a 91-year old "*lifetime employed*" Article III judge, Avern Cohn, who has declined to take any adjudicative action yet since this case was filed in May of 2015. This was a case specifically referring to and describing acts of *domestic terrorism* taking place by state and federal judicial usurpers and their fellow members of the State Bar of Michigan, running such offices (and slipping through the revolving door in and out of such offices) as the that of the U.S. Attorney, the Michigan Attorney General, the Michigan Governor, the Michigan Court of Appeals, the U.S. District Court, the FBI, and state and federal Departments and Offices of Civil Rights.

Notably, on 3/31/16, fourteen (14) more people joined that federal case echoing the same or similar claims about named perpetrators operating within the territorial boundaries of the "*Charter County of Wayne*" surrounding Detroit, while placing their claims into formal Affidavits against the quasi-governmental "*corporation*", and filing against its "*terrorism*" insurance policy rider on an "*errors–and–omissions*" policy, seeking extra–judicial remedies. All this was done because

The analysis of such sedition and treason, additionally, strongly implicates all state and federal "*judicial officials*," as members of the private American BAR Association and its various "*State Bar*" franchises. **It is by their actions, as sanctioned by the Supreme Court "*justices*"** – under the auspices of operating both Article I and Article III courts, having jurisdiction over a wide range of cases varying from those guided by admiralty and maritime laws to those guided by civil, administrative and common laws, and operating under more recently devised "*Federal Rules of [Civil and Criminal] Procedure*"[162] that combine "*in equity*" with

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they too have found that the government, otherwise "*created and ordained*" by the people, has long been overrun by a widespread racketeering operation and crime syndicate so large as to make the 1980's "*Operation Greylord*" cases of Chicago look like a family picnic.

The corruption of the federal judges in that Southeastern region of Michigan is so bad – given the "*pattern and practice*" of Article I magistrate "*striking*" substantive Statements and Evidence from the federal record, and both judges and magistrates "*dismissing*" cases where jury trials have already been both demanded and (at the state circuit court) also paid for in advance (and without refund of the pre–collected jury fees) – that a separate "*Article III Court of Record*" has been set up for this case on the Internet, where ALL actions in the case can be found. See the main page for that entire case as posted publicly for the public at large to personally view at: http://cases.michigan.constitutionalgov.us/david-schied/2015_SchiedvJudgeKarenKhaliletalinUSDCEDM/

[162] Subrin, Stephen. *How Equity Conquered Common Law: The Federal Rules of Civil Procedure in Historical Perspective*. U. Penn. Law Rev. 1987; (Vol. 135; pp. 909–1002) In 1938, and after several failed attempts by the American Bar Association during the last two decades of the Nineteenth Century, as joined by the persisting actions of Harvard attorney by the name of Roscoe Pound (who initiated the Twentieth Century procedural reforms), the ABA's private membership of attorneys and judges successfully got Congress to pass the *Enabling Act of 1934* authorizing SCOTUS to propagate the Federal Rules of Civil Procedure. (p. 909)

> "*The basic theme sounded by Pound remained as a constant in the movement. Formal procedural rules were no longer appropriate to define, confine, and attempt to deliver substantive law in a predictable manner. Instead, procedure was to step aside and let the substance through. In short, judges were to have discretion to do what was right. While common law and Field–like procedural thought died with the movement, Equity*

"*in law*"[163] – **which have yielded such a wide field of "*judicial discretion*"[164] that attorneys and judges can shamefully do whatever they want (i.e., denying litigants constitutionally guaranteed "*due process*" on "*litigation of the merits*" of their**

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lived on through the Federal Rules. ***The courts continue to live with the chaotic results of this uncontrolled and uncontrolling procedural system.***" (p. 944) (Bold emphasis added)

As found on 7/23/16 at: http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3957&context=penn_law_review

[163] See online, "*The Continuing Law–Equity Distinction*," courtesy of Justia.com as found on 8/4/16 at: http://law.justia.com/constitution/us/amendment-07/06-continuing-law-equity-distinction.html

> *"Adoption of the Federal Rules of Civil Procedure in 1938 merged law and equity into a single civil jurisdiction and established uniform rules of procedure. Legal and equitable claims which previously had to be brought as separate causes of action on different 'sides' of the court could now be joined in a single action, and in some instances, such as compulsory counterclaims, had to be joined in one action.* ***But the traditional distinction between law and equity for purposes of determining when there was a constitutional right to trial by jury remained and led to some difficulty.****"*

[164] In continuing from the previous footnote, such "*difficulty*" lay at what this "*Memorandum on Rights of (We), The People*..." asserts has long been the abuse of judicial discretion combined with the following contextual facts going on for the last three-quarters of this past century:

> *Id. "Under the old equity rules it had been held that the absolute right to a trial of the facts by a jury could not be impaired by any blending with a claim, properly cognizable at law, of a demand for equitable relief in aid of the legal action or during its pendency. Hipp v. Babin, 60 U.S. (19 How.) 271, 278 (1857). The Seventh Amendment was interpreted to mean that equitable and legal issues could not be tried in the same suit, so that such aid in the federal courts had to be sought in separate proceedings. Scott v. Neely, 140 U.S. 106, 109 (1891); Bennett v. Butterworth, 52 U.S. (11 How.) 669 (1850); Lewis v. Cocks, 90 U.S. (23 Wall.) 466, 470 (1874); Killian v. Ebbinghaus, 110 U.S. 568, 573 (1884); Buzard v. Houston, 119 U.S. 347, 351 (1886).* ***Where an action at law evoked an equitable counterclaim the trial judge would order the legal issues to be separately tried after the disposition of the equity issues. In this procedure, however, res judicata and collateral estoppel could operate so as to curtail the litigant's right to a jury finding on factual issues common to both claims. But priority of scheduling was considered to be a matter of discretion. Federal statutes prohibiting courts of the United States from sustaining suits in equity where the remedy was complete at law served to guard the right of trial by jury and were liberally construed.*** *Schoenthal v. Irving Trust Co., 287 U.S. 92, 94 (1932).*

substantive facts, while simultaneously systematically stripping those litigants of their *Seventh Amendment* guarantees to a Trial by Jury). The judges, in the meantime, have gotten away with all this with a "*wink and a nod*" to their BAR member cohorts as fellow so–called "*officers of the court*," while maintaining full impunity and untouchable "*independence*" through the misapplication of "*judicial immunity*" by others of their judicial *peer group* in charge of such *oversight*.[165]

The truth is however, judicial "*rulers*" that abuse their trust forfeit their authority. All such fiduciary Trustees should otherwise keep in mind that in all likelihood, the people are always watching. Therefore, whether acting in Congress or in the United States Supreme Court, *public functionaries* having substantive power and authority conditionally delegated to them...

> *"...will not be viewed by the people as part of themselves, but as a body distinct from them,...having separate interests to pursue. [T]he consequence will be, that a perpetual jealousy will exist in the minds of the people against them; their conduct will be narrowly watched; their measures scrutinized; and their laws opposed, evaded, or reluctantly obeyed. This is natural, and exactly corresponds with the conduct of individuals toward those in whose hands they in trust important concerns."* [166]

Thus, it may be said that there is a natural tendency for people who are patriotically conscience of the terms of the *Public Trust* document, who have the capacity to share the Founders' awareness that enunciated rights come with fiduciary duties, remember that history furnishes many mortifying examples of how

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[165] See again, generally, Dr. Richard Cordero's statistical analysis of the statistics of the federal courts' own system in his published research results: "*Exposing Judges' Unaccountability and Consequent Riskless Wrongdoing*..."; (*supra*).

[166] Natelson, *supra*, pp. 1131 and 1145.

much corruption can actually breed in a free Republic such as the one instituted centuries ago here in America. Whereby...

> *"...persons elevated from the mass of the community, by the suffrages of their fellow-citizens, to stations of great pre–eminence and power, may find compensations for betraying their trust[;] which to any but minds actuated by superior virtue, may appear to exceed the proportion of interest they have in the common stock, and to overbalance the obligations of duty."*[167]

WHEREFORE then, it is given that, at minimum, the named State and Federal *magistrates*, *judges*, and *justices* all the way up to the State and United States Supreme Court(s), as fiduciaries of the Public Trust, are familiar with the *organic* Constitution and the terms under which they have agreed to be bound; and,

WHEREFORE, each of the named State and Federal *magistrates*, *judges*, and *justices* all the way up to the State and United States Supreme Court(s) is fully aware that all persons invested with the powers of government, as Trustees, are duty-bound and laden with delegated obligations to protect and uphold that Public Trust, and, as such, are accountable for their conduct; and,

WHEREFORE, each of these named State and Federal *magistrates*, *judges*, and *justices* are aware that loss of capacity or corruption might be fatal to the Republic, and any participation, overtly or covertly, in such abuses of power warrant the charge of Treason and the consequent of Impeachment; and,

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[167] *Ibid.* p. 1147; Nadelson quoting Alexander Hamilton from The Federalist, No. 22. See also (same page), Nadelson quoting from a letter by Roger Sherman, dated December 8, 1787, which read:

> *"In every government there is a trust, which may be abused; but the greatest security against abuse is, that the interest of those in whom the powers of government are vested is the same as that of the people they govern, and that they are dependent on the suffrage of the people for their appointment to* ***and continuance in office****."* (Bold emphasis)

WHEREFORE, each of these named *magistrates*, *judges*, and *justices* are aware that whenever the ends of government are perverted and the public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old or establish a new government.

THEREFORE, each of the named State and Federal *magistrates*, *judges*, and *justices* all the way up to the State and United States Supreme Court(s) are being charged herein with:

1) Treason upon the American people; *
2) High Crimes and Misdemeanors;
3) Depriving the people of constitutional guarantees to due process, to equal protection, and to their rights to life, liberty and property;
4) Depriving the people of their rights to formulate and operate their own independent grand jury systems, free of the unwarranted and unwanted influence of judges and attorneys;
5) Fostering the legal monopoly of the American Bar Association and their State franchises acting cohesively and in concert as a criminal protection racket against the natural rights of men and women advocating for themselves or for another;
6) Participating in a "*meeting of the minds*" to deny the American people's "*meaningful*" access to *legitimate* state courts and federal Courts of *justice*, and to jury trials in both civil and criminal cases.

* Treason, and Misprision of Treason, as referenced herein, includes both affirmative acts and the failure to act. Thus, giving *aid and comfort* to *insurrection*,

rebellion, and *force* against the ultimate "*authority*" of the United States, being the *people* who have properly reported high crimes, misdemeanors, and treason, in addition to being charged with breach of fiduciary loyalty, obligation and trust; and constructive fraud, includes the tortuous failure or negligence to responsibly and appropriately act against any or all of the preceding lists of described offenses as well as the following list:

a) Depriving the people of constitutional guarantees to due process, to equal protection, to their rights to life, liberty, and property;
b) Fostering and nurturing a nationwide program of government dumbing–down and propagandizing that effectively forces "*politically correct*" secular principles of behavior rather than protecting free and open choices of religious observances and expressive practices;
c) Adopting and promoting *inappropriate* : 1) public education programs (i.e., Common Core is but one element of public schools being used as New World Order political indoctrination systems); 2) government–sponsored national health care programs (and mandating the purchase thereof); 3) subjectivity of the nation's populace to "*chem-trail*" pollution of air and soil; and, 4) participation in a public–schools–to–private–prisons pipeline system targeted at people (mostly male) of color and in the underprivileged communities;
d) Enabling and protecting illegal immigration policies, foreign prisoner releases, and large scale amnesty programs which foster greater criminal victimizations of Americans and increased costs for the policing and housing repeated offenders;
e) Fostering a nationwide judicial system engaged in the wholesale stealing of children from their parents and the corporatized engagement of child trafficking by government–sponsored agencies of Friend of the Court and Child Protection Services;
f) Allowing the federal courts, judges, and nationwide offices of the U.S. Attorney to be used to support the unscrupulous and unlawful tactics of the Internal Revenue Service (IRS) to extort money, to imprison people, to steal property, and to recruit county sheriffs all over the country in assuming the risks of stealing home and property from people using illegitimate "*notices of liens*" on the books of the county recorders as legitimate "*tax–levies*" which otherwise do not contain the actual cured liens.
g) Supporting the mass incarceration of large segments of the American population for victimless crimes and for exercising their rights to travel, leading to destroyed families, people irreparably harmed in their reputations, careers, employment and career opportunity, and violated as to their natural rights not to be subject to peonage or unjust slavery.
h) Tolerating the Executive Branch transforming the United States of America *"from a limited, constitutional, federal republic to a* ***centralized administrative state*** *that for the most part exists outside the structure of the Constitution and*

wields nearly unlimited power"[168] ever–increasingly setting up various levels of administrative agencies, subjecting American "*policies and practices*" to international treaties,[169] and allowing world trade agreements like the Trans–Pacific Partnership ("TPP") to circumvent, undermine and bypass constitutional due process[170] through the set–up of *extra–judicial* tribunals,[171] that act with

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[168] Postell, Joseph. *From Administrative State to Constitutional Government*. The Heritage Foundation (2016) as found on 8/8/16 at: http://www.heritage.org/research/reports/2012/12/from-administrative-state-to-constitutional-government

[169] Wolverton, Joe. (JD). *Attn John Kerry: Treaties Violating the Constitution Are Not the Law of the Land*. (Published by TheNewAmerican.com on 9/26/13).

> *"[When] Secretary of State John Kerry, on behalf of President Barack Obama, signed the United Nations' Arms Treaty...purport[ing] to disarm civilians and consolidate control of all weapons and ammunition of the United Nations and its approved member states.....[both] Senator Jerry Moran (R-Kan)...[and] Rep. Mike Kelly (R-Penn)...declare[d] that the Arms Trade Treaty 'poses significant risks to the national security, foreign policy, and economic interests of the United States as well as to the constitutional rights of United States citizens and United States sovereignty.'*
>
> *When it comes to treaties – or any act passed by Congress for that matter – the analysis must begin by looking within the four corners of the Constitution....It only makes sense that the federal government cannot enter into a treaty that would contravene the Constitution.*
>
> *In a pair of contradictory decisions, the Supreme Court has held that 'No doubt the great body of private relations usually fall within the control of the State, but a treaty may override its power' (Missouri v. Holland) and 'constitutional rights cannot be eliminated by a treaty' (Reid v. Covert).*
>
> ***In light of this duplicity on the part of the Supreme Court and that body's habit of usurping legislation authority, when it comes to preserving the right to keep and bear arms, the states and the people will be required to uphold the liberties protected by our Constitution in the face of federal collusion with the international forces of civilian disarmament.***" (Bold emphasis added)

As found on 7/24/16 at: http://www.thenewamerican.com/usnews/constitution/item/16621-attn-john-kerry-treaties-violating-the-constitution-are-not-law-of-the-land

[170] On July 29, 2016, constitutional educator KrisAnne Hall best summed up the unconstitutional implications for the American people on her *KrisAnne Hall Talk Show* as found on YouTube. In that online radio show, she summed the TPP, which originated with Barack Obama, as follows: (half-mocking Obama and his cronies)

> *"We have a trade agreement – that is not called a treaty [and] will not be ratified by two-thirds of the Senate – with 12 separate countries at the same time. Twelve separate countries! With 12 different interpretations! And 12 different standards of law. And then, we're going to create a monopoly within this trade agreement that says [Americans] can*

only purchase the items from the places that [the U.S. government] say. You cannot have an 'American–based' perspective. It is illegal!

Let me just say this again….It will be illegal for [Americans] to purposely position yourself to 'buy American.' Which means the federal government cannot take that perspective either. That means our in–country federal and state contracts for government work – and I mean state too, and I mean local…this is going to cover everybody: federal, state and local – will now have to allow, by law, foreign companies equal access to competition for government contracts! And then we're going to establish immunity from liability for foreign corporations; which means that they will be able to offer their contracts at a significantly reduced rate, outbidding or underbidding as it were, every single U.S. company [that] will have to suffer from the overwhelming U.S. regulations and liability standards.

What do you think about this so far? Creating monopolies with pharmaceutical firms, and agricultural [firms]…You only buy your seeds from Monsanto. And if you don't allow foreign corporations in your local government….you'll be prosecuted.

They are 'creatively' circumventing the constitution; 'creatively' international rules and regulation….This has nothing to do with [strengthening] the middle class. This has to do with Barack Obama's corporate cronyism; and I will say Congress' corporate cronyism because at this point I don't think there's any difference in ***loyalty*** *between Barack Obama and Congress when it comes to cronyism. And since the 'experts' – the ones [we're] usually supposed to rely on for the advice – don't [seem to] want to 'connect the dots', let me show you how this really works.*

Because running through your mind is this question: Oh my goodness, this TPP is awful. We'll lost jobs, it will bring in foreign law; companies will flee the United States and go to foreign countries; we will outsource all of our labor, all of our products; we will have to compete with foreign countries; we will lose our government contracts; we will be thrown into turmoil of foreign regulation and foreign law…and all with the immunity to the foreign countries; and [with] all the expense on the backs of the American people. How do we stop this?…What do we need to do?

I got bad news for you…you can't stop it….because already did this to you. Congress did this to you with 'TPA'. TPA means 'Trade Promotion Authority.' It's a bi-partisan Congressional act that abdicates Senate control over treaties and gives the President unilateral powers to make trade agreements. This is so very un-constitutional! This actually authorizes Executive Orders on the international level. That's exactly what TPA is…and what TPP will be an executive order on international level. And we can't stop it 'cause Congress created the authority….

You see you won't be bound by constitutional law, you'll be bound by international law….The experts want us to believe that this is not an expansion of presidential power; but they'll tell you every President since Roosevelt has had the authority of these Executive Agreements. But they won't tell you that they're absolutely no constitutional authority for these executive agreements….

But see, we have engaged in Treaties since 1787. Treaties have worked. And now we're being told that unless we give the President of the United States unilateral power to engage in trade agreements – not Treaties – then we will no longer be trading with foreign countries, and the world will come to an end...."

"The executive agreement binds executive agencies, and binds any company, any state or local government that engages in any kind of contracts or foreign trade. International environmental controls? There you go. No problem. International gun standards? No problem. International standards of law? No problem. Why?....We've gotta' get educated....

What TPP does....bans you 'buying American.' I don't think that I can stress that enough. This TPP is going to create corporate shields for foreign corporations and bind us to foreign law....and the whole process is completely unconstitutional. But don't worry; it's not a treaty so it doesn't have to be constitutional. So what's the problem then; how do we fix this? The only way I can see fixing this at this point in time, is for our states and local governments to refuse to comply. The constitutional response to this ought to be, every single governor of these states should draft a letter explaining that because our states were not properly represented in the treaty process as dictated by the constitution this trade agreement is not legally binding upon us. Therefore, we will not honor this trade agreement, putting these foreign countries on notice that they will be making a trade agreement with each other that will not be honored in the United States.

See this is what you need to understand...This was done outside the constitutional process; therefore, it is not legally binding. Listen to what John Jay said in ***Federalist [No.] 64****: [paraphrased]* ***'If the President and the Senate act corruptly, they can be punished. And if they make disadvantageous treaties, how are we to get rid of those treaties? As to corruption, the case is no supposable. [The President] must [either] have been very unfortunate with his intercourse in the world, or possess a heart very susceptible of such impressions, who can think it probable that the President and two-thirds of the Senate will ever be capable of such unworthy conduct.'***

Well, we don't have to worry about that Mr. Jay, because we can simply circumvent the entire process that YOU guys put together to protect us from these disadvantageous treaties. But he says [paraphrased] 'Look, if this happens....if it is not what treaties ought to be....' He said....

'If it should ever happen, the treaty so obtained from us, like all other fraudulent contracts, would be null and void by the law of nations.'

Did you catch that? This TPP is a fraudulent contract. It is not created by law; it is created outside of law. It is not created in a way that our treaties are supposed to be created; and therefore it is null and void!

Found on 8/8/16 at: https://www.youtube.com/watch?v=1pfSz-s65bI&feature=youtu.be

For *Federalist No. 24* (John Jay), see also: http://avalon.law.yale.edu/18th_century/fed64.asp

preferential treatment of foreign corporations, as a Fourth Branch of government.[172]

The American People Have the *Natural Right* to Exercise *Non-Judicial* Remedies Through Independent Grand Jury *Presentments*, Through *Private Prosecutions* on Grand Jury *Indictments*, Through Common Law *Distrain and Distress*, and Through Customary Processes of Applying *Liens in Commerce*

> *"If the authority of the prince is limited and regulated by the fundamental laws, the prince, on exceeding the bounds prescribed him, commands without any right, and even without a just title: the nation is not obliged to obey him, but may resist his unjust attemps* [sic]*. As soon as a prince attacks the constitution of the state, he breaks the contract which bound the people to him; the people become free by the act of the sovereign, and can no longer view him but as an usurper who would load them with oppression. This truth is acknowledged by every sensible writer, whose pen is not enslaved by fear, or sold for hire."*[173]

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[171] Baker, Dean. *Is the Trans–Pacific Partnership Obama's Vietnam?* The Huffington Post. (7/25/16). This article reaffirmed that the design of this 12–nation international trade accord will integrally include "*extra–judicial tribunals*." Found on 8/8/16 at: http://www.huffingtonpost.com/dean-baker/is-the-trans-pacific-part_b_11189256.html

[172] See the Washington Post article on 5/24/13 written by Jonathan Turley captioned, "*The [R]ise of the [F]ourth [B]ranch of [G]overnment*" which compares the Obama administration to a hypothetical "Know–nothing Party" in the context of exponential "sprawl" of administrative departments and agencies that has negatively impacted Americans greatly by lack of effective oversight and accountability by these agencies ever since the U.S. Supreme Court ruled in 1984 (*City of Arlington, Texas et al v. FCC et al* Nos. 11-1545 and 11-1547) that "*agencies are entitled to heavy deference in their interpretations of laws*."

[173] Chitty; *supra;* (p. 17) Chitty continues with emphasis added:

> *"[L]et us remember the essential end of civil society. Is it not to labour in concert for the common happiness of all? Has it not with this view that every citizen divested himself of his rights? and resigned his liberty? Could the society make such use of its authority, as irrevocably to surrender itself and all its members to the discretion of a cruel tyrant? No, certainly, since it would no longer possess any right itself, if it were disposed to oppress a part of the citizen. When, therefore, it confers the supreme and absolute government, without any express reserve,* ***it is necessarily with the tacit reserve that the sovereign shall use it for the safety of the people, and not for their ruin. If he becomes the scourge of the state, he degrades himself; he is no better than a public enemy, against whom the nation may and ought to defend itself; and if he has carried his***

As previously presented herein, history shows that Customary Law (based on *Natural Law*) and statutory and/or Common Law (based on the legalization of *custom*) are independent of one another, though evolving in tandem with one another. The difference between them is as simple as the difference between what is popularly considered "*private*" with the "*natural man*" and amongst nations of human beings operating lawfully in private relationships and in commerce[174]; and

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tyranny to the utmost] height, why should even the life of so cruel and perfidious an enemy be spared? ...

It is more difficult to determine in what cases a subject may not only refuse to obey, but even resist a sovereign, and oppose his violence by force. When a sovereign does injury to anyone, he acts without any real authority; but we ought not thence to conclude hastily that the subject may resist him. The nature of sovereignty, and the welfare of the state, will not permit citizens to oppose a prince whenever his commands appear to them unjust or prejudicial. This would be falling back into a state of nature, and rendering government impossible. A subject ought patiently to suffer from the prince doubtful wrongs, and wrongs that are supportable; the former, because whoever has submitted to the decision of a judge, is no longer capable of deciding his own pretensions; and as to those that are supportable, they ought to be sacrificed to the peace and safety of the state on account of the great advantages obtained by living in society. It is presumed, as matter of course, that every citizen has tacitly engaged to observe this moderation; because, without it, society could not exist.

But when the injuries are manifest and atrocious, when a prince, without any apparent reason, attempts to deprive us of life, or of those things, the loss of which would render life irksome, who can dispute our right to resist him? ***Self-preservation is not only a natural right, but an obligation imposed by nature, and no man can entirely and absolutely renounce it.*** *And though he might give it up, can he be considered as having done it by his political engagements, since he entered into society only to establish his own safety upon a more solid basis? The welfare of society does not require such a sacrifice. ..."*

[174] See again "*The Application of Commercial Law*" (*supra*):

The only 'laws' that the state can create is to 'allow commerce to flow more efficiently WITHIN the state'. The only 'law' the central government, united States of America [sic]*, could create was to 'allow commerce to flow more efficiently BETWEEN the states.'* ***It was never intended to regulate people – the sovereign.***"

"*public*" with the governing of "*persons*"[175] in their varied social, legal [176] and political roles.

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[175] Hall, James; and, Andrews, James. *American Law and Procedure*. (*supra*); pp. 156–157. By historical definitions...

> "*The words persona and personae did not have the meaning in the Roman which attaches to homo, the individual, or a man in the English; it had peculiar reference to* ***artificial beings****, and the* ***condition or status*** *of individuals.*
>
> *Many of the modern civilians have narrowed the import of the term 'person' as meaning a physical or natural person. They define a person thus: 'homo, cum statu suo consideratus;' a* ***'human being, invested with the condition of status.'*** *And, in this definition, they use the term status in a restricted sense, as including only those conditions which comprise rights and as excluding conditions which are purely onerous and burthensome, or which consist of duties merely.* ***According to this definition, human beings who have no rights are not persons, but things, being classed with other things which have no rights residing in themselves, but are merely the subjects of rights residing in others. Such****, in the Roman law, down to the age of the Antonines,* ***was the position of the slave."*** *[Professor John] Austin's Jur., vol. 1, 358."*
>
> *"The signification in Our Jurisprudence.—The word 'person,' in its primitive and natural sense, signifies the mask with which actors, who played dramatic pieces in Rome and Greece, covered their heads. These pieces were played in public places, and afterwards in such vast amphitheatres* [sic] *that it was impossible for a man to make himself heard by all the spectators. Recourse was had to art; the head of each actor was enveloped with a mask, the figure of which represented the part he was to play, and it was so contrived that the opening for the emission of his voice made the sounds clearer and more resounding, vox personabat, when the name persona was given to the Instrument or mask which facilitated the resounding of his voice.* ***The name persona was afterwards applied to the part itself which the actor had undertaken to play****, because the face of the mask was adapted to the age and character of him who was considered as speaking,* ***and sometimes it was his own portrait. It is in this last sense of personage, or of the part which an individual plays, that the word persona is employed in jurisprudence, in opposition to the word man, homo. When we speak of a person, we only consider the state of the man, the part he plays in society, abstractly, without considering the individual."*** *1 Bouvier's Institutes, note 1."*

[176] Defining "*legal*" as opposed to "*lawful*" calls upon qualifying definitions of both words by their uses in context. For instance, as purportedly quoted from *A Dictionary of Law 1893*:

> "***Lawful.*** *In accordance with the law of the land; according to the law; permitted, sanctioned, or justified by law. 'Lawful' properly implies a thing*

conformable to or enjoined by law; 'Legal', a thing in the form or after the manner of law or binding by law. A writ or warrant issuing from any court, under color of law, is a 'legal' process however defective. See legal. [Bold emphasis added]

Legal. *Latin legalis. Pertaining to the understanding, the exposition, the administration, the science and the practice of law: as, the legal profession, legal advice; legal blanks, newspaper. Implied or imputed in law. Opposed to actual."*

"'Legal' looks more to the letter [form/appearance], and 'Lawful' to the spirit [substance/content], of the law. 'Legal' is more appropriate for conformity to positive rules of law; 'Lawful' for accord with ethical principle. 'Legal' imports rather that the forms [appearances] of law are observed, that the proceeding is correct in method, that rules prescribed have been obeyed; 'Lawful' that the right is actful in substance, that moral quality is secured. 'Legal' is the antithesis of equitable, and the equivalent of constructive. 2 Abbott's Law Dic. 24."

"Legal matters administrate, conform to, and follow rules. They are equitable in nature and are implied (presumed) rather than actual (express). A legal process can be defective in law. This accords with the previous discussions of legal fictions and color of law. To be legal, a matter does not follow the law. Instead, it conforms to and follows the rules or form of law. This may help you to understand why the Federal and State Rules of Civil and Criminal Procedure are cited in every court petition so as to conform to legal requirements of the specific juristic persons named, e.g., "STATE OF GEORGIA" or the "U.S. FEDERAL GOVERNMENT" that rule the courts.

Lawful matters are ethically enjoined in the law of the land—the law of the people—and are actual in nature, not implied. *This is why whatever true law was upheld by the organic Constitution has no bearing or authority in the present day legal courts. It is impossible for anyone in 'authority' today to access, or even take cognizance of, true law since 'authority' is the 'law of necessity,' 12 USC 95.*

*Therefore, it would appear that the meaning of the word 'legal' is 'color of law,' a term which Black's Law Dictionary, Fifth Edition, defines as: '**Color of law. The appearance or semblance, without the substance, of legal right. Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with authority of state, is action taken under 'color of law**.' Black's Law Dictionary, Fifth Edition, page 241."*

The above was found on 8/6/16 at:
http://famguardian.org/subjects/LawAndGovt/LegalEthics/LegalVLawful.htm

NOTE: While on the topic of these differences, it is appropriate herein to differentiate between "*attorney*" and "*lawyer;*" and being an "*attorney at law*" and an "*attorney at equity*," or an "*attorney in fact*." See the following for respective explanations:

Kielich, Adam. *Difference between attorney and lawyer in the United States*. (Republished herein in its entirety since it addresses all of terms above in a single article.)

> *"People often used the term lawyer and attorney interchangeably in the United States to denote people who work as legal professionals without giving much thought as to why our profession has two labels for the same legal job. These terms actually have slightly different meanings and not just because lawyer jokes tend to use the word lawyer and not attorney. You might also be familiar with other terms or phrases used to reference lawyers or attorneys such as counselor, solicitor, barrister, attorney at law, attorney and counselor or special counsel. In this country these terms generally have no specific legal meaning but at one point in our legal history these terms all meant something different. (There are a few special terms like solicitor general and attorney general that refer to specific government officials who act as legal counsel for the government entity. We do not use these terms to refer to any other attorneys or lawyers in this country.) Today's post will discuss the difference between lawyer and attorney as well as some of the other terms often used to describe attorneys and how they relate to the American legal system.*
>
> ***The difference between lawyer and attorney in the United States***
>
> *Colloquially even attorneys use these terms interchangeably without regard for the slight difference in meaning applied by the American Bar Association and various other bar associations around the country. You can get by in life without ever needing to know this difference but you clicked on this post so you obviously want to know. Here are the actual meanings of these terms:*
>
> *A* ***lawyer*** *is a person who has been educated in the law. In the United States this almost always means receiving a Juris Doctor from a law school.*
>
> *An* ***attorney*** *is a person who has received a license to practice law by passing a bar examination and satisfying all other licensing requirements in a given jurisdiction. To take a bar examination an individual must first obtain a Juris Doctor although some states allow a person to qualify for the bar exam by reading the law (studying the law under the tutelage of an attorney).*
>
> *Under these definitions all attorneys are lawyers but not all lawyers are attorneys. An individual can be a lawyer by virtue of attending law school but not an attorney without passing a bar exam.*
>
> *In practice the distinction is less meaningful. In legal proceedings the term attorney is used to identify that the attorney appearing in court is actually licensed to practice law in that jurisdiction. Although an unlicensed lawyer is by definition a lawyer, the legal ethics rules in each state tend to prohibit an individual not licensed to practice law in that state from referring to themselves as either a lawyer or attorney if they are not licensed by that jurisdiction. An attorney licensed in another jurisdiction must identify that they are licensed elsewhere to avoid the impression that he or she is licensed in that jurisdiction. A person who has a juris doctor*

from law school may always identify the degree no matter where that person is or is not licensed. When you see the term lawyer or attorney you can likely assume the terms mean the same thing due to these ethics rules.

The origins of the terms attorney at law and lawyer in the United States

If you're still interested in understanding why these almost similar terms are used in our legal system then you have to go back into the history of our judicial system to understand where the terms attorney and lawyer arise, along with their companion terms like counselor, solicitor and barrister. Our legal system is based almost entirely upon the English judicial system although simplified in many ways. (Louisiana state courts are a little different because they developed under the French civil law system while Louisiana was a French colony.) So to understand why these separate terms exist we must travel back in time to our nation's founding as English colonies and then further back into England's history.

In the U.S. a ***state bar*** *admission allows that attorney to practice in any area of law as a litigator (an attorney who goes to court on behalf of a client), prepare transactional documents (such as a contract or will), or provide legal advice. A license issued by the Texas bar allows me to go to court on a divorce, write a non-compete agreement and advise on a consumer debt with no additional licensing. There are a few areas of law exclusively adjudicated by federal law, such as bankruptcy and patents, in which my state license allows me to provide legal advice on that area but I cannot appear in court on behalf of a client in those areas without separate admission for the federal bars that oversee those areas of law. Otherwise bar admissions in the U.S. are general in nature. The English judicial system, like many other European systems, divides the roles of lawyers by expertise rather than the more general authority of attorneys in our country. This division is historical and some parts of this history remain with our legal system.*

In the twelfth century the English judicial system went from a set of disorganized and bizarre rules and procedures to a nationalized legal system ruled by the king who set out a single set of laws–what became ***the common law****–and procedure for the courts. These courts delivered justice by making a liable defendant pay the plaintiff for the harm the plaintiff suffered at the hands of the defendant. They evolved into primarily jury trial courts with complicated procedural rules. This system likely sounds familiar to you as our own jury verdict system. A second set of courts arose later that were courts* ***in equity*** *in which judges ruled on cases out of fairness rather than what the common law required. These courts were less technical although these judges had the power to order a party to do or not do something, what we today call an injunction. The courts* ***at law*** *typically dealt with claims that arose after a body or asset harm had been suffered to offer a remedy while the courts* ***in equity*** *typically dealt with the powers of contracts and other legal documents and the rights under those documents.*

A group of lawyers arose in each set of courts: solicitors in the courts in equity and attorneys at law in the courts at common law. Among the

attorneys a separate group emerged as barristers who were given the right to appear in the appellate courts at law as expert litigators. In the early eighteenth century the division between the courts began to dissolve until England formally merged to [sic] *two together. The position of attorney dissolved largely into the solicitor role and the remaining difference among lawyers were solicitors and barristers. Solicitors handled small claims of all types, drafted documents, provided legal advice and may have prepared claims for trial in more powerful courts. Barristers exclusively litigated claims and were usually hired by solicitors to litigate their claims rather than citizens hire* [sic] *barristers directly. Barristers may also be called counsel (but not counselors). Over time the English system has merged these roles together although there continues to be some differences in their responsibilities and roles.*

While the English courts were merging together and before solicitors and barristers began overlapping work, colonization of America began. The patchwork of English, Dutch, French and Spanish colonies that came together to form this country left a system of state courts that followed a variety of judicial systems. Many states had separate courts at law and in equity. Due to small populations in many communities it was not practical to continue to divide solicitors and barristers and these roles merged generally into lawyers who performed all legal services within the community. Over the nineteenth and early twentieth centuries most states evolved towards a merged judicial system of courts that dealt in both law and equity. Some states continue this division and Louisiana has retained the civil law system from France.

Lawyers were known simply as lawyers in most parts of the country into the twentieth century. In some areas the term solicitor was used and counselor became a popular title for lawyers who litigated and continues to be a popular choice of title used by judges to reference attorneys in court. ***Attorney at law*** *became a popular designation in this country as a way of distinguishing oneself as a litigating attorney. It shares no direct connection with the original English term. It is largely a marketing term that was adopted by many bar associations to identify licensed lawyers. Similarly, counselor has no particular legal meaning in this country and is used in marketing to identify the attorney's willingness to provide advice to clients. We could have just as easily adopted solicitor or lawyer as the appropriate designation for a licensed lawyer but we decided attorney at law was the choice and here we are.*

Other uses for the word attorney in the legal system

We use the term attorney in two other ways in our legal system. First is an attorney ad litem. An attorney ad litem is a licensed attorney at law who has been appointed by a court to represent a party who cannot represent itself. An attorney ad litem is typically represented for children, mentally incompetent individuals and unidentifiable parties in certain types of cases who cannot be found but deserve to be represented. An attorney ad litem must follow the requirements of any court order assigning the ad litem along with any applicable statutory duties.

Therefore, being of "*the people*" having "*created and ordained*" the Public Trust (i.e., the *organic* federal *Constitution*) which formed the federal government in the first place, including the public functionary positions at the Supreme Court of the United States, as the *delegated* fiduciaries of that Public Trust, "*We*," the people – the natural men (and women) of the land commonly referred to as "*America*" – inherently possess the *natural* right, by longstanding (Anglo–Saxon and other international) *custom*, to exercise our own "*original jurisdiction*" in terms of remedies that lay outside of the purview of the government's jurisdiction; hence, "*non-judicial remedies*."

With regard to the people's use of independent Grand Juries for conducting investigations, including the lawful and private investigating of the fiduciary "*justices*" of the America's state and federal courts, and the people's right to issue constitutionally–protected declarations of their findings through "*presentments*,"[177]

> *Second, an individual may be an* ***attorney-in-fact*** *for another party by having the latter* ***party grant a power of attorney to the attorney-in-fact.*** ***An attorney-in-fact does not need to be a licensed attorney.*** *The attorney-in-fact does not become a lawyer by virtue of a power of attorney. Instead the term attorney-in-fact refers to the original meaning of the word attorney which means one who stands in the place of another. An attorney-in-fact acts as the agent of the individual who granted the power of attorney and can do anything the power of attorney grants the attorney-in-fact that the grantor could legally do himself or herself but not act as an attorney-at-law in any capacity.*

The above article was found on 8/6/16 at:
http://www.kielichlawfirm.com/difference-between-attorney-and-lawyer-in-the-united-states/

[177] US Constitution, Fifth Amendment:

> *"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a* ***presentment*** *or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor*

the topic has already been well–addressed by reference to Jason Hoyt's book ("*Consent of the Governed*") and to ("*the late*") Justice Antonin Scalia's ruling in *United States v. Williams*, 504 U.S. 36, (1992).

PRIVATE PROSECUTIONS AND GRAND JURY *INDICTMENTS*

It should suffice to state here that "*[a]though almost all criminal prosecutions today are conducted by public prosecutors, there is a longstanding tradition of Anglo-American law for criminal prosecutions to be conducted by private attorneys or* ***even by laymen****."*[178]

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shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

[178] Roland, Jon. *Private Prosecutions*. (1996) as found on 8/6/16 at: http://www.constitution.org/uslaw/pripro01.htm

> *"The forms of criminal procedure are the same for both kinds of prosecution [i.e., 'public' or 'private'], and they differ only in the official status and source of compensation of the prosecutor. Most of the cases of private prosecution that we find in the federal courts were conducted by private attorneys who also represented the victim in a civil action against the accused.*
>
> *In the early days of our Republic, 'prosecutor' was simply anyone who voluntarily went before the grand Jury with a complaint. — United States v. Sandford, Fed. Case No.16, 221 (C.Ct.D.C. 1806). But by 1871 the principle found voice only in a dissent: '[I]t is a right, an inestimable right, that of invoking the penalties of the law upon those who criminally or feloniously attack our persons or our property. Civil society has deprived us of the natural right of avenging ourselves, but it has preserved to us all the more jealously the right of bringing the offender to justice. By the common law of England, the injured party was the actual prosecutor of criminal offenses, although the proceeding was in the King's name; but in felonies, which involved a forfeiture to the Crown of the criminal's property, it was also the duty of the Crown officers to superintend the prosecution. ...*
>
> *To deprive a whole class of the community of this right, to refuse their evidence and their sworn complaints, is to brand them with a badge of slavery; is to expose them to wanton insults and fiendish assaults; is to leave their lives, their families, and their property unprotected by law. It gives unrestricted license and impunity to vindictive outlaws and felons to*

It is clear that if the public prosecutors were executing their fiduciary functions successfully and in good faith, both at the State levels and at the federal level, private prosecutions would be needlessly pursued, except by the few. However, as this instant case proves, in spades, when government prosecutors turn into *usurpers* – i.e., when abusing their discretion in either refusing to prosecute members of their own *peer group* of other BAR members of attorneys, prosecutors or judges, by fabricating evidence or by withholding exculpatory evidence when pursuing malicious prosecutions, or when steering an impartial jury into prejudicial decisions – American communities *naturally* turn into willing hosts for the revival of private prosecutors and independent grand juries to meet the increased need for challenging and contravening those corrupt environments.

> *"Filtering out personal vendettas is what the grand jury is for. That was one of its major tasks from the outset, when most criminal prosecutions were privately funded. The present system of public prosecutors is certainly not free of personal vendettas. Indeed, that is one of the ways abuse is happening. It just doesn't provide a way to control it when grand juries have been brought under the control of the public prosecutors."*
>
> *There is no real possibility of government officials controlling the abuses of other officials over the long term. That might work for a few shining moments, but it is not sustainable, and once entrenched, corruption can be almost impossible to overcome. The only way to hold officials accountable is to allow private parties from outside the system to effectively*

> *rush upon these helpless people and kill and slay them at will, as was done in this case.*
>
> *Blyew v. United States, 80 U.S. 581, 598-99 (1871) (Bradley, J., dissenting)."*

See also (below), as excerpts from Jon Roland's narrative, "*Let's Revive Private Criminal Prosecutions*," as also found on 8/6/16 at: http://www.constitution.org/uslaw/privpros.htm

> "*Private prosecution is not an established practice in the United States, but a review of state and federal statutes finds no exclusion of it, either. If we find the job not being done by public prosecutors, then citizens have the right and the duty to initiate private prosecutions, and there is a vast agenda for this revived practice."*

intervene, and if the result becomes a tad anarchic, that is not too high a price to pay for accountability."[179]

Constitutional scholar, Jon Roland, has elaborated further on the *how* and the *why* of getting these institutional customary and private processes – of private prosecutors working together with local independent grand juries – back up and operating; so to diminish the prevailing instances of "*government*" crimes when the delegated Trustees abandon their fiduciary duties and engage in constructive fraud by their authoritative and discretionary decision–making.[180]

> *"One of the problems with public prosecutors is that people tend to be less skeptical about the arguments and evidence they might present. They are invested with an aura of authority and respectability that leads both grand and trial juries to go along with them.*
>
> *Now suppose a would–be private prosecutor files his bill of indictment with a grand jury. Knowing it is a private prosecutor, one would expect the grand jury to be more skeptical, both about the evidence and about the fitness of the complainant to prosecute. If it is convinced the evidence is sufficient, it might still doubt the court it serves has jurisdiction, and no–bill.* ***If it is independent of a court, it could return the bill but also pick the court having jurisdiction. And if it had doubts about the fitness or resources of the complainant to prosecute, it could pick someone else to prosecute. That could be the public prosecutor if he convinced them he was willing, or perhaps some lawyer in the community who convinced them he was prepared to do the job well.***
>
> *Now suppose the private prosecutor gets before the trial jury. They will know he is not a public prosecutor, even though he appears in the name of the sovereign, as a private attorney general. They might presume that a public prosecutor would never make invalid legal arguments or present witnesses he knew were lying, but would they presume that for a private prosecutor? We can expect they would not.*
>
> *A false prosecution can itself be prosecuted. Malicious prosecution and abuse of process is not just about civil cases.* ***A private prosecutor***

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[179] *Ibid.* Roland, *Let's Revive Private Criminal Prosecutions*.

[180] What is recognized herein is that from the time government officials abandon their fiduciary obligations and begin to operate deceptively, without transparency, through constructive fraudulence, and by means of committing other crimes, they "*dissolve*" themselves and cease to be operating as "*government*." **In simplified terms, these individuals become otherwise known as *usurpers*, *foreign agents*, *infiltrators*, *traitors*, and *domestic terrorists*.**

would be taking a risk if he didn't do everything right. More of a risk than is incurred by a public prosecutor as the system works today.

We can also expect that in a completely private prosecutorial system, there would emerge a pool of competing private prosecution firms who would compete for the business of prosecution, so that the grand jury could become a commission for awarding contracts to them, based on their bid amounts and reputations.

Upon being appointed prosecutor, the individual member of the firm would have the same official immunity as a public prosecutor, because that appointment makes him a public prosecutor, but a contractor rather than a government employee. That would extend to any members of his firm who assist, or to public employees who do.

The problem is not with official immunity for acting within his lawful jurisdiction, provided that the government backs torts in respondeat superior.[181] *The problem is that the cronyism that develops within departments of government induces them to extend immunity beyond their jurisdiction, and that shields them from suit rather than only judgment. Opening the system to outsiders and competition would hopefully dispel that cronyism and mitigate the problem.*

Abuse of process and malicious prosecution would exceed jurisdiction, and make the offender liable. Could be negligent, not just intentional.

Having a grand jury award defense contracts the same way would be a useful extension, although one might want to use a separate grand jury for that purpose. Another grand jury could hear any issues it chose to hear, and could even issue unsought indictments sua sponte (in which case it is called a presentment), but not override an indictment of another grand jury. If only asked to investigate suitable candidates to serve as defense counsel and choose one, however, that is probably all they would do. Might not be for a particular case. Might be to get a pool of multiple candidates that would then be assigned to defendants at random, with perhaps some choice of the defendant from among members of the pool.

The issue has been raised about whether such prosecution or defense contractors would have any immunity from prosecution for errors or omissions, as well as misconduct.

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[181] See the definition found online on 8/6/16 at *The Free Dictionary*, by Farlex, Inc. at http://legal-dictionary.thefreedictionary.com/respondeat+superior :

> *"The common–law of respondeat superior was established in seventeenth–century England to define the legal liability of an employer for the actions of an employee. The doctrine was adopted in the United States and has been a fixture of agency law. It provides a better chance for an injured party to actually recover damages, because under respondeat superior the employer is liable for the injuries caused by an employee who is working within the scope of his employment relationship. The legal relationship between an employer and an employee is called agency. The employer is called the principal when engaging someone to act for him. The person who does the work for the employer is called the agent. The theory behind respondeat superior is that the principal controls the agent's behavior and must then assume some responsibility for the agent's actions."*

For performing the duties of a public office they would need to be treated identically, and the need to hold contractors accountable would tend to require that government employees be held accountable in the same ways. None of them should be treated as immune for even the smallest action outside their jurisdiction, from one moment to the next. That could come down to liability for three words in the same ten–word sentence without liability for the other seven.

Chief Justice Burger in his dissent to Bivens v. Six Unknown Agents suggested that government allow direct actions under respondeat superior, but he said that Congress should legislate that. That was based on the doctrine of sovereign immunity of the federal government, that it must consent to being sued, but that doctrine is incorrect in the way it has been extended from a monarchy to our republic, for which there can be no proper immunity from suit, only from execution of judgment on its assets. ***In other words, it should always be possible for anyone to sue government, but only collect from funds legislated to pay judgments. A suit serves other purposes than collecting damages, such as establishing the truth, and should not be barred just because the plaintiff won't be allowed to actually collect.***

In civil cases there can be cross defendants and cross complainants. That could be extended to criminal cases. A criminal defendant might complain that the arresting officer assaulted and battered him, or the prosecutor entrapped him by extortion, fabricated evidence, or suborned perjury of witnesses. ***If the defendant filed a criminal complaint it should be handled like any other criminal complaint. It is even possible the two opposing cases could be heard in the same trial, as a kind of joinder. Probably more likely the court would grant a motion for severance of the opposing criminal complaints. Parties on both sides might wind up going to prison, and share a cell."*** [182]

PLACING *DISTRAIN* AND *DISTRESS* AND *LIENS* AGAINST WAGES AND PROPERTY

The process of *distrain and distress* was previous mention in the earlier discussion of this instant "*Memorandum on Rights of (We), The People*..." about the Magna Carta, and the need the *common law* grand juries of today to utilize the longstanding custom of property owners, *distrain and distress*, to either force government officials to compliance through the securitization of their debts on property – such as for back-wages upon a grand jury's finding of breach of fiduciary

[182] *Id.* (Entire excerpt)

obligations – or to bring them to justice through the customary channels of grand jury indictments and jury trials. As the process of *distrain and distress* has been in the Anglo–Saxon, and thus the English, custom since long prior to the era of the Magna Carta,[183] it is clear that throughout time to the present[184] this *lawful* practice is both a *private* and an effective *non–judicial* and/or *extra–judicial* debt enforcement[185] against those owing a fiduciary and/or a contractual duty to property rights owners.[186]

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183 See *The Journal of the Royal Agricultural Society of England*. (Second series, Volume the twentieth) on pp. 50–51 published in London by John Murray, Albemarle Street in 1884 as found on 8/6/16 at: https://books.google.com/books?id=h0DOAAAAMAAJ&pg=PA51&lpg=PA51&dq="distrain"+and+"distress"+and+"Magna+Carta"&source=bl&ots=295KsdCv74&sig=K9iKKqbnsn0lprjFmUONyH37grU&hl=en&sa=X&ved=0ahUKEwi3j7usyK3OAhWKSiYKHYcXDyA4FBDoAQgtMAQ#v=onepage&q=%22distrain%22%20and%20%22distress%22%20and%20%22Magna%20Carta%22&f=false

184 An interesting graph has been set up on the Internet charting the prevalence of the practice of distraining over the course of the past 500 years based upon the frequency of the use of the word "*distrain*" in digitized print sources between the year 1500 and the year 2000. It shows a peak popularity of usage between the rounded century–long time extending from the Revolutionary War period to the Civil War, between around 1750 through 1850, with a slowing diminishing of usage after that to the present. *See* http://englishdictionary.education/en/distrain as found on 8/6/16.

185 Shea, Carolina. *The Abolition of Distress and the New Statutory Regime of CRAR*. Falcon Chambers. The article details a rationale by the Parliament of the United Kingdom to statutorily replace the longstanding, effective custom of distrain by means of the *Tribunals, Courts and Enforcement Act 2007* which purportedly is more "*fair*" because it provides a window of time for tenants to secure their property against sudden seizure; whereas *distrain* – in contrast with *liens* – otherwise required no such window. As discussed in Shea's article, by around the end of the Medieval Period of England, the elite feudal class of barons had been using the common law practice of distrain so often and/or so effectively so as to be "*oppressive*" upon tenants. However, the article does well to also point out the following:

> "*Interestingly the effectiveness of distress was not doubted: such figures as were available (albeit they were not particularly reliable) suggested that distress is not only highly effective but in the large majority*

of cases the mere threat of its use intimidates the tenant into paying without the need for the landlord to resort to the levy of distress.

I pause to note that the arguments rehearsed above, though well made, fail to acknowledge the arguably unique relationship between landlord and tenant, arising out of the special characteristics of real property interests as opposed to interests in personal property (or payment for services). In few other commercial relationships does the arrangements between the parties involve the co–existence of rights (albeit arising out of different interests) of the subject matter of the contract…Further, where applicable, the existence of statutory protection in respect of both commercial and residential occupation, albeit ultimately vulnerable in the face of continuing non–payment of rent, tips the scale in the tenant's favor at least in the short and medium term whilst the creditor landlord spends time (and a substantial percentage of irrecoverable costs) navigating the relevant statutory regime and the civil procedure system.

[Thus, for better or worse,]" the statutory remedy [i.e., of the 2007 Act] is paramount and exclusive: [section 85] prevents any attempt by a landlord to contract into a greater private right of distress than is provided by the 2007 Act."

Found on 8/6/16 at: http://www.falcon-chambers.com/uploads/docs/section9/CRAR_2014.pdf

Note also, that prior to the Great Britain's "*Tribunals, Courts and Enforcement Act 2007,*" the "*distress*" was considered, *"an invaluable and frequently used remedy for the recovery of arrears."* Further, because the "*2007 Act*" has notoriously now set up a highly technical procedure for "*commercial rent arrears recovery*" (or "CRAR") for landlords in England, *its replacement…(of the time-tested custom of distrain)… causes a significant problem for landlords."*

"The requirement with CRAR to serve prior notice gives tenants an opportunity to put goods out of landlords' reach and undermines the remedy. Whilst seeking to protect tenants' human rights and create a more level playing field between landlord and tenant, many landlords will perceive that CRAR has gone too far in helping tenants. The changes also weaken a superior landlord's right to recover rent from sub-tenants, if a tenant of the superior landlord is in arrears."

Quotes immediately above: Gordon, Warren. *Commercial Rent Arrears Recovery*; (Real estate blog) as found on 8/6/16 at: http://www.olswang.com/articles/2013/12/commercial-rent-arrears-recovery/)

[186] Hall, James; and, Andrews, James. *American Law and Procedure*. (*supra*):

"Blackstone's use of the word "thing," if we have at tended his language, is "external objects unconnected with the person." These objects are not always tangible, as we shall see later, though they were termed personal property or choses in action….

[Dr. Hammond says :] 'Things are objects of rights, and, since Blackstone's time, the term has been confined in our law to external things unconnected with the person, such as land, chattels personal, etc.'

This is misleading, perhaps, in ascribing those changes to Blackstone. [Dr. Hammond] continues: 'Prior to Blackstone's time the term 'things' had a much wider comprehension; it was identical with the objects of a right, whether that object had a tangible existence or not. Health, liberty, reputation were things in this sense; and even the indefinite imaginary objects of obligations, having no real existence, were also included under the term....'

It is only necessary to examine the Commentaries of Blackstone and to remember the prior history of English law to understand that...the term 'things' [included] only those objects of rights which were denominated in the English law either real estate, chattels or choses in action....A chose in action was a right to receive or recover a debt, or money or damages for a breach of contract, or for a tort connected with a contract or connected with chattel property...The term 'chose in action' is one of comprehensive import. It includes the infinite variety of contracts, covenants and promises which confer on one party a right to recover a personal chattel or a sum of money from another by action....

Blackstone seems to have entertained the opinion that the term chose, or thing in action, only included debts due, or damages recoverable for the breach of contract, express or implied. (2 Blk. Com. 388, 396, 397.) But this definition is too limited. The term chose in action is used in contradistinction to chose in possession. It includes all right to personal property not in possession which may be enforced by action; and it makes no difference whether the owner has been deprived of his property by the tortious act of another, or by his breach of contract, express or implied. In both cases, the debt or damages of the owner is a 'thing in action.' (2 Kent, 351; 1 Chit. G. P., p. 99, note; Tomlin's L. D., 'Chose;' The King v. Capper, 5 Price, 217; I Lilly, Ab. 378.)" Gillett v. FairchUd, 4 Den. 80-82. See Mex. Cent. Ry. v. Davidson, 157 U. S. 201."

With regard to the American idea[l] of a having any "*right*": (pp. 177–78

"We have seen the definition... '[A] legal right is a capacity resting in one man of controlling, with the assent and assistance of the state, the actions of others....But inasmuch as the conflict may be between the state and the person, this definition will hardly do in American jurisprudence. The state is not the controlling force in our theory of jurisprudence; it is but one of the persons having and owing rights. We claim to have a government of law, not of men.

Perhaps the definition given by Justice Cushing, with Judge Kent's addition, comes as near being correct as anything to be found: 'When I say that a right is vested in a citizen, I mean that he has the power to do certain actions or to possess certain things according to the law of the land'. Kent adds, 'or to require from others'."

With regard to the Supreme Court's defining of "*property*:" (pp. 178–79)

"The word 'property,' although in common parlance frequently applied to a tract of land or a chattel, in its legal signification means only the rights of the owner in relation to it. It denotes a right over a determinate thing. Property is the right of any person to possess, use, enjoy

In distinguishing between the terms, *distrain*, *distress*, and *lien*, it is important to recognize first that *distrain* and *distress* are synonyms when used as verbs: To "*distrain*" means to squeeze, press or embrace, to constrain, or oppress (until and obligation is preformed or by taking the goods and chattel to satisfy an unpaid debt).[187] To "*distress*" means to cause strain or anxiety to someone. As only one of the two words to be used as a noun, a "*distress*" is "*the cause of discomfort*."[188]

A lien, by contrast, is defined as "*any official claim or charge against property or funds for payment of a debt or an amount owed for services rendered*."[189] A typical lien is a formal document constructed and signed by the party to whom a right to money is owed, and by which, when filed with the County Recorder carries the enforceable right to sell a debtor's property, if necessary, to obtain the money. Liens have a common law history, like distrain and distress, dating back to ancient

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> *and dispose of a thing. The term 'property' is often used to indicate the res, or subject of the property, rather than the property itself; but this is not its proper legal sense.*
>
> *[In Camp v. Holt, 115 U.S. 620; (1885)] [The] National Supreme Court [stated,] 'The words "life, liberty and property" are constitutional terms, and are to be taken in their broadest sense. They indicate the three great sub-divisions of all civil rights. The term "property" in this clause embraces all valuable interests which a man may possess outside of himself, that is to say, outside of his life and liberty. It is not confined to mere technical property, but extends to every species of vested right.'"*

[187] The resource for the partial definition included in the parenthesis can be found at *The Free Dictionary* by Farlex (*supra*). For the full definition on the difference between "*distrain*" and "*distress*," see the next footnote.

[188] *See* http://the-difference-between.com/distress/distrain under the Creative Commons licensing, as found on 8/6/16.

[189] See full definition of "*lien*" at Law.com as found on 8/8/16 at: http://dictionary.law.com/Default.aspx?selected=1160

times.[190] Today, we see various types of liens, including those executed in common law, equity, [191] admiralty and special statutes.[192] Examples of liens include

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[190] Liens stem from certain principles of the *Law of Nations* and the *Law of Nature* centering from a sovereign right of succession of property versus the right of another sovereign to "*alienate*" or "*alien*" the first from such right of that succession.

Whether speaking of the hereditary property of the "*crown*" of a monarch or the hereditary succession of property by male family members, in ancient history, "*[t]he right of succession is not always the primitive establishment of a nation; it may have been introduced by the concession of another sovereign,* ***and even by usurpation.*** *"* **Herein lay lessons in history to which sovereign Americans must take particular heed; because history shows that unless eternally vigilant and ever–conscious that sovereignty remains with the people and not with the fiduciaries of the Public Trust, when the people have been *alienated* from their own sovereignty for too long, they, in *de facto*, lose it altogether.** As Chitty (supra) points out (pp. 23–24),

> ***"[W]hen [succession] is supported by long possession[,] the people are considered as consenting to it; and this tacit consent renders it lawful though the source be vicious. [The people] resists then on the foundation…a foundation that alone is lawful and incapable of being shaken, and to which we must ever revert. …***
>
> *It thus remains an undeniable truth, that in all cases the succession is established or received only with a view to the public welfare and the general safety. If it happen then that the order established in this respect became destructive to the state, the nation would certainly have a right to change it by a new law. *Salus populi suprema lex, the safety of the people is the supreme law; and* ***this law is agreeable to the strictest justice, the people having united ill society only with a view to their, safety and greater advantage….The consequence is evident: if the nation plainly perceives that the heir of her prince would be a pernicious sovereign, she has a right to exclude him.*** *…*
>
> *When the right of succession becomes uncertain in a successive or hereditary state, and two or three competitors lay claim to the crown, it is asked, "Who shall be the judge of their pretensions?" Some learned men, resting on the opinion that* ***sovereigns are subject to no other judge but God****, have maintained that the competitors for the crown, while their right remains uncertain, ought either to come to an amicable compromise, enter into articles among themselves, chose arbitrators, have recourse even to the drawing of lots, or, finally, determine the dispute by arms. …****We may affirm, then, without hesitation, that the decision of this grand controversy belongs to the nation alone. … The nation acknowledges no superior judge in an affair that relates' to its most sacred duties, and most precious rights…***
>
> ***As soon as the right of succession is found uncertain, the sovereign authority returns for a time to the body of the state, which is to exercise it,***

mechanic liens,[193] attorney's liens, medical liens, landlord liens and tax liens to name a few.[194]

> ***either by itself, or by its representatives, till the true sovereign be known.*** *"The contest on this right suspending the functions in the person of the sovereign,* ***the authority naturally returns to the subjects, not for them to retain it, but to prove on which of the competitors it lawfully devolves, and then to commit it to his hands.****"*

[191] Rockel, William. *A Treatise on the Law of Mechanics' Liens: Including the Procedure for Perfecting and Enforcing Such Liens, Together with Complete Forms*. Bobbs–Merrill Company; 1909; (p. 4). Equitable liens are said to have a particular character unto themselves, being said to "*rest upon the broad ground of natural equity and commercial necessity*." Because sometimes the broad principles of equity are beyond the reach of statutes, *"[s]ome few courts have held that a lien of this character might be reserved as between the parties*." (Citations omitted)

[192] *Ibid.* (pp. 737–38)

> *"The term 'lien,' as used in the various branches of the law, has a most comprehensive signification, and is employed to designate various charges upon real and personal estate, either at common law, in equity, in admiralty, or those created by special statute.*
>
> *At common law, it is defined to be a right in one man to retain personal property in his possession belonging to another, until certain demands of him, the person in possession, are satisfied.*
>
> *In courts of equity, the term 'lien' is used as synonymous with a charge or encumbrance upon a thing, where there is neither jus in re nor ad rem, nor possession of the thing.*
>
> *In maritime courts, liens exist independently of possession, either actual or constructive.*
>
> *Statutory liens are sui generis, and may arise under any circumstances provided by law. For the most part the latter signify a charge enforce able either at law or in equity, as provided in their creation.*
>
> *The word 'lien' will, when the context of a contract requires it, be construed as a 'claim' or 'demand,' and not in its technical sense."*

[193] Phillips, Samuel. *A Treatise on the Law of Mechanics' Liens on Real and Personal Property,* 2nd Ed.; 1883; (p. 742). (Citations omitted)

> *"There is no doubt that the law of this lien was brought to this country by our ancestors, and that it is a part of our common law. It was as proper for their condition and circumstances here as it had been in the parent land. A similar right existed under the Roman law.*"

[194] *Ibid.* As it regards to courts however, the character of equity liens is different from that of statutory leans, which derive their existence ...

> "*...from the general equitable jurisdiction of the courts, which, on the other hand have no power to enforce [a] statutory lien unless expressly conferred by law, or unless perhaps there exists some impediment or difficulty which would render the remedy given by the statute unavailable*.

"At common law there have been known ***from time immemorial*** *two kinds of liens on chattels, — general and particular liens. General liens are claimed in respect of a general balance of account. They were founded in custom or special contract. Particular liens are where persons claim a right to retain certain chattels in respect of labor or money expended upon them. Bankers, factors, brokers, and wharfingers are entitled to a general lien for the balance of their accounts; and in certain instances,* ***by proof of custom*** *in particular localities, this lien has been extended to calico-printers and dyers. General liens are, stricti juris, deemed encroachments on the common law, and not favored; while, on the other hand, particular liens are considered beneficial to trade, consonant to natural justice, and courts lean in favor of them.....****The existence of liens is also sustained where they contribute to promote public policy and convenience.****"* [195] (Bold emphasis added)

In cases where *this special jurisdiction has been imposed on these courts, they have no authority to extend the lien to cases not provided for by statute. ...* (pp. 5–6)

Some liens may even be enforceable in a court of Chancery. (p. 19) **In any regard, when it comes to the guiding principles and the spirit of the revered *organic* federal Constitution, ...** (Citations omitted)

...[i]t is not generally provided, that, however small be the interest of the contracting party, the lien fastens itself to that extent, and whether the title be legal or equitable." (p.13)

"The true system is that to be found in that which gives advantage to none, while recognizing the just rights of all." (p.14) *"The general rules adopted to discover and interpret the intention of laws are also applicable."* (p. 24) "*[W]hen points arise evidently not foreseen by the legislature, and upon which the statutes have not spoken,* ***the grounds of decision to be resorted to must be the general scope and spirit of the enactment****, the analogy of cases which have already been settled, and such considerations of policy as may be supposed to have had their influence on the minds of the law-makers,* ***and to aim at such results as will most effectually promote the interest and security of those classes of men whom the system was designed to favor.****"* (p. 24)

"But in no case is it competent for the judiciary to set up its views of the general policy of the public against those of the legislature, and, disregarding what may be considered unwise legislation, exert any controlling influence in preventing a fair and liberal interpretation of the remedy contemplated [when] provided by the legislature." (p.25)

[195] *Id.* (p. 739)

When it comes to Trust law,[196] there are three sources of fiduciary duties, the Trust instrument,[197] codified trust laws, and the common law. [198] All three "*are founded upon the same equitable principles.*"[199]

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[196] Natelson, *supra*; (p. 1088).

> "*If the* ***public trust doctrine*** *is to have a meaning beyond the romantic, it is that* ***public officials are legally bound to*** *(appropriately adapted)* ***standards borrowed from the law regulating private fiduciaries.***
>
> *General speaking, the law applying to private fiduciaries imposes higher standards on managers as the potential consequences of breach of duty become more serious, and as it becomes more difficult for beneficiaries to avoid those consequences."*

[197] As propounded by Hartford Van Dyke (*supra*), the *original* Constitution, though presented publicly as a compact between the citizenry of the 13 original colonies as States, served an international purpose in commerce. When analyzed in the context of the time period, and as shown by the (international) *Treaty of Paris of 1783* between the United States of America and Great Britain, there was great concern as to whether and how the people of these newly unified States would pay off their international debts. The Constitution thus presented the international (i.e., the royal and aristocratic) community with the commercial *surety* that the people of the States would, over the long term, remain financially solvent and in comity with the new federal government as it took the lead in strategizing restitution to British creditors of the American success story. In this sense, the Constitution served as a contract between the (people of the) United States and the world in guarantee that the people would satisfy their international responsibility to pay back their debts in international commerce.

Van Dyke presents the reminder that, when first presented to the States, the proposed Constitution as signed in 1787 was not immediately ratified, which was why the *Bill of Rights* was added. "*The Declaration of Independence simply opened the door*," to financial independence as well as political independence. After that, the Continental Congress "*had to lay down enough evidence that our government would treat us properly and that our ability to pay back our debts would not collapse*." That is why Article VII of the Constitution (i.e., ratification by nine States constitutes agreement by all thirteen States) presents the picture that the United States government would be set up in such a way as to treat its people properly, so *acceptably* so that the people, backing the full faith and credit of the U.S. government, both could and would pay back their debts.

> "*The Constitution had to show the world, by its wording, that the U.S. Government would treat its people properly – that it would present some sense of responsible behavior toward the American public – and respond to its people conscientiously, so that the people would not turn against that government and cause an internal*

Of course, trust/beneficiary relationships are controlled and remedially enforced by priority: **First**, according to the terms of **the written Trust instrument** [200] or contract.[201] **Second**, **absent any explicit language of the Trust contract** that

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> *struggle or some type of civil war, which would otherwise prevent the people from stepping up with payment (of taxes) that could be forwarded 'out to sea'.*" **(Hartford Van Dyke, telephone interview, 8/14/16)**

Thus, the Constitution was written in such a way that, when placed in the context of international trade, the United States would present her people with conditions warranting both their ability and their willingness to pay back the government's debts [both then current and future], as needed to be paid in commerce.

This was a tenuous matter however, because when it came time for ratification by the States, there was not enough people willing to sign on to the guarantees of that Trust instrument, unless the Bill of Rights was added:

> ***"[The Bill of Rights] was put in as a commercial instrument, the baseline of a contract between the United States Government and its citizens (or else the people of the States wouldn't sign it), as the absolute guarantee of the government's responsibility. The purpose was not to tell the American people what their rights were, but to [instead] bind the government down in chains, to guarantee that the government would be carried out as the Bill of Rights [minimally] said it would be done.***" (Hartford Van Dyke, 8/14/16)

[198] Bognar, Gabor. *The Equitable Lien as a Remedy for Breach of Fiduciary Duty*. (published on 11/15/12) As found on 8/3/16 at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2552121 See also, Burdette, Mary and Weber, Scott. *Remedies for Breach of Fiduciary Duty*. (p. 9) as prepared for the 37th Annual Advanced Estate Planning and Probate Course (June 26–28, 2013) as found on 7/26/16 at: http://www.dallasprobatelawfirm.com/documents/Remedies-For-Breach-Of-Fiduciary-Duty.pdf

[199] Rockel, *supra,* ("*Preface*," p. iii)

[200] It is noted herein that the "*Trust instrument*" which is referred to here is the organic *Constitution **for** the United States of America*; and that the terms by which this Public Trust was constructed is well–documented in the Federalist Papers and the Anti-Federalist Papers.
Found on 8/10/16:
Federalist Papers –
https://www.congress.gov/resources/display/content/The+Federalist+Papers
Anti–Federalist Papers –
http://www.constitution.org/afp.htm

may run contrary to state or federal unified codes, those codes are controlling in administering that Trust. **Third**, absent either of the first two, **the common law** provides the guiding principles and the duties imposed upon the performance of the fiduciary Trustee(s). [202]

As propounded by Burdette and Weber (pp. 1–4), two Texas attorneys specializing in trust law and fiduciary litigation, **fiduciary duties generally fall into four main categories: 1) duty of loyalty; 2) duty of competence; 3) duty of full disclosure; and, 4) duty to reasonably exercise discretion. When breaches of these duties warrant, though varied and principally tailored to the nature of the breach, the remedies range in the following: a) removal from trustee position; b) denial of trustee salary compensation; c) ordering money damages to satisfy a claim of damages due to the breach of trustee; and/or, d) creating an *equitable lien* or a *constructive trust* [203] to secure the debt of the Trustee to the Beneficiary of the trust.**

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and, http://www.let.rug.nl/usa/documents/1786-1800/the-anti-federalist-papers/

[201] Again, Callaghan (*supra*) reminds us that the *Declaration of Independence* (1776) serves an eternal reminder to Americans that the *natural* rights to "*Life, Liberty and the Pursuit of Happiness*," are "*un**alien**able*;" thus giving rise to the signed 1787 Constitution as a *fiduciary* Trust instrument and serving as a perpetual reminder that **these *natural* rights of American *sovereigns* can never be taken away or "*aliened*" by *any* form of contract.**

[202] Bognar, Gabor; *supra*, p. 1.

[203] Johansen, Erika. *The Difference Between a Constructive Trust and an Equitable Lien*. Found on 8/9/16 at: http://info.legalzoom.com/difference-between-constructive-trust-equitable-lien-24653.html

A constructive trust effectively turns the "*defendant/debtor*" into a trustee in charge of managing a property, security instrument or investment that was procured by breach of fiduciary duties. Following the maxim that "*no one shall profit from their own wrong*," the intent is to make it so that whatever the trustee

Not so coincidentally, **the construction of liens are patterned nearly the same as the construction of distresses; and both are customarily commercial structures**[204] **that function in commerce.**[205] The similarities and differences between distresses and liens are outlined below. Also, while there is much difference in the details of the various statutes of the several states with regard to Trust laws, and few areas that judge–made *precedence* has not covered in all jurisdictions, [206] what is in common in those statutes and decisions has been adequately covered above in footnotes.

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had initially secured of property in his/her own self-interest goes to the beneficiary, who then becomes the secured creditor for that new ("*constructive*") trust.

On the other hand, an *equitable lien* is typically used when one individual "*has either wrongfully acquired someone else's property, or has made improvements to a piece of property using funds [s/]he obtained unfairly. When this happens, the defendant owes a debt to the plaintiff.*" The equitable lien then is applied against real or personal property to secure that debt.

[204] See again "*The Application of Commercial Law*" (*supra*):

> *"The principles, maxims and precepts of Commerce Law are eternal, unchanging and unchangeable. They are expressed in the Bible, both the Old Testament and the New. ...***This law of commerce, unchanged for thousands of years, *forms the underlying foundation for all law* on this planet and for governments around the world.** *It is the [L]aw of Nations and everything that human civilization is built upon. This is why it is so powerful.* **When you operate at this level, by these precepts, nothing that is of inferior statute can overturn or change it or abrogate it or meddle with it. It remains the fundamental source of authority and power and functional reality.***"*

[205] *Id.* In distinguishing between a *lien* and a *true bill* : "*A commercial lien differs from a true bill in commerce only in that ordinarily a true bill in commerce is private, whereas a lien is the same bill publicly declared, usually filed in the office of the County Recorder, and, like all such declarations, when uncontested by categorical point-for-point rebuttal of the affidavit, is a Security (15 USC) and an accounts receivable."*

[206] *See again* the definition of lien provided by Law.com (*supra*). Additionally, when it comes to the courts, the judges of one jurisdiction tend to look with favor on the decisions of those in other jurisdictions.

Seven (7) Essential Elements of All Commercial Instruments [207]

In constructing a commercial instrument, whether a lien or a distress, each instrument is required to contain seven elements to ensure its validity.

1. **Parties and Cause of Action** – The names of the parties are written as fashioned similar to that found in the captioning of court cases, shown as follows in the recommended style for either the lien claimant or the distress demandant:

Lien	Distress
Names of Creditors/Beneficiaries/Claimants Street Address City, State, Zip Code *Lien Claimants/Joint Tenants in Sovereignty* VS. Name of Debtor #1 – Professional title Name of Debtor #2 – Professional title Name of Debtor #3 – Professional title Street Address (if applicable) City, State, Zip Code Severally and jointly liable, *Lien Debtor(s)*	Name of Creditor/Beneficiary/Claimant Street Address City, State, Zip Code *Distress Grievants/Distress Demandants In Joint Tenancy of Sovereignty* VS. Name of Fiduciary/Debtor #1 – Prof. title Name of Fiduciary/Debtor #2 – Prof. title Name of Fiduciary/Debtor #3 – Prof. title Street Address (if applicable) City, State, Zip Code Severally and jointly liable, *Distress Defendant*

[207] This list of elements, as well as other aspects of the commercial process were provided over the course of multiple telephone conversations with Hartford Van Dyke, author of the book, "*The Fundamental Principles and Processes of Commercial Law*."

At the page top, separate the parties on the left and the cause of action on the right.

Names of Creditors/Beneficiaries/Claimants Street Address City, State, Zip Code *Lien Claimants/Joint Tenants in Sovereignty* VS. Name of Debtor #1 – Professional title Name of Debtor #2 – Professional title Name of Debtor #3 – Professional title Street Address (if applicable) City, State, Zip Code Severally and jointly liable, *Lien Debtor(s)*	COMMERCIAL LIEN FOR CRIMINAL BREACH OF PUBLIC OFFICE AND PUBLIC DUTIES WITH AFFIDAVIT OF OBLIGATION

When presenting the parties to a Commercial Lien, conscientiousness of certain *maxims* of law is needed. One such maxim is "*All are equal before the law.*"[208]

2. **Allegations** – This would be a narrative outline of the events of the case written something like a dated diary on what has happened. It should be placed in the form of an Affidavit,[209] and/or a sworn Criminal Complaint. It is recommended to

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[208] See again "*The Application of Commercial Law*;" (supra):

> "*[More precisely,] **ALL ARE EQUAL UNDER THE LAW**. (God's Law Moral and Natural Law). Exodus 21:2325; Lev. 24: 1721; Deut. 1;17, 19:21; Mat. 22:3640; Luke 10:17; Col. 3:25. 'No one is above the law'. This is founded on both Natural and Moral law and is binding on everyone. For someone to say, or acts as though, he is 'above the law' is insane. This is the major insanity in the world today. Man continues to live, act, believe, and form systems, organizations, governments, laws and processes which presume to be able to supersede or abrogate Natural or Moral Law. But, under commercial law, Natural and Moral Law are binding on everyone, and no one can escape it. Commerce, by the law of nations, ought to be common, and not to be converted into a monopoly and the private gain of the few."*

[209] *Id.* One of the more comforting maxims associated with available customary remedies in Commerce is that "***TRUTH IS SOVEREIGN*** *(Exodus 20:16; Ps. 117:2; John 8:32; II Cor. 13:8)..."*

> *"...**and the Sovereign tells only the truth. Your word is your bond.** If truth were not sovereign in commerce, i.e., all human action and*

interrelations, there would be no basis for anything. No basis for law and order, no basis no accountability, there would be no standards, no capacity to resolve anything. It would mean 'anything goes', 'each man for himself', and 'nothing matters'. That's worse than the law of the jungle. Commerce: 'To lie is to go against the mind'. Oriental proverb: 'Of all that is good, sublimity is supreme.'"

Correspondingly, the Truth must be documented. Thus, for applicable purposes in the *Law of Commerce*, the accompanying maxim is:

> *"**TRUTH IS EXPRESSED IN THE FORM OF AN AFFIDAVIT**. (Lev. 5:45; Lev. 6:35; Lev. 19:1113: Num. 30:2; Mat. 5:33; James 5: 12). An affidavit is your solemn expression of your truth. In commerce, an affidavit must be accompanied and must underlay and form the foundation for any commercial transaction whatsoever. There can be no valid commercial transaction without someone putting their neck on the line and stated, 'this is true, correct, complete and not meant to mislead.'*
>
> *When you issue an affidavit, it is a two edged sword; it cuts both ways. Someone has to take responsibility for saying that it is a real situation. It can be called a true bill, as they say in the Grand Jury. When you issue an affidavit in commerce you get the power of an affidavit. You also incur the liability, because this has to be a situation where other people might be adversely affected by it.*
>
> *Things change by your affidavit, in which are going to affect people's lives. If what you say in your affidavit is, in fact, not true, then those who are adversely affected can come back at you with justifiable recourse because you lied. You have told a lie as if it were the truth. People depend on your affidavit and then they have lost because you lied."*

As found at:
https://www.1215.org/lawnotes/work-in-progress/redemption/redemption3.htm

See also Rockel; (supra); pp.204–207. "There are four essentials that the affidavit must contain[.]" First is an inventory of the "*counts*," a recitation or enumeration of what acts resulted in the individual damage or breach of fiduciary duties claims.

> *"As a general rule, an inaccuracy in the account, which was not intended to work a fraud, and which did not actually do so, will not affect the validity of the lien."* (p. 205)

Second, the affidavit must contain a reference to some semblance of the debtors' committal to promised action, such as a promissory note. In the case of a public functionary, it is the constitutional or statutory Oath to the Public Trust, which is, as a matter of common course, due prior to the taking of a fiduciary seat in public office, as sworn either publicly (orally) or privately (written).

Third, the affidavit must reference the contract – or for the public functionary, the relevant "*constitution(s)*" – which provide the guiding principles and obligatory terms of fiduciary performance (as referenced in detail above in this instant "*Memorandum on Rights of (We), The People...*")

Fourth, and finally, the affidavit must contain a reasonable description of the properties against which the lien will be applied:

begin such a story with a "*Plain Statement of the Facts*." EXAMPLE: (*Breach of Fiduciary Duties*):

The Lien Claimant/Beneficiary claims a Lien on the Lien Debtor(s) for criminal breach of public office and public duties as described in the attached U.S. Criminal Complaint, regarding aiding the IRS in the commission of crimes of theft by embezzlement of Lien Claimant's property, i.e., takings without Commercial Affidavits sworn to be true, correct and complete, and without any form of positive identification such as handwritten autograph.
Or,
I, (name), being of sound mind and a beneficiary of the Public Trust, popularly known as the United States (federal) Constitution, do hereby swear to the following as my Criminal Complaint, being also true, correct, complete, and not in any way misleading:

1. On (date #1)....
2. As a proximate cause of the breach of the Fiduciary's/Debtor's duty to....
3. On (date #2)...
4.
5. As a proximate cause of..... Lien Claimant was damaged in the amount of.....
6. Beneficiary/Claimant therefore, as provided by the accompanying ledger, demands disgorgement of all fiduciary salaries paid between (date) and (up to the present).....
7. Additionally, as surety against the above–listed financial and other obligations, Beneficiary/Claimant attaches liens against all performance bonds, blanket bonds, self-insurance funds, error-and-omissions insurance policies, stock certificates, mutual fund and other investment portfolios, real estate of homes and other land holdings, bank accounts, automobiles, etc. purchased from salaries paid from the public Treasury, with liens also applied against investment profits, derivatives, and dividends collected on any investment instruments, either liquidated or still maintained, until such time that the claimed debt is paid to Beneficiary/Claimant in its entirety.

> *"The best and most accurate description should be inserted that can be readily obtained. That is preferred which is contained in the deed evidencing the title of the same. However, such a description is not absolutely essential, and it will be sufficient if it is of such a character that it will advise prospective purchasers and others, of the lien, and of the [property] which is [being] claimed. The fact [of there being] an inadvertent misdescription, will not invalidate the lien on that part of the real estate which is properly described, and the claimant may, if within the time, correct the same by filing another claim with a proper description* [or by addendum to the original lien]." (Citations omitted) (p. 207)

3. **Explicit Ledger** [210] – This would be an itemized statement, presented in such fashion as accounting entries, listing what costs or debits occurred in tandem with the events as they were set forth in the preceding narrative of sworn factual statements.[211]

In the case of creating an accounting for breach of fiduciary duties, such accounting might do well to correspond with events in the narrative, attaching claims for damages based upon specific breaches of fiduciary obligations such as may be provided by the State and United States constitutions, the Bill of Rights,

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[210] Burdette & Weber, (*supra*), p. 6; **Beneficiaries of a Public Trust are...**

> ***"...entitled to be put [back] in the position that they would have been in if no breach had been committed. This is true even if no loss is suffered by the trust. The gain or profit not realized by the trust because of a breach of trust constitutes sufficient injury."***

Moreover,

> ***"A trustee is liable for the amount necessary to fairly and reasonably compensate the trust estate for damages resulting from the breach of trust. There are basically three measures of damages for breach of trust: (1) any loss or depreciation of the value of the trust estate as a result of the breach of trust; (2) any profit made by the trustee through the breach of trust; (3) any profit that would have accrued to the trust estate if there had been no breach of trust."***

[211] See "*The Application of Commercial Law*" (*supra*):

> *"This affidavit is usually required for an application for a driver's license, and IRS form 1040, a voter's registration, a direct Treasury Account, a Notary's 'Copy Certification' or certifying a document, and on nearly every single document that the system desires others to be bound or obligated. Such means of signing is an oath, or Commercial Affidavit, executed under penalty of perjury, 'true. correct, and complete'. Whereas in a court setting testimony (oral) is stated in judicial terms by being sworn to be 'the truth, the whole truth, and nothing but the truth, so help me God.'*
>
> *In addition to asserting all matters under solemn oath of personal, commercial, financial, and legal liability for the validity of each and every statement, the participant must provide material evidence, i.e. ledgering, or bookkeeping, providing the truth, validity, relevance, and verifiably of each and every particular assertion to sustain credibility."*

state statutes, and federal codes. Other recommended resources from which to draw upon maxims and general principles of law[212] that help to determine applicable law, if those maxims and principles are consistent with the policies set forth in statutes and codes, can be found in the various editions of *American Jurisprudence* [213] and *Corpus Juris Secundum*.[214]

Such a ledger might look something like the following EXAMPLE #1:

1) Trustee disregarded a long history of bad behavior, property theft, and waste.	Impeachment; salary forfeiture and disgorgement; lien/distress on property
2) Failure to properly supervise lower levels of federal judges and magistrates	Impeachment; salary forfeiture and disgorgement; lien/distress on property
3) Disregarding repeated reports and evidence of fiduciary breach of Trust.	Impeachment; salary forfeiture and disgorgement; lien/distress on property
4) Participation and leadership in a nationwide crime syndicate	Impeachment; fine; wage confiscation and disgorgement; criminal prosecution
5) Violation of anti-trust laws – fostering a monopoly on the deliberation of law.	Impeachment; criminal prosecution for high crimes and misdemeanors
6) Conspiracy to deprive of rights under color of law (18 U.S.C. §§ 241 and 242.	Impeachment; criminal prosecution; crime victim restitution
7) Misprision of Felony (18 U.S.C. § 4); Misprision of Treason (18 U.S.C. § 2382)	Impeachment; criminal prosecution and, if found guilty, sentencing to death.

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[212] *Id. "Commerce is antecedent to and more fundamental to society than courts or legal systems, and exists and functions without respect to courts or legal systems."* Commercial Law, the non–statutory variety thus, *"is the extension of Natural Law into man's social world and is universal in nature*."

[213] See e.g., *American Jurisprudence, 2nd Ed.: A Modern Comprehensive Text Statement of American Law, State and Federal (completely revised and rewritten in the light of modern authorities and developments, Vol. 25)*. Published by Thompson (2004) as found on 8/12/16 at: http://www.mindserpent.com/American_History/reference/am_jur/amjur_2d_vol_25_proof_of_facts_domicile.pdf

[214] See e.g., *Corpus Juris Secundum: A Complete Restatement of the Entire American Law as Developed by All reported Cases*. (Vol. XLIX). Edited and published by The American Law Book Co. and West Publishing Co. (1947) as found on 8/12/16 at: https://ia600301.us.archive.org/3/items/corpusjurissecun006795mbp/corpusjurissecun006795mbp.pdf

Another such ledger might look something like the following EXAMPLE #2:

The Lien Claimant/Public Trust Beneficiary claims a Lien on the Lien Debtors for criminal breach of public office and public duties as described in the attached U.S. Criminal Complaint, regarding officially aiding the IRS in the commission of crimes of theft by embezzlement of the Lien Claimant's property and bank account, i.e., by takings without Commercial Affidavits sworn to be true, correct and complete and without positive identification and a without point-by-point rebuttal with evidence against the same as otherwise provided, explicitly or implicitly, to Lien Debtors by Lien Claimant.
Or,
2015 (or **U.S. District Court Case No**.) **Causes of Action and Accompanying Claims of Penalties:**

1) Gross negligence in follow constitutional instructions.....impeachment; disgorgement of salary received; personal damages for filing fees, costs, etc. amounting to $300,000 in value of constitutional money (gold and/or silver) coinage as calculated in debts against each applicable civil and/or criminal "*Count*."
2) Dereliction in duty to with reasonable care and loyalty.....impeachment; restitutionary disgorgement of salary received; damages in pain and suffering - $ 1 Million
3) For the above causes of actions, Fiduciary/Debtor will widely publish a Declaratory Statement, issued by publicly proclaiming the admission of guilt, requesting Beneficiary forgiveness, and announcing voluntary resignation from office.
4) For the above causes of actions, Fiduciary/Debtor will issue Mandamuses against subordinate office–holders, commanding Superintending Control over their actions and issuing injunctions against further violations and breaches of Beneficiaries' rights....

4. **Surety** – This is the lawful attachment and seizure of property and financial instruments in forfeiture and collateral against the total value claimed as debt. In the case of public functionaries, this might include the surrender values of performance bonds, blanket bonds,[215] self-insurance funds, errors-and-omissions

[215] The Freedom School online blogsite states, "*[t]he Constitution of the united States of America is the* ***original*** *commercial contract between the U.S. Government and its citizenry*" by which "***only*** ***Constitutional laws and processes*** *and their execution do not have to be bonded, for they are the* ***only commercial processes*** *generally which arise from the consent of the governed, 'we, the people', the public*." See "*Using Commercial Liens for the Compulsory Bonding of Public Officials and Summary Processes*" as found on 8/13/16 at: http://freedom-school.com/law/commercial_liens4bonding.htm

On the other hand, as alluded to by the Freedom School informational blogsite, there are many public functionaries who are abusing their fiduciary positions, who are abdicating their duties of office, and who are otherwise committing acts of Treason under color of law. Against these types of "*traitors*" – as often found in the State and Federal judiciary branches, and as otherwise found in the State and Federal legislative and executive branches, as well as in the private sector being all members of the American BAR Association and/or its franchises – the people of the States must insist upon guarantees, or surety of bonding, in the likely event(s) that their conduct leads to various forms of private and public financial and other losses.

The Freedom School (web) publication continued with their own example regarding judges (and their peer group of attorneys) that use Summary Disposition proceedings to dismiss otherwise legitimate cases, while denying people their rights to have their cases brought constitutionally to hearings before a jury. The website article also informs one way in which, for these types of "*corruptions*" cases, remedies might be found commercially by use of *liens* and *distresses* against the properties and accounts of such criminal perpetrators (i.e., who by breaching their fiduciary obligations have abdicated their positions and qualifications for any longer being considered legitimate "*government officials*"). Freedom School thus stated,

> "*Commercial, Civil, and Criminal processes which abridge the commercial provisions of the US Constitution and the State Constitutions are known as 'Summary Processes.' **All Summary Processes have the weakness of being subject to bribery, kickbacks, fraud of process, conspiracy to defraud, and alter ego misuse, and therefore must be bonded.** See the state laws on Blue Sky Marketing, Title 15 of the USC, the relationship between bonding and corporate limited liability, and the reasons for official financial disclosure statements. All unbonded Summary Processes constitute the ground for reversible error in all consequent processes....*
>
> *A commercial lien (90 day grace period before levying) may be used by a citizen to collect a debt or to secure a promised service/oath of a public official by seizing the property of the public official to secure privately and/or publicly the bond of the official. When an immediate specific performance is required of an official instead of the general protection of the public, the instant process is called a distress or distress infinite, which because it has no grace period before impoundment, must be pre-bonded. Commercial Liens are not Common Law Liens. Commercial Liens are Declarations of Obligation (15 USC) and as such are no part of the common law process except:*
>
> *A. A lien may be enforced by a levy on the lien by the Sheriff after a 90-day acquiescence of the lien debtor, or*
> *B. Be challenged by the lien debtor in a Jury Trial duly convened by the Sheriff within 90 days at the request of the lien debtor pursuant to the 7th Amendment of the US Constitution or an identical state provision. Said Jury Trial must be duly convened and properly conducted meaning, in part, that all affidavits must be categorically point-for-point*

insurance policies,[216] stock certificates, mutual fund and other investment portfolios, retirement benefits,[217] real estate of homes and other land holdings,

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rebutted, all issues are subject to full disclosure and discovery, and the jury may not retire to the jury room to homogenize the verdict.

[216] As pointed out by Hartford Van Dyke, "*there is no provisions in the United States Constitution for bonding; or,*" as former House Rep. Davy Crockett had pointed out in his "*sockdolager*" argument before Congress in the early 1800's, "*for any form of welfare*." In the proper perspective, even as also framed by Davy Crockett's tale of the sockdolager, Congress has no authority – and thus no right – to appropriate money from the people's Treasury toward any discretionary act of charitable spending. "*The public funds have been put into the public coffers for the public at large*." said Van Dyke. "*[The people's money] is not to be used for any form of charity because that is actually gambling; and there's no provision in the Constitution for either gambling or for insurance (on that gamble)*."
For a good account of Davy Crockett's story about the sockdolager, see "*Not Yours to Give*" as found on 8/14/16 at: https://fee.org/resources/not-your-to-give-2/

[217] Longley, *Robert. U.S. Supreme Court Retirement Benefits*. Published by About.com. "*Retiring U.S. Supreme Court justices are entitled to a lifetime pension equal to their highest full salary. In order to qualify for a full pension, retiring justices must have served for a minimum of 10 years provided the sum of the justice's age and years of Supreme Court service totals 80."*

As pointed out in the article by Longley (as found on 8/12/16 at http://usgovinfo.about.com/od/uscourtsystem/a/scotusretire.htm) :

> *"Congress established the retirement for Supreme Court justices at full salary in the Judiciary Act of 1869, the same law that settled the number of justices at 9.* ***Congress felt that since Supreme Court justices, like all federal judges, are well paid and appointed for life; a lifetime pension at full salary would encourage judges to retire rather than attempting to serve during extended periods of poor health and potential senility.*** *Indeed, fear of death and* ***decreased mental capacity are often cited as a motivating factors in judges' decisions to retire****."*

YET, as documented by Grievant/Claimant/Private Attorney General David Schied, the 91–year old "*judge*" (Avern Cohn) that has been sitting on his federal case in the Eastern District of Michigan, Southern Division (Case No.2:15-cv-11840) for this past fifteen months without executing any judicial decisions whatsoever, demonstrates that, without appropriate judicial oversight abuses of judicial positions will continue to occur when such decisions are left up to the judges themselves, particular when they reach ages that are medically proven that decision–making should be clearly subject to reasonable questioning. (See Grievant/PAG Schied's filing of his UNANSWERED "*Writ for Show Cause*" and accompanying "*Order for Competency Hearing*" against Avern Cohn dated 6/18/16 as found at:

bank accounts, automobiles. These are all items that were purchased or obtained from salaries paid in good faith by the "*beneficiaries*" of the Public Trust, either directly or indirectly through the Treasury or through other fiduciary mechanisms. These are items *conditionally* purchased or obtained in bad faith[218] despite these public functionaries having subscribed publicly to their Oaths,[219] to

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http://cases.michigan.constitutionalgov.us/david-schied/2015_SchiedvJudgeKarenKhaliletalinUSDCEDM/062016_Writ4SshowCauseonMot2StayProceedings+Order4JudgeCompetencyHearing/062016_Writf4ShowCauseonMot2StayProceedings+Order4JudgeCompentencyHearing.pdf

[218] Burdette & Weber, (*supra*); With regard to liens as surety for "*exemplary damages*" caused by "*tort,*" the courts have long recognized that breaches of fiduciary duties constitute torts warranting the recovery of exemplary damages. In Texas, for example:

> *"To obtain an award [in a Texas court] of exemplary damages, the plaintiff must prove by clear and convincing evidence that the harm suffered resulted from fraud, malice or gross negligence.... In determining the amount of exemplary damages, the following factors must be considered: (1) the nature of the wrong; (2) the character of the conduct involved; (3) the degree of culpability of the wrongdoer; (4) the situation and sensibilities of the parties concerned; (5) the extent to which conduct offends a public sense of justice and propriety; and (6) the net worth of the defendant.*
>
> *[In Texas,] [e]xemplary damages may not exceed an amount equal to the greater of (1) two times the amount of economic damages plus any non-economic damages (not to exceed $750,000), or (2) $200,000. TEX. CIV. PRAC. & REM. CODE 41.008(b).* ***Economic damages compensate a claimant for actual economic or pecuniary loss. TEX. CIV. PRAC. & REM. CODE § 41.001(4). The Code defines non-economic damages as those intended to compensate a claimant for physical pain and suffering, mental or emotional pain or anguish, loss of consortium, disfigurement, physical impairment, loss of companionship in society, inconvenience, loss of enjoyment of life, injury to reputation and all other nonpecuniary losses of any kind other than exemplary damages****. TEX. CIV. PRAC. & REM. CODE § 41.001(12)."*

[219] 28 U.S.C. § 453 ("*Oaths of Justices and Judges*") maintains, "*Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office:*

> *"I, ___ ___, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the*

honor and obey the State and United States constitutions. They shall not keep then what they gained by their misleading promises and by failing to faithfully perform the Duties of these fiduciaries' offices.[220]

Notably, these surety instruments need only be described as outlined above in reasonable terms by Affidavit. Should there be found insufficient data about the properties against which liens are being applied,[221] additional information can be provided by addendum or by reissuance of another lien.

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rich, and that ***I will faithfully and impartially discharge and perform all the duties incumbent upon me*** *as ___ under the Constitution and laws of the United States. So help me God."*

Found on 8/12/16 at: https://www.law.cornell.edu/uscode/text/28/453

[220] Burdette & Weber, (*supra*); With regard to Trust Law and what the courts have determined about themselves in cases for breaches of fiduciary duties:

> *"Forfeiture or denial of a fiduciary's compensation is a remedy similar to a constructive trust. ERI Consulting Engineers, Inc. v. Swinnea, 318 S.W.3d 867 (Tex. 2010) ('courts may fashion equitable remedies such as profit disgorgement and fee forfeiture to remedy a breach of fiduciary duty').* ***Where a fiduciary has committed a breach of trust, the court may deny him all or part of his compensation. A basis for denial of compensation is that a fiduciary is not entitled to compensation unless he has properly performed the necessary services.*** *...In exercising its discretion regarding forfeiture of a trustee's compensation for breach of trust, the court should consider the following factors: (1) whether the trustee acted in good faith or not; (2) whether the breach of trust was intentional or negligent or without fault; (3) whether the breach of trust related to the management of the whole trust or related only to a part of the trust property; (4) whether or not the breach of trust occasioned any loss and whether if there has been a loss it has been made good by the trustee; (5) whether the trustee's services were of value to the trust."*

[221] Rockel, (*supra*); pp. 267–270.

> *"The general rule is that a description is sufficient which enables a party familiar with the locality to identify the property with reasonable certainty. Some courts hold the description sufficient if it is such that the land is susceptible of ready ascertainment, and in other jurisdictions it is enough that the land is described with the certainty that is ordinarily used in conveyances, or that the court could decree a sale and the purchaser would be able to find the land, or that the sheriff could discover it and sell it on execution. But in no case is the description required to be more definite than a reasonable interpretation of the statute requires. And it is held that*

5. **Exhibits (in support of Alleged Facts) and Exhibits (in support of Law)** – These should be compiled as two sets of documents, such as by documents supporting the alleged facts giving rise to the claims of fiduciary or other form of indebtedness; and a memorandum in support of the lawful premise for finding the desired remedy as a lien or distress to be carried out non-judicially in commerce.

6. **Certification** – Essentially, this is an attestation by the person completing the Affidavit, that the facts and/or allegations being supported by the evidence are true, correct, complete, and not misleading. Simply stated, it need not be anything more than a one-liner of "*I certify that the foregoing is true, correct, complete, and not misleading*." A more exhaustive way of saying the same might be placed in a paragraph of its own at the end of the Affidavit, as shown by the example below:[222]

> "*I, the undersigned Affiant, swear on my own commercial liability, that I have read the forgoing instrument and know the content thereof and that, to the best of my knowledge and belief, it is true, correct, complete, and not misleading, the truth the whole truth, and nothing but the truth*."
>
> _____ _____
> (Autograph) (Date)

> *extrinsic evidence is admissible to aid in identifying the premises sought to be described in the statement. But in such cases the extrinsic evidence must be confined to exemplifying or illuminating the facts set forth in the statement and not for the purpose of supplying new material matters. … There is great reluctance on the part of courts, however, to set aside liens, on the ground of looseness of description, as it is recognized that such claims may be filed by persons who are not skilled in legal matters."* (Citations again omitted)

[222] Van Dyke, Hartford. *The Fundamental Principles and Processes of Commercial Law*. (Undated in the public domain)

7. Witness (Signature and seal of an official Notary) – The above autographing (or "signing") of the Affidavit, which should include reference to all of the other "*essential elements*" of this collective set of documents as the "*commercial instrument*," should be carry out before an official "*witness*" who positively identifies the "*affiant*" as actually being the natural person signing the document. The *witnessing* is thus authenticated at the end the affidavit by way of a standard notary statement and the official seal of that particular notary.

The following is one example of how the notary statement might be worded at the end of the Affidavit (or any other document being witnessed):

STATE OF _____)
) SS
COUNTY OF _____)

On this _____day of __(month , year), before me appeared _____ to me known or identified to me to be the person described in and who executed the forgoing instrument.

_____ _____
NOTARY PUBLIC MY COMMISSION EXPIRES

Commercial Law Processes Get Executed According to *Custom* and *Common* Law

As alluded to in one of the footnotes above, King Henry II instituted a type of *jury* system of "*petty*" and "*grand*" assizes as the preferred civil alternative to the frequency of violent dueling that was taking place in the kingdom to settle land disputes. That practice became the English custom which eventually transferred to the governmental *judicial* system that developed centuries later in the United States. Thus, at least in reliable theory, American courts were developed and continue to exist so to resolve disputes by uncovering and defining the Truth. In such way, the courts furnish the "*battlefield*" for the peaceable rather than the violent resolution of conflicts.

Therefore, when a person called into court is requested to give their testimony, they are required beforehand to place their hand in the air and/or their other hand on a Bible and affirm, "*I swear to tell the truth, the whole truth, and nothing but the truth*," or something explicitly similar in language. Upon doing so, a Commercial[223] Affidavit is immediately constructed, which will stand for *any* record as a statement of the true facts, unless controverted by another sworn commercial

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[223] See "*The Application of Commercial Law*" (*supra*):

> *"Commerce in everyday life is the vehicle or glue that holds, or binds, the corporate body politic together. More specifically, commerce consists of a mode of interacting, doing business, or resolving disputes whereby all matters are executed under oath, certified on each party's commercial liability by sworn affidavit, or what is intended to possess the same effect, as true, correct, and complete, not misleading, the truth, the whole truth and nothing but the truth."*

affidavit.[224] This is because no court and no judge can, again in theory, overturn or disregard or abrogate somebody's *Affidavit of Truth*.

In fact, the *only* person who does have the capacity, the right, the knowledge and the responsibility to rebut such an affidavit is the one being – or having the potential of being – affected by that first statement of Truth. Thus, in order for there to be a controversy, or "*conflict*" about any particular issue before the court, there must be a *natural* person in disagreement who is willing to swear[225] to a

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[224] *Id.* There are two other key *maxims* that find emphasis herein as found underlined below:

> *"AN UNREBUTTED AFFIDAVIT STANDS AS TRUTH IN COMMERCE. (12 Pet. 1:25; Heb. 6:1315;) – Claims made in your affidavit, if not rebutted, emerge as the truth of the matter. Legal Maxim: 'He who does not deny, admits.'*
>
> *AN UNREBUTTED AFFIDAVIT BECOMES THE JUDGMENT IN COMMERCE. (Heb. 6:1617;) – There is nothing left to resolve. Any proceeding in a court, tribunal, or arbitration forum consists of a contest, or duel, of commercial affidavits* ***wherein the points remaining unrebutted in the end stand as truth and matters to which the judgment of the law is applied."***

[225] It is important to note that, by both State (of Michigan) and federal (grand jury) definitions, a **sworn** *Crime Report* constitutes, *prima facie*, a criminal "*indictment*." *See* Michigan Compiled Laws (MCL) 761.1 and (MCL) 750.10, Michigan Court Rule (MCR) 6.101 which altogether state that **an "*indictment*" is a formal written complaint or accusation written under oath affirming that one or more crimes have been committed and names the person or persons guilty of the offenses.** Found on 8/13/16 at:
http://www.legislature.mi.gov/(S(1qzo434gfsvawcpucfaty3j5))/mileg.aspx?page=GetObject&objectname=mcl-761-1
and at:
http://www.legislature.mi.gov/(S(odwq4cekw5golkirmlqazvdg))/mileg.aspx?page=GetMCLDocument&objectname=mcl-750-10
and at:
http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/Documents/CHAPTER%206.%20CRIMINAL%20PROCEDURE%20(entire%20chapter).pdf

Additionally, the *Handbook for Federal Grand Jurors* states, "*If the grand jury finds probable cause to exist, then it will return a written statement of the charges called an 'indictment....The United States Attorney must sign the*

differing *Affidavit of Truth*, and who is willing to put up as *surety* his or her credibility and own reputation, and perhaps even more.[226]

Where the call to battle (i.e., the first Commercial Affidavit) is peacefully submitted – i.e., by proper "*service*"[227] upon the other party in the controversy – and

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indictment before one may be prosecuted." (See pp. 2–3 as found on 8/13/16 at: https://www.mdd.uscourts.gov/jury/docs/federalgrand.pdf

[226] *Id.* Another key maxim related to the *Law of Commerce* is underlined below:

> *SACRIFICE IS THE MEASURE OF CREDIBILITY ('NO WILLINGNESS TO SACRIFICE = NO LIABILITY, RESPONSIBILITY, AUTHORITY OR MEASURE OF CONVICTION)'. [In other words,] '[n]othing ventured [is] nothing gained'. A person must put himself on the line assume a position, take a stand, as regards the matter at hand. One cannot realize the potential gain without also exposing himself to the potential of loss."* [One who will not put themselves at risk, or who is unwilling to swear an oath regarding alleged challenges of damage, or who is otherwise unwilling to accept some form of commercial liability – in even the simplest form of a sworn Affidavit of Truth – has neither any business or justification for any claim of authority on the matter.] *"(Acts 7, life/death of Stephen). 'For the truth of his statements and legitimacy of his actions ha[ve] no basis to assert claims or charges, and forfeits all credibility and right.' Legal Maxim: 'He who bears the burden ought also to derive the benefit'."*

[227] What is referred to here is "*service of process*" which, although this typically refers to a *legal* process so as to provide the court with subject matter and/or personal jurisdiction in the matters surrounding the controversy in question, also applies to "*Notices*" of Liens and Distresses. This is because there is a timeless *maxim* also involved governing non–judicial "*service of process*" as well which maintains, "*THAT WHICH IS CERTAIN CAN BE MADE CERTAIN*."

See *Virginia and West Virginia Judicial Dictionary–Digest: Words and Phrases, Vol. III*, (p.2087), published by W.H. Anderson Co. as found on 8/13/16 at: https://books.google.com/books?id=w8UoAAAAYAAJ&printsec=frontcover#v=onepage&q&f=false stating,

> "*When neither the law nor the contract stipulated what kind of notice should be given....any notice which would distinctly inform...would be 'proper notice'....under the maxim.... [t]hat is certain which can be made certain.' Blackstone's Commentaries, Book I, p. 78; Book II, p. 143.*"

Typically also, three basic methods of "service of process" on the delivery of published documents are acceptable: 1) actual or personal service (i.e., hand-delivered); 2) substituted service (i.e., leaving the documents in a conspicuous location or with someone else under promise of delivery); and, 3) service by publication (in a newspaper or on the Internet)

subsequently ignored after that other party had been provided a reasonable time[228] for an appropriate response, the "*winner*" is declared by default.[229]

Following the service and proof of delivery of all seven of the above elements to the opposing party in which a claim is established in commerce, the opposing party has time to respond – *point-by-point* – with the same seven elements in refuting those claims and/or establishing any counter–claims. This process of countervailing by the second party, along with the "*grace period"* allocated by the first party giving the second party fair time for establishing a valid rebuttal before then executing the subsequent process for adjudicating and collecting, have been a matter of customary practice for thousands of years – outside of the courts. [230]

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where it becomes, by de facto, a public document accessible to anyone and everyone. This last method of service is typically used when the other delivery methods a proven to be difficult or impossible. It is further justified by the fact that, in a settling a conflict between commercial affidavits, it is all to be done openly and truthfully in the public. See *The Free Dictionary* by Farlex, as found on 8/13/16 at: http://legal-dictionary.thefreedictionary.com/Service+of+Process

[228] See "*The Application of Commercial Law*" (*supra*). The standard time for the opponent to the commercial affidavit to respond – with point-by-point rebuttal of that commercial challenge by opposing sworn and notarized affidavit – is 90 (ninety) days.

[229] *Id.* Here, yet another maxim appropriately applies (as underlined):

> *HE WHO LEAVES THE BATTLEFIELD FIRST LOSES BY DEFAULT. (Book of Job; Mat. 10:22). This means that an affidavit which is unrebutted point for point stands as 'truth in commerce' because it hasn't been rebutted and has left the battlefield* [or chose to hide from it]*. Legal Maxim: 'He who does not repel a wrong when he can, occasions it'."*

[230] *Id.* "*Commercial processes are non-judicial; they are summary processes (without a jury. …The collection aspect is based in International commerce that has existed for more than 6000 years. Again, this is based on Jewish Law and the Jewish grace period, which is in units of three; three days, three weeks, three months. This is why [people] get 90-day letters from the IRS."*

The private corporation of the Internal Revenue Service ("IRS"), though not completely valid, provides the most familiar example of the basic structural process for "*notifying*" opposing parties about existing claims of commercial liens, and for "*collecting*" upon those liens after the expiration of the typical 90-day grace period for rebutting those claims.[231]

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[231] *Id.*

> *"So how does [the IRS] get all the money they get [from us]? Because you give it to them without requesting a proof of claim from them, or even if they were 'licensed' to give you offers' based on 'arbitrary' estimations. However, this is where things get very interesting. The other phase of matters is the assessment phase: THERE IS NO VALID ASSESSMENT. The IRS has, and never can, and never will, and never could, EVER issue a valid assessment lien or levy. It's not possible.*
>
> *First of all, in order for them to do that there would have to be paperwork, a True Bill in Commerce. There would have to be sworn Affidavits by someone that this is a true, correct and complete and not meant to deceive, which, in commerce is, essentially 'the truth, the whole truth and nothing but the truth' when you get into court. Now, nobody in the IRS is going to take commercial liability for exposing themselves to a lie, and have a chance for people to come back at them with a True Bill in Commerce, a true accounting. This means they would have to set forth the contract, the foundational instrument with your signature on it, in which you are in default, and a list of all the wonderful goods and services that they have done for you which you owe them for; or a statement of all the damages that you have caused them, for which you owe them.*
>
> *[Thus,] [t]he 'assessment' phase' in the IRS is non-existent; it's a complete fraud.*
>
> *One reason why the super-rich bankers and the super-rich people in the world have been able to literally steal the world and subjugate it, and plunder it, and bankrupt it and make chattel property out of most of us is because they know and use the rules of Commercial Law and we don't. Because we don't know the rules, nor use them, we don't know what the game is. We don't know what to do. We don't know how to invoke our rights, remedies and recourses. We get lost in doing everything under the sun except the one and only thing that is the solution.*
>
> *No one is going to explain to you what and how all this is happening to you. That is never going to happen. These powers-that-be have not divulged the rules of the game. They can and do get away with complete fraud and steal everything because no one knows what to do about it.*
>
> *Well, what CAN you do about it? YOU NEED TO ISSUE A COMMERCIAL AFFIDAVIT.* ***You don't have to title it that, but that's what***

it is. You can assert in your affidavit, 'I have never been presented with any sworn affidavits that would provide validity to your assessment. It is my best and considered judgment that no such paperwork or affidavit exists.' At the end of this document, you put demands on them. They must be implicit and then you state, 'Should you consider my position in error . . .'

You know what they have to do now, don't you? They must come back with an affidavit which rebuts your affidavit point for point, which means they have to provide the paper work with the real assessment, the true bill in commerce, the real sworn affidavits that would make their assessment or claims against you valid.

No agent or attorney of a fictitious entity can sign an affidavit for the corporation. How can they swear as fact that the corporation has done or not done ANYTHING? They do not have the standing. They cannot and never will provide you with this. This means your affidavit stands as truth in commerce.

You can even make it more interesting if you like. You go to all their laws like Title 18 and you tabulate the whole list of crimes they have committed against you in lying to you, foreclosing and selling your home and issuing liens and levies. This could be quite an impressive list. If you tabulate the dollar amounts of the fines involved in these offenses, you could take just Title 18 section 241 ['Conspiracy to deprive of rights under color of law'] alone which is a $10,000.00 fine on any public official for each offense. That means for every single violation of the Constitution, or commercial law, there could be 35 or 40 of these just in Title 18. You're looking at $300 to $400 thousand. When they start adding up, they become very impressive. Now you attach this accounting, the criminal accounting to your affidavit and you file it as a criminal complaint with the State Attorney.

[Next], you take your commercial lien to the Secretary of State to file as a UCC-1 Financing statement. Then as soon as you've finished filing the original criminal complaint with the Prosecuting attorney you file this lien against every agent individually. (The criminal complaint is optional). They can't hide behind the skirts of the corporate state, this fictional entity created by man, to be able to engage in perfidious actions which [they] would not otherwise be able [to] by virtue of Natural and Moral [l]aw[s]. It just doesn't work.

[This is how you can] use this same collection process against them, just as the IRS uses against you.

[Of course, they could] settle your claim [by] to pay[ing] it. If they don't satisfy your claim you give them a grace period, at the end of 90 days you transform the Secretary of State into your Accounts Receivable Office. Legal Title of all their real and personal property has now passed to you. You now file the correct paperwork with the Secretary of State, and you serve this on the Sheriff and say, 'I want to take possession of my property.' Things begin to get interesting. ***If you send a criminal complaint on a public official to the Insurance Commissioner of the State, it becomes instantly and automatically a lien against the bond of the official, the judge or***

district attorney and he's [professionally] dead. He cannot function without bonding. This is held in suspension until the issue is resolved.

[By this process] we find ourselves simply going back to what we've wanted all along, which is truth, rightness and a remedy; [which] we have by going back in this and finding the rules that pertain to it, a way to have more power than they do, since ***we are [the ones who are] sovereign****. No one, not a judge, jury or anyone else can overturn this or change this process. To do so would be to dissolve the world immediately into chaos. This would be the end of all law, all order, all standards, for all civilization. It is not possible. They are stuck. This forms the underpinnings of philosophy, in tangle practices, of the way to put power on your side and against those agents of government who violate your being, injure you all in violation of their oath of office.*

[T]hrough their own process, we can use the rules of the game in OUR favor instead of remaining in ignorance and being taken forever as slaves. This applies to everything, not just the government. This forms a valid foundation for your life and it forms a basis for any kind of dealings with government. What most people don't even consider is that governments don't have and can't have anything to support an affidavit of truth to support their actions.

[The bottom line is,] Governments invent all the regulations and statutes to impose on you, affecting your life and commercial/economic standing. And no one is taking any liability, responsibility nor accountability. They may have some kind of bonding. But in most states this bonding is only for about $5–10 million for the entire state and all its employees. However, [based upon the amount of corruption that can occur with just a simple traffic ticket, the tabulation of the criminal acts that they can and are willing to commit against you can turn into more than $5 million before you know it.]" **Be advised however, that thanks to the government's formal definition of "*terrorism*" (including '*domestic terrorism*') – such as the definition found in 18 U.S.C. § 2331 – and thanks to Congress having implemented the *Terrorism Risk Insurance Act* (TRIA) after "9/11" providing insurability of corporations (including government corporations) up to $100 BILLION for (THEIR OWN) acts of terrorism against Americans, many thoroughly corrupted municipal corporations and charter counties are purchasing "*terrorism*" insurance coverage in "*riders*" on their "*errors and omissions*" insurance policies, as sold to them by corrupted insurance companies such AIG (that was so embedded in the collapse of the American economy in 2008 before being bailed out by the corrupted federal government using the people's sweat equity to offset this type of criminal corruption by this Fascist oligarchy now called the "*United States*" or "*UNITED STATES*" or "wtf" they are calling themselves after another corporate "*restructuring*" to run from their fiscal and other accountability to the sovereigns, *We, The People*).**

---This "*Memorandum on Rights of We, The People*"---

is still a work in progress.

Further research and updates are forthcoming

in the near future