Supreme court cases from digging around

Robin v. Hardaway 1790. Biblical Law at "Common Law" supersedes all laws, and "Christianity is custom, custom is Law."

United States of America Congressional Record

Monday, August 19.1940

Excerpt – pages 4-5

"I want you to note particularly that this was in 1913, and that 1913 was the very year we changed our Government from a republic to a semidemocracy; the year in which we destroyed constitutional government, international security, and paved the road for us to become a colony of the British Empire. It was also the same year in which we, by adopting the Federal Reserve Act, placed our Treasury under the control and domination of the Bank of England and the international banking groups that are now financing the British-Israel movement in the United States."

Two Different and Distinct Nations

"The idea prevails with some, indeed it has expression in arguments at the bar, that we have in this country substantially two national governments; one to be maintained under the Constitution, with all its restrictions; the other to be maintained by Congress outside and independently of that instrument, by exercising such powers as other nations of the earth are accustomed to... I take leave to say that, if the

principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system will result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism... It will be an evil day for American Liberty if the theory of a government outside the Supreme Law of the Land finds lodgment in our Constitutional Jurisprudence. No higher duty rests upon this court than to exert its full authority to prevent all violation of the principles of the Constitution."

--Honorable Supreme Court Justice John Harlan in the 1901 case of Downes v. Bidwell.

Possible cases against UCC, be sure to look up

"Neither consent nor submission by the states can enlarge the powers of Congress; none can exist except those which are granted. United States v. Butler, 297 U.S. 1, 56 S.Ct. 312, 102 A.L.R. 914, decided January 6, 1936. The sovereignty of the state essential to its proper functioning under the Federal Constitution cannot be surrendered; it cannot be taken away by any form of legislation. See United States v. Constantine, 296 U.S. 287, 56 S. Ct. 223." Ashton v. Cameron County Water Imp. Dist. No. 1, 298 U.S. 513, 531 (1936)

"Men are endowed by their Creator with certain unalienable rights,-'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of. . ."
[Budd v. People of State of New York, 143 U.S. 517 (1892)]

Von Hoffman v. City of Quincy, 71 U.S. 4 Wall. 535 535 (1866)Page 71 U. S. 551 "Nothing can be more material to the obligation than the means of enforcement. Without the remedy, the contract may, indeed, in the sense of the law, be said not to exist, and its obligation to fall within the class of those moral and social duties which depend for their fulfillment wholly upon the will of the individual. The ideas of validity and remedy are inseparable, and both are parts of the obligation, which is guaranteed by the Constitution against invasion. The obligation of a contract 'is the law which binds the parties to perform their agreement.'"

"Because of what appears to be a lawful command on the surface, many Citizens, because of their respect for what appears to be law, are cunningly coerced into waiving their rights due to ignorance." ***US v Minker, 350 US 179 at 187(1956)***

"The entire taxing and monetary system are hereby, placed under the UCC." [The Federal Tax Lien Act of 1966]

"A state may provide for the collection of taxes in gold and silver only." [State treasurer v. Wright, 28 Ill. 5091: [Whitaker v. Haley. 2 Ore. 128]

"Taxes, lawfully assessed are collectible by agents in money and notes cannot be accepted in payment." Town of Frankfort v. Waldo, 128 ME. 1]

HAGAR v. RECLAMATION DIST. NO. 108, 111 U.S. 701 1884).

"Acts of Congress making the notes (paper) of the United States a legal tender do not apply to EXACTIONs (taxes) made under state law"

"At common law there was no tax lien." [Cassidy v. Aroostock, 134 ME. 34]

U.S. Supreme Court, Memphis Bank & Trust Co. v. Garner, 459 U.S. 392 (1983) **"***The Tennessee bank tax violates the immunity of obligations* **(federal reserve notes 31USC3124 & 18USC8)** *of the United States from state and local taxation."*

"**Federal Reserve Notes are not dollars**." *Russell L. Munk, Assistant General Counsel, Department of the Treasury, February 18, 1977.*
"The term 'dollars' likewise is incorrect, which, according to constitutional definition, are monetary units, used in exchange, backed by gold and silver. Our present day fiat issues are supported by more printed paper of the same; therefore, they are correctly termed Federal Reserve Notes (FRN), not dollars. *Robert P. Vichas, Handbook of Financial Mathematics, Formulas, and Tables (1979), p. 420.*

"Federal Reserve Bank notes, and other notes constituting a part of common currency of country, are recognized as good tender for money, **unless specially objected to**." *MacLeod v. Hoover (1925), 159 La. 244, 105 S. 305.*

Gibbons v Ogden 1824 supreme court "Persons are not the subjects of commerce…"

"There is a distinction between a debt discharged and one paid. When discharged, the debt still exists, though divested of its character as a legal obligation during the operation of the discharge." *Stanek v. White (1927), 172 Minn. 390, 215 N.W. 781.*

"What is a dollar? It's just something artificial we throw out there. What you're doing is you're fooling people into thinking they have purchasing power, when in fact they do not." *Denis Karnofsky, Chief Economic Advisor, St. Louis, St. Louis Federal Reserve Bank (June 10, 1978).*

Ballentines Law Dictionary, 3rd Edition:
Dollar. The legal currency of the United States; State v Downs, 148 Ind 324, 327; the unit of money consisting of one hundred cents. The aggregate of specific coins which add up to one dollar. 36 Am J1st Money § 8. In the absence of qualifying words, it cannot mean promissory notes, bonds, or other evidences of debt. *36 AM J 1st Money § 8.*

Simon v. Craft, 182, U.S. 427, 436, 21 SUP. CT. 836, 45 L. ED 1165;
"In determining whether such rights were denied, we are governed by the substance of things and not by mere form; ID.; Louisville & N.R. CO. v. Schnidt,177 U.S. 230, 20 SUP. CT. 620 44 L ED 747.

– Supreme Court of the United States 1795 "Inasmuch as every government is an artificial person, an abstraction, and a creature of the mind only, a government can interface only with other artificial

persons. The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity with the tangible. The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them." S.C.R. 1795, Penhallow v. Doane's Administraters (3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54),

"An attorney for the plaintiff cannot admit evidence into the court. He is either an attorney or a witness". (Trinsey v. Pagliaro D.C.Pa. 1964, 229 F. Supp. 647)

"Statements of counsel in brief or in argument are not sufficient for motion to dismiss or for summary judgment," Trinsey v. Pagliaro, D. C. Pa. 1964, 229 F. Supp. 647.

"Where there are no depositions, admissions, or affidavits the court has no facts to rely on for a summary determination." Trinsey v. Pagliaro, D.C. Pa. 1964, 229 F. Supp. 647.

"The prosecutor is not a witness; and he should not be permitted to add to the record either by subtle or gross improprieties. Those who have experienced the full thrust of the power of government when leveled against them know that the only protection the citizen has is in the requirement for a fair trial." Donnelly v. Dechristoforo, 1974.SCT.41709 ¶ 56; 416 U.S. 637 (1974)

Involuntary Servitude

UNITED STATES V. KOZMINSKI, 487 U. S. 931 (1988) "For purposes of criminal prosecution under § 241 or § 1584, the term "involuntary servitude" necessarily means a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury or by the use or threat of coercion through law or the legal process. This definition encompasses cases in which the defendant holds the victim in servitude by placing him or her in fear of such physical restraint or injury or legal coercion."

McNally v. U.S., 483 U.S. 350, 371-372, Quoting U.S. v Holzer, 816 F.2d. 304, 307
Fraud in its elementary common law sense of deceit… includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public,… and if he deliberately conceals material information from them he is guilty of fraud.

424 F.2d 1021UNITED STATES v.Horton R. PRUDDEN,No. 28140. . United States Court of Appeals, Fifth Circuit.April 1970
Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading.

U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977)
Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct... If that is the

case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately.

Morrison v. Coddington, 662 P. 2d. 155, 135 Ariz. 480(1983).
Fraud and deceit may arise from silence where there is a duty to speak the truth, as well as from speaking an untruth.

"A bill of attainder is defined to be 'a legislative Act which inflects punishment without judicial trial'"
"...where the legislative body exercises the office of judge, and assumes judicial magistracy, and pronounces on the guilt of a party without any of the forms or safeguards of a trial, and fixes the punishment."
In re De Giacomo, (1874) 12 Blatchf. (U.S.) 391, 7 Fed. Cas No. 3,747, citing Cummings v. Missouri, (1866) 4 Wall, (U.S.) 323.

[Federal jurisdiction] " ...must be considered in the light of our dual system of government and may not be extended. . .in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government." United States v. Lopez, 514 U.S. 549, 115 S.Ct.1624(1995).

"In view of 40 USCS 255, no jurisdiction exists in United States to enforce federal criminal laws, unless and until consent to accept jurisdiction over lands acquired by United States has been filed in behalf of United States as provided in said section, and fact that state has authorized government to take jurisdiction is immaterial." Adams v. United States (1943) 319 US 312, 87 L Ed. 1421, 63 S. Ct. 1122

In regard to courts of inferior jurisdiction, "if the

record does not show upon its face the facts necessary to give jurisdiction, they will be presumed not to have existed." Norman v. Zieber, 3 Or at 202-03

US v Will, 449 US 200,216, 101 S Ct, 471, 66 LEd2nd 392, 406 (1980) Cohens V Virginia, 19 US (6 Wheat) 264, 404, 5LEd 257 (1821)
"When a judge acts where he or she does not have jurisdiction to act, the judge is engaged in an act or acts of treason."

Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326 When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost.
JURISDICTION: NOTE: It is a fact of law that the person asserting jurisdiction must, when challenged, prove that jurisdiction exists; mere good faith assertions of power and authority (jurisdiction) have been abolished.

"Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus."
[U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings." Hagans v Lavine 415 U. S. 533.

Tennessee Coal, Iron & R. Co. v. George, 233 U.S. 354 (1914) "… the right to sue depends, venue is no part of a right, and whether jurisdiction exists is to be determined by the law of the state creating the court in which the case is tried. A state cannot create a

transitory cause of action and at the same time destroy the right to sue thereon in any court having jurisdiction although in another state."

"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but rather, should dismiss the action." ***Melo v. US, 505 F2d 1026***

"A judgment rendered by a court without personal jurisdiction over the defendant is void. It is a nullity." **Sramek v. Sramek, 17 Kan. App 2d 573, 576-7, 840 P. 2d 553 (1992) rev. denied 252 Kan. 1093(1993)**

"A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court." **Old wayne Mut, L. assoc b. McDonough, 205 U.S. 8, 27 S Ct 236(1907)**

"There is no discretion to ignore lack of jurisdiction." **Joyce v. U.S. 474 2D 215** "Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." **Lantana v. Hopper, 102 F. 2d 188; Chicago v. New York 37 FSupp. 150**

"The law provides that once State and Federal jurisdiction has been challenged, it musts be proven." **Main v Thiboutot, 100 S Ct. 2502(1980)**

"Jurisdiction can be challenged at any time," and "Jurisdiction, once challenged, cannot be assumed and must be decided." **Basso v. Utah Power & Light Co. 395**

F 2d 906, 910

"Defense of lack of jurisdiction over the subject matter may be raised at any time, even on appeal." **Hill Top Developers v. Holiday Pines Service Corp. 478 So. 2d, 368 (Fla 2nd DCA 1985)**

"Once challenged, jurisdiction cannot be assumed, it must be proved to exist." **Stock v. Medical Examiners 94 Ca 2d 751. 211 P2d 289**

"There is no discretion to ignore that lack of jurisdiction." **Joyce v. US, 474 F2d 215**

"the burden shifts to the court to prove jurisdiction." **Rosemond v. Lambert, 469 F2d 416**

"a universal principle as old as the law is that a proceedings of a court without jurisdiction are a nullity and its judgment therein without effect either on person or property," Norwood **v. Renfield, 34 C 329; Ex parte Giambonini, 49 P. 732**

"jurisdiction is fundamental and a judgment rendered by a court that does not have jurisdiction to hear is void ab initio." **In re Application of Wyatt, 300 P. 132;p Re Cavitt, 118 P2d 846**

"Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term." **Dillon v. Dillon 187 p27**

A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question the first instance." **Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8: 331 US 549, 91 K, ed, 1666m 67 S, Ct, 1409**

"A departure by a court from those recognized and established requirements of law however close apparent adherence to mere form in methods of procedure which has the effect of depriving one of a constitutional right, is an excess of jurisdiction." **Wuest v. Wuest, 127 P2d 934, 937.**

Loos v American Energy Savers, Inc., 168 Ill.App.3d 558, 522 N.E.2d 841(1988)"Where jurisdiction is contested, the burden of establishing it rests upon the plaintiff."

Bindell v City of Harvey, 212 Ill.App.3d 1042, 571 N.E.2d 1017 (1st Dist. 1991) ("the burden of proving jurisdiction rests upon the party asserting it.").

"Where a court failed to observe safeguards, it amounts to denial of due process of law, court is deprived of juris." **Merritt v. Hunter, C.A. Kansas 170 F2d 739**

Flake v Pretzel, 381 Ill. 498, 46 N.E.2d 375 (1943) "the actions, being statutory proceedings, ... were void for want of power to make them." "The judgments were based on orders which were void because the court exceeded its jurisdiction in entering them. Where a court, after acquiring jurisdiction of a subject

matter, as here, transcends the limits of the jurisdiction conferred, its judgment is void."

Armstrong v Obucino, 300 Ill. 140, 143, 133 N.E. 58 (1921) "The doctrine that where a court has once acquired jurisdiction it has a right to decide every question which arises in the cause, and its judgment or decree, however erroneous, cannot be collaterally assailed, is only correct when the court proceeds according to the established modes governing the class to which the case belongs and does not transcend in the extent and character of its judgment or decree the law or statute which is applicable to it."

In Interest of M.V., 288 Ill.App.3d 300, 681 N.E.2d 532 (1st Dist. 1997) "Where a court's power to act is controlled by statute, the court is governed by the rules of limited jurisdiction, and courts exercising jurisdiction over such matters must proceed within the strictures of the statute."

In re Marriage of Milliken, 199 Ill.App.3d 813, 557 N.E.2d 591 (1st Dist. 1990) "The jurisdiction of a court in a dissolution proceeding is limited to that conferred by statute."

Vulcan Materials Co. v. Bee Const. Co., Inc., 101 Ill.App.3d 30, 40, 427 N.E.2d 797 (1st Dist. 1981) "Though a court be one of general jurisdiction, when its power to act on a particular matter is controlled by statute, the court is governed by the rules of limited jurisdiction."

"The state citizen is immune from any and all government attacks and procedure, absent contract." see, Dred Scott vs. Sanford, 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, "…every man is

independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent."
CRUDEN vs. NEALE, 2 N.C. 338 2 S.E. 70

FRAUD BY GOVERNMENT

McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v. Holzer, 816 F.2d. 304, 307: "Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud.

BURDEN OF PROOF

"The law creates a presumption, where the burden is on a party to prove a material fact peculiarly within his knowledge and he fails without excuse to testify, that his testimony, if introduced, would be adverse to his interests." citing Meier v. CIR, 199 F 2d 392, 396 (8th Cir. 1952) quoting 20 Am Jur, Evidence, Sec 190, page 193

Notification of legal responsibility is "the first essential of due process of law". See also: U.S. v. Tweel, 550 F.2d.297. "Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading."

"Corpus delecti consists of a showing of "1) the occurrence of the specific kind of injury and 2)

someone's criminal act as the cause of the injury." Johnson v. State, 653 N.E.2d 478, 479 (Ind. 1995).

"State must produce corroborating evidence of "corpus delecti," showing that injury or harm constituting crime occurred and that injury or harm was caused by someone's criminal activity." Jorgensen v. State, 567 N.E.2d 113, 121.

"To establish the corpus delecti, independent evidence must be presented showing the occurrence of a specific kind of injury and that a criminal act was the cause of the injury."
Porter v. State, 391 N.E.2d 801, 808-809.

Clearfield Doctrine
"Governments descend to the Level of a mere private corporation, and take on the characteristics of a mere private citizen...where private corporate commercial paper [Federal Reserve Notes] and securities [checks] is concerned. ... For purposes of suit, such corporations and individuals are regarded as entities entirely separate from government." - Clearfield Trust Co. v. United States 318 U.S. 363-371 (1942)

"When governments enter the world of commerce, they are subject to the same burdens as any private firm or corporation" -- U.S. v. Burr, 309 U.S. 242
See: 22 U.S.C.A.286e, Bank of U.S. vs. Planters Bank of Georgia, 6L, Ed. (9 Wheat) 244;
22 U.S.C.A. 286 et seq., C.R.S. 11-60-103

TREZEVANT CASE DAMAGE AWARD STANDARD
"Evidence that motorist cited for traffic violation was incarcerated for 23 minutes during booking process,

even though he had never been arrested and at all times had sufficient cash on hand to post bond pending court disposition of citation, was sufficient to support finding that municipality employing officer who cited motorist and county board of criminal justice, which operated facility in which motorist was incarcerated, had unconstitutionally deprived motorist of his right to liberty. 42 U.S.C.A. Sec. 1983." Trezevant v. City of Tampa (1984) 741 F.2d 336, hn. 1

"Jury verdict of $25,000 in favor of motorist who was unconstitutionally deprived of his liberty when incarcerated during booking process following citation for traffic violation was not excessive in view of evidence of motorist's back pain during period of incarceration and jailor's refusal to provide medical treatment, as well as fact that motorist was clearly entitled to compensation for incarceration itself and for mental anguish that he had suffered from entire episode. 42 U.S.C.A. Sec. 1983." Trezevant v. City of Tampa (1984) 741 F.2d 336, hn. 5

Tie in the federal reserve to bank law suit.

Lewis v. United States, 680 F.2d 1239 (9th Cir. 1982)

John L. Lewis was injured by a vehicle owned and operated by a federal reserve bank, and brought action alleging jurisdiction under the Federal Tort Claims Act. The District Court dismissed the case by ruling that the federal reserve bank was not a federal agency within meaning of the Federal Tort Claims Act and the court therefore lacked subject-matter jurisdiction. The Appeals court affirmed the decision.

The court stated “Examining the organization and function of the Federal Reserve Banks, and applying the relevant factors, we conclude that the Reserve Banks are not federal instrumentalities for purpose of the FTCA, but are independent, privately owned and locally controlled corporations.”

However, this does not imply, as so many wrongly interpret, that private individuals own the banks for the court also stated “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. 12 U.S.C. Sect. 301. The directors enact by-laws regulating the manner of conducting general Bank business, 12 U.S.C. Sect. 341, and appoint officers to implement and supervise daily Bank activities. These activities include collecting and clearing checks, making advances to private and commercial entities, holding reserves for member banks, discounting the notes of member banks, and buying and selling securities on the open market. See 12 U.S.C. Sub-Sect. 341–361.

Serving a federal purpose does not necessarily imply being a federal agency

Mattox v. U.S., 156 US 237,243. (1895) "We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted."

S. Carolina v. U.S., 199 U.S. 437, 448 (1905). "The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when it was adopted, it means now."

SHAPIRO vs. THOMSON, 394 U. S. 618 April 21, 1969 . Further, the Right to TRAVEL by private conveyance for private purposes upon the Common way can NOT BE INFRINGED. No license or permission is required for TRAVEL when such TRAVEL IS NOT for the purpose of [COMMERCIAL] PROFIT OR GAIN on the open highways operating under license IN COMMERCE.

Marbury v. Madison, 5 US 137,(1803) "The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law."

Murdock v. Penn., 319 US 105, (1943) "No state shall convert a liberty into a privilege, license it, and attach a fee to it."

Shuttlesworth v. Birmingham, 373 US 262, (1969) "If the state converts a liberty into a privilege, the citizen can engage in the right with impunity."

Miranda v. Arizona, 384 U.S. 436, (1966) "Where rights secured by the Constitution are involved, there can be no rule making or legislation, which would abrogate them."

*"The **rights** of the individuals are restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government."* City of Dallas v Mitchell, 245 S.W. 944

Norton v. Shelby County, 118 U.S. 425, (1886) "An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed."

Miller v. U.S., 230 F.2d. 486,489 "The claim and exercise of a Constitutional right cannot be converted into a crime."

"To take away all remedy for the enforcement of a right is to take away the right itself. But that is not within the power of the State." Poindexter v. Greenhow, 114 U.S. 270, 303 (1885).

Brady v. U.S., 397 U.S. 742, 748,(1970) "Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness."

Carnley v. Cochran, 369 U.S. 506, 516 (1962), "Presuming waiver from a silent record is impermissible. The record must show, or there must be an allegation and evidence which show, that an accused was offered counsel but intelligently and understandingly rejected the offer. Anything less is not waiver."

Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958). "No state legislator or executive or judicial officer can war against the Constitution without violating his

undertaking to support it." The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents."

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but, the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." Redfield v Fisher, 292 P 813, at 819 [1930]

"[I]n common usage, the term `person' does not include the sovereign, [and] statutes employing the phrase are ordinarily construed to exclude it." United States v. Cooper Corp., 312 U.S. 600, 604 [1941;] accord, United States v. Mine Workers, 330 U.S. 258, 1947.]

Colten v. Kentucky (1972)407 U.S. 104@122. 92 S.Ct. 1953; Dissent by Douglas"If the nation comes down from its position of sovereignty and enters the domain of commerce, it submits itself to the same laws that govern individuals therein. It assumes the position of an ordinary citizen and it cannot recede from the fulfillment of its obligations;" 74 Fed. Rep. 145, following 91 U.S. 398.

NO IMMUNITY

"Sovereign immunity does not apply where (as here) government is a lawbreaker or jurisdiction is the issue."
Arthur v. Fry, 300 F.Supp. 622

"...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office...The liability for nonfeasance, misfeasance, and for malfeasance in office

is in his 'individual' , not his official capacity..."
70 Am. Jur. 2nd Sec. 50, VII Civil Liability

"Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law."
Rubinstein v. Collins, 20 F.3d 160, 1990

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[a] "Party in interest may become liable for fraud by mere silent acquiescence and partaking of benefits of fraud."
Bransom v. Standard Hardware, Inc., 874 S.W.2d 919, 1994

Ex dolo malo non oritur actio. Out of fraud no action arises; fraud never gives a right of action. No court will lend its aid to a man who founds his cause of action upon an immoral or illegal act.
As found in Black's Law Dictionary, Fifth Edition, page 509.

"Fraud destroys the validity of everything into which it enters,"
Nudd v. Burrows, 91 U.S 426.

"Fraud vitiates everything"
Boyce v. Grundy, 3 Pet. 210

"Fraud vitiates the most solemn contracts, documents and even judgments."
U.S. v. Throckmorton, 98 US 61

When a Citizen challenges the acts of a federal or state official as being illegal, that official cannot just simply avoid liability based upon the fact that he is a public official. In United States v. Lee, 106 U.S. 196, 220, 221, 1 S.Ct. 240, 261, the United States claimed title to Arlington, Lee's estate, via a tax sale some years earlier, held to be void by the Court. In so voiding the title of the United States, the Court declared:

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives.
"Shall it be said... that the courts cannot give remedy when the citizen has been deprived of his property by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights."

See Pierce v. United States ("The Floyd Acceptances"), 7 Wall. (74 U.S.) 666, 677 ("We have no officers in this government from the President down to the most subordinate agent, who does not hold office under the law, with prescribed duties and limited authority"); Cunningham v. Macon, 109 U.S. 446, 452, 456, 3 S.Ct. 292, 297 ("In these cases he is not sued as, or because he is, the officer of the government, but as an individual, and the court is not ousted of jurisdiction because he asserts authority as such officer. To make out his defense he must show that his authority was sufficient in law to protect him... It is no answer for the defendant to say I am an officer of the government and acted under its authority unless he shows the sufficiency of that authority"); and Poindexter v. Greenhow, 114 U.S. 270, 287, 5 S.Ct. 903, 912

WHEREAS, officials and even judges have no immunity (See, Owen vs. City of Independence, 100 S Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21; officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America. See: Title 42 U.S.C. Sec. 1983.

"When lawsuits are brought against federal officials, they must be brought against them in their "individual" capacity not their official capacity. When federal officials perpetrate constitutional torts, they do so ultra vires (beyond the powers) and lose the shield of immunity." Williamson v. U.S. Department of Agriculture, 815 F.2d. 369, ACLU Foundation v. Barr, 952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991).

"Personal involvement in deprivation of constitutional rights is prerequisite to award of damages, but defendant may be personally involved in constitutional deprivation by direct participation, failure to remedy wrongs after learning about it, creation of a policy or custom under which unconstitutional practices occur or gross negligence in managing subordinates who cause violation." (Gallegos v. Haggerty, N.D. of New York, 689 F. Supp. 93 (1988).

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."
Hagans v. Lavine, 415 U. S. 533

"If you've relied on prior decisions of the Supreme Court you have a perfect defense for willfulness."
U.S. v. Bishop, 412 U.S. 346

State citizenship

U.S. v. Anthony 24 Fed. 829 (1873) "The term resident and citizen of the United States is distinguished from a Citizen of one of the several states, in that the former is a special class of citizen created by Congress."

"We have in our political system a government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of it's own..."
United States v. Cruikshank, 92 U.S. 542 (1875)

"...he was not a citizen of the United States, he was a citizen and voter of the State,..." "One may be a citizen of a State an yet not a citizen of the United

States".
McDonel v. The State, 90 Ind. 320 (1883)

"That there is a citizenship of the United States and citizenship of a state,..."
Tashiro v. Jordan, 201 Cal. 236 (1927)

"A citizen of the United States is a citizen of the federal government ..."
Kitchens v. Steele, 112 F.Supp 383

State v. Manuel, 20 NC 122: "the term 'citizen' in the United States, is analogous to the term `subject' in common law; the change of phrase has resulted from the change in government."

Supreme Court: Jones v. Temmer, 89 F. Supp 1226: "The privileges and immunities clause of the 14th Amendment protects very few rights because it neither incorporates the Bill of Rights, nor protects all rights of individual citizens. Instead this provision protects only those rights peculiar to being a citizen of the federal government; it does not protect those rights which relate to state citizenship."

Supreme Court: US vs. Valentine 288 F. Supp. 957: "The only absolute and unqualified right of a United States citizen is to residence within the territorial boundaries of the United States."

"It is the duty of all officials whether legislative, judicial, executive, administrative, or ministerial to so perform every official act as not to violate constitutional provisions." ***Montgomery v state 55 Fla. 97-45S0.879***

a. "Inasmuch as every government is an artificial

person, an abstraction, and a creature of the mind only, a government can interface only with other artificial persons. The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity with the tangible. The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them." ***S.C.R. 1795, Penhallow v. Doane's Administrators 3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54;*** *and,*

b. "the contracts between them" involve U.S. citizens, which are deemed as Corporate Entities:

c. "Therefore, the U.S. citizens residing in one of the states of the union, are classified as property and franchises of the federal government as an "individual entity"", ***Wheeling Steel Corp. v. Fox, 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773***

Before we place the stigma of a criminal conviction upon any such citizen the legislative mandate must be clear and unambiguous. Accordingly that which Chief Justice Marshall has called 'the tenderness of the law for the rights of individuals' [FN1] entitles each person, regardless of economic or social status, to an unequivocal warning from the legislature as to whether he is within the class of persons subject to vicarious liability. Congress cannot be deemed to have intended to punish anyone who is not 'plainly and unmistakably' within the confines of the statute. United States v. Lacher, 134 U.S. 624, 628, 10

S.Ct. 625, 626, 33 L.Ed. 1080; United States v. Gradwell, 243 U.S. 476,485, 37 S.Ct. 407, 61 L.Ed. 857. FN1 United States v. Wiltberger, 5 Wheat. 76, 95, 5 L.Ed. 37.

We do not overlook those constitutional limitations which, for the protection of personal rights, must necessarily attend all investigations conducted under the authority of Congress. Neither branch of the legislative department, still less any merely administrative body, established by Congress, possesses, or can be invested with, a general power of making inquiry into the private affairs of the citizen. Kilbourn v. Thompson, 103 U. S. 168,196 [26: 377, 386]. We said in Boyd v. United States, 116 U. S. 616, 630 [29: 746, 751]—and it cannot be too often repeated—that the principles that embody the essence of constitutional liberty and security forbid all invasions on the part of the government and its employes of the sancity of a man's home, and the privacies of his life. As said by Mr. Justice Field in Re Pacific R. Commission, 32 Fed. Rep. 241,250, "of all the rights of the citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves, not merely protection of his person from assault, but exemption of his private affairs, books, and papers from the inspection and scrutiny of others. Without the enjoyment of this right, all others would lose half their value."

... It is scarcely necessary to say that the power given to Congress to regulate interstate commerce does not carry with it any power to destroy or impair those guarantees. This court has already spoken fully on that general subject in Counselman v. Hitchock, 142 U. S. 547 [35: 1110], 3 Inters. Com. Rep. 816.... Suffice it hi the present case to say that as the Interstate Commerce Commission, by petition in a circuit court of the United States seeks, upon grounds distinctly set forth, an order to compel appellees to answer particular questions and to produce certain books, papers, etc., in their possession, it was open to each of them to contend before that court that he was protected by the Constitution from making answer to the questions propounded to him; or that he was not legally bound to produce the books, papers, etc., ordered to be produced; or that neither the questions propounded nor the books, papers, etc., called for relate to the particular matter under investigation, nor to any matter which the Commission is entitled under the Constitution or laws to investigate. These issues being determined in their favor by the court, the petition of the Commission could have been dismissed upon its

merits. Interstate Commerce Comm'n v. Brimson (1894), 154 U.S. 447, 38 L.Ed 1047, 1058,14 S.Ct. 1125.

Albrecht v. U.S. Balzac v. People of Puerto Rico, 258 U.S. 298 (1922) "The United States District Court is not a true United States Court, established under Article 3 of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article 4, 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts, in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court."

Alexander v.Bothsworth, 1915. "Party cannot be bound by contract that he has not made or authorized. Free consent is an indispensable element in making valid contracts."

HALE v. HENKEL 201 U.S. 43 at 89 (1906)

Hale v. Henkel was decided by the united States Supreme Court in 1906. The opinion of the court states:

"The "individual" may stand upon "his Constitutional Rights" as a CITIZEN. He is entitled to carry on his "private" business in his own way. "His power to contract is unlimited." He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no duty to the State, since he receives nothing there from, beyond the protection of his life and property. "His rights" are such as "existed" by the Law of the Land (Common Law) "long antecedent" to the organization of the State", and can only be taken from him by "due process of law", and "in accordance with the Constitution." "He owes nothing" to

the public so long as he does not trespass upon their rights."

HALE V. HENKEL 201 U.S. 43 at 89 (1906)

Hale v. Henkel is binding on all the courts of the United States of America until another Supreme Court case says it isn't. No other Supreme Court case has ever overturned Hale v. Henkel

None of the various issues of Hale v. Henkel has ever been overruled

Since 1906, Hale v. Henkel has been cited by the Federal and State Appellate Court systems over 1,600 times! In nearly every instance when a case is cited, it has an impact on precedent authority of the cited case.

Compared with other previously decided Supreme Court cases, no other case has surpassed Hale v. Henkel in the number of times it has been cited by the courts.

Basso v. UPL, 495 F. 2d 906

Brook v. Yawkey, 200 F. 2d 633

Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

Under federal Law, which is applicable to all states, the U.S. Supreme Court stated that "if a court is without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification and all persons concerned in executing such judgments or sentences are considered, in law, as trespassers."

Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272

Hagans v. Lavine, 415 U.S. 528

Howlett v. Rose, 496 U.S. 356 (1990)

Federal Law and Supreme Court Cases apply to State Court Cases.

Sims v. Aherns, 271 SW 720 (1925) "The practice of law is an occupation of common right."

*"Members of groups who are competent non-lawyers can assist other members of the group achieve the goals of the group in court without being charged with "Unauthorized practice of law." (**NAACP v. Button, 371 U.S. 415;** and **United Mineworkers of America v. Gibbs (383 U.S. 715**); and **Johnson v. Avery 89 S. Ct. 747 (1969**)*

Maine v. Thiboutot, 448 U.S. 1

Mookini v. U.S., 303 U.S. 201 (1938)

"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 (98 U.S. 145) does not make it a 'District Court of the United States'.

"Not only did the promulgating order use the term District Courts of the United States in its historic and proper sense, but the omission of provision for the application of the rules the territorial court and other courts mentioned in the authorizing act clearly shows the limitation that was intended."

Carlisle v. United States, 83 U.S. 147, 154 (1873), 'The rights of sovereignty extend to all persons and things not privileged, that are within the territory. They extend to all strangers resident therein: not only to those who are naturalized, and to those who are domiciled therein, having taken up their abode with the intention of permanent residence, but also to those whose residence is transitory. All strangers are under the protection of the sovereign while they are within

his territory and owe a temporary allegiance in return for that protection.' "

In Leiberg v. Vitangeli, 70 Ohio App. 479, 47 N.E. 2d 235, 238-39 (1942) "These constitutional provisions employ the word 'person,' that is. anyone whom we have permitted to peaceably reside within our borders may resort to our courts for redress of an injury done him in his land, goods, person or reputation. The real party plaintiff for whom the nominal plaintiff sues is not shown to have entered our land in an unlawful manner. We said to her, you may enter and reside with us and be equally protected by our laws so long as you conform thereto. You may own property and our laws will protect your title. "We, as a people, have said to those of foreign birth that these constitutional guaranties shall assure you of our good faith. They are the written surety to you of our proud boast that the United States is the haven of refuge of the oppressed of all mankind."

Court will assign to common-law terms their common-law meaning unless legislature directs otherwise. People v. Young (1983) 340 N.W.2d 805,418 Mich. 1.

Common law, by constitution, is law of state. Beech Grove Inv. Co. v. Civil Rights Com'n (1968) 157 N.W.2d 213, 380 Mich. 405.

"Common law" is but the accumulated expressions of various judicial tribunals in their efforts to ascertain what is right and just between individuals in respect to private disputes. Semmens v. Floyd Rice Ford, Inc. (1965) 136 N.W.2d 704,1 Mich.App. 395.

The common law is in force in Michigan, except so far as it is repugnant to, or inconsistent with, the Constitution or statutes of the state. Stout v. Keyes (1845) 2 Doug. 184, 43 Am. Dec. 465.

"The constitution was ordained ^nd established by the people of the United States for themselves, for their own government, and not for the government of the individual states. Each state established a constitution for itself, and in that constitution, provided such limitations and restrictions on the powers of its particular government, as its judgment dictated. The people of the United States framed such a government for the United States as they supposed best

adapted to their situation and best calculated to promote their interests. The powers they conferred on this government were to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally, and, we think, necessarily, applicable to the government created by the instrument. They are limitations of power granted in the instrument itself; not of distinct governments, framed by different persons and for different purposes. If these propositions be correct, the fifth amendment must be understood as restraining the power of the general government, not as applicable to the states."

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. 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 on any country where freedom prevails, as being the essence of slavery itself. See: Yick Wo v. Hopkins ,118 U.S. 356 (1886).

"He is not to substitute even his juster will for theirs; otherwise it would not be the 'common will' which prevails, and to that extent the people would not govern." See: Speech by Judge Learned Hand at the Mayflower Hotel in Washington, D.C. May 11,1919, entitled, "Is there a Common Will?"

"... The Congress cannot revoke the Sovereign power of the people to override itself as thus declared." See: Perry v. United States , 294 U.S. 330, 353 (1935).

"In the United States, Sovereignty resides in the people, who act through the organs established by the Constitution." See: Chisholm v. Georgia, 2 Dall 419, 471; Penhallow v. Doane's Administrators, 3 Dall 54, 93; McCullock v. Maryland, 4 Wheat 316, 404, 405; Yick Wo v. Hopkins ,118 U.S. 356, 370 (1886).

"As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intent to convey; the enlightened patriots who framed our constitution and

the people who adopted it must be understood to have employed the words in their natural sense, and to have intended what they have said." See: Gibbons v. Ogden, 27 U.S. 1

No legislature can bargain away the public health or the public morals. The people themselves cannot do it. much less their servants. See: New Orleans Gas Co v. Louisiana Light Co ,115 U.S. 650 (1885).

People are supreme, not the state. See: Waring v. the Mayor of Savannah, 60 Georgia at 93.

Strictly speaking, in our republican form of government, the absolute sovereignty of the nation is in the people of the nation: and the residuary sovereignty of each state, not granted to any of its public functionaries, is in the people of the state. See: 2 Dall. 471; Bouv. Law Diet. (1870).

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. See: First Trust Co. v. Smith, 134 Neb.; 277 SW 762.

What is a constitution? It is the form of government, delineated by the mighty hand of the people, in which certain first principles of fundamental laws are established." See: Vanhorne's Lessee v. Dorrance , 2 U.S. 304(1795).

A constitution is designated as a supreme enactment, a fundamental act of legislation by the people of the state. A constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior au&priry. See: Ellingham v. Dye, 178 Ind. 336; 99 NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; Sage v. New York, 154 NY 61; 47 NE 1096.

The question is not what power the federal government ought to have, but what powers, in fact, have been given by the people.... The federal union is a government of delegated powers. It has only such as are expressly conferred upon it, and such as are reasonably to be implied from those granted. In this respect, we differ radically from nations where all legislative power, without restriction of limitation, is vested in a parliament or other legislative body subject to no restrictions except the discretion of its members. See: U.S. v. William M. Butler, 297 U.S. 1.

The people themselves have it in their power effectually to resist usurpation, without being driven to an appeal in arms. An act of usurpation is not obligatory: It is not law; and any man may be justified in his resistance. Let him be considered as a criminal by the general government: yet only his fellow citizens can convict him. They are his jury, and if they pronounce him innocent, not all powers of congress can hurt him; and innocent they certainly will pronounce him, if the supposed law he resisted was an act of usurpation. See: 2 Elliot's Debates, 94; 2 Bancroft, History of the Constitution, 267.

But it cannot be assumed that the framers of the Constitution and the people who adopted it did not intent that which is the plain import of the language used. When the language of the Constitution is positive and free from all ambiguity, all courts are not at liberty, by a resort to the refinements of legal learning, to restrict its obvious meaning to avoid hardships of particular cases, we must accept the Constitution as it reads when its language is unambiguous, for it is the mandate of the sovereign powers. See: State v. Sutton, 63 Minn. 147, 65 WX N.W., 262,101, N.W. 74; Cook v. Iverson, 122, N.M. 251.

In this state, as well as in all republics, it is not the legislation, however transcendent its powers, who are supreme— but the people— and to suppose that they may violate the fundamental law is, as has been most eloquently expressed, to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves: that the men acting by virtue of delegated powers may do. not only what then- powers do not authorize, but what they forbid.

See: Warning v. the Mayor of Savannah, 60 Georgia, P. 93.

There have been powerful hydraulic pressures throughout our history that bear heavily on the court to water down constitutional guarantees and give the police the upper hand. That hydraulic pressure has probably never been greater than it is today. Yet if the individual is no longer to be sovereign, if the police can pick him up whenever they do not like the cut of his jib, if they can "seize" and "search" him hi their discretion, we enter a new regime. The decision to enter it should be made only after a full debate by the people of this country. See: Terry v. Ohio. 392 U.S. 39 (1967).

"Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable Rights, as sacred as the Right to private property ... and is regarded as inalienable." 16 C.J.S., Constitutional Law, Sect.202, p.987

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. 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. (Yick Wo vs. Hopkins, U.S. 356 (1886). "...The Congress cannot revoke the Sovereign power of the people to override their will as thus declared." Perry v. United States, 294 U.S. 330, 353 (1935).

"In the United States, Sovereignty resides in the people, who act through the organs established by the Constitution." Chisholm v. Georgia, 2 Dall 419, 471; Penhallow v. Doane's Administrators, 3 Dall 54, 93; McCullock v. Maryland, 4 Wheat 316,404,405; Yick Yo v. Hopkins, 118 U.S. 356, 370.

"The rights of the individuals are restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government." City of Dallas v Mitchell, 245 S.W. 944

Supreme Court Justice Brandeis spoke, in the case of Olmstead v. United States when he said: "Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to obsereve the laws scruplously. Our government is the potent omnipresent teacher. For good or ill, it teaches the whole people by it's example. Crime is contagious. If the government becomes a law breaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of criminal laws the end justifies the means to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face. ...And so should every law enforcemnt student, practitioner, supervisor, and adminstrator "

State v. Manuel, North Carolina, Vol. 20, Page 121 (1838)The sovereignty has been transferred from one man to the collective body of the people - and he who before was a "subject of the king" is now "a citizen of the State".

"In the United States the People are sovereign and the government cannot sever its relationship to the People by taking away their citizenship." Afroyim v. Rusk, 387 U.S. 253 (1967).

"The People of a State are entitled to all rights which formerly belonged to the King by his prerogative." Lansing v. Smith, 4 Wendell 9, 20 (1829)

In Europe, the executive is synonymous with the sovereign power of a state…where it is too commonly acquired by force or fraud or both…In America, however the case is widely different. Our government is founded

upon Compact. Sovereignty was, and is, in the People. Glass v. The Sloop Betsy, 3 Dall 6.(1794)

It is a Maxim {an established principle} of the Common Law that when an act of Parliament is made for the public good, the advancement of religion and justice, and to prevent injury and wrong, the King shall be bound by such an act, though not named; but when a Statute is general, and any prerogative Right, title or interest would be divested or taken from the King (or the People) in such case he shall not be bound. The People vs. Herkimer, 15 Am. Dec. 379, 4 Cowen 345 (N.Y. 1825).

Chisholm v. Georgia, Dallas Supreme Court Reports, Vol. 2, Pages 471, 472 (1793) "It will be sufficient to observe briefly, that the sovereignties in Europe, and particularly in England, exist on feudal principles. That system considers the prince as the sovereign, and the people as his subjects; it regards his person as the object of allegiance... No such ideas obtain here; at the revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects... and have none to govern but themselves..."

Ex parte - Frank Knowles, California Reports, Vol. 5, Page 302 (1855) "A citizen of any one of the States of the Union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deduced from its various other provisions."

Manchester v. Boston, Massachusetts Reports, Vol. 16, Page 235 (1819) "The term, citizens of the United States, must be understood to intend those who were citizens of a state, as such, after the Union had commenced, and the several states had assumed their sovereignties. Before this period there was no citizens of the United States..."

Butler v. Farnsworth, Federal Cases, Vol. 4, Page 902 (1821) "A citizen of one state is to be considered as a citizen of every other state in the union."

Douglass, Adm'r., v. Stephens, Delaware Chancery, Vol. 1, Page 470 (1821) "When men entered into a State they yielded a part of their absolute rights, or natural liberty, for political or civil liberty, which is no other than natural liberty restrained by human laws, so far as is necessary and expedient for the general advantage of the public. The rights of enjoying and defending life and liberty, of acquiring and protecting reputation and property, - and, in general, of attaining objects suitable to their condition, without injury to another, are the rights of a citizen; and all men by nature have them."

Allodial Land

Barker v Dayton 28 Wisconsin 367 (1871):

"All lands within the state are declared to be allodial, and feudal tenures are prohibited. On this point counsel contended, first, that one of the principal elements of feudal tenures was, that the feudatory could not independently alien or dispose of his fee; and secondly, that the term allodial describes free and absolute ownership, ... independent ownership, in like manner as personal property is held; the entire right and dominion; that it applies to lands held of no superior to whom the owner owes homage or fealty or military service, and describes an estate subservient to the purposes of commerce, and alienable at the will of the owner; the most ample and perfect interest which can be owned in land."

[Bowers v. DeVito, U.S. Court of Appeals, Seventh Circuit, 686F.2d 616 (1882)"… there is no constitutional right to be protected by the state against being murdered by criminals or madmen. It is monstrous if the state fails to protect its residents against such predators but it does not violate the due process clause of the Fourteenth Amendment or, we suppose, any other provision of the Constitution. The Constitution is a charter of negative liberties: it

tells the state to let people alone; it does not require the federal government or the state to provide services, even so elementary a service as maintaining law and order."

Income taxes

Gregory v. Helverging, 293 U.S. 465, 1935
"The legal Right of a taxpayer to decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means which the law permits, cannot be doubted"

1895: In Pollock vs Farmers' Loan & Trust Co, the Supreme Court rules that general income taxes are unconstitutional because they are unapportioned direct taxes. To this day, the ruling has not been over-turned.

January 24, 1916: In Brushaber vs. Union Pacific Railroad, the Supreme Court ruled: that the 16th Amendment doesn't over-rule the Court's ruling in the Pollock case which declared general income taxes unconstitutional; The 16th Amendment applies only to gains and profits from commercial and investment activities: The 16th Amendment only applies to excises taxes; The 16th Amendment did not Amend the U.S. Constitution; The 16th Amendment only clarified the federal governments existing authority to create excise taxes without apportionment.

…the [16th] Amendment contains nothing repudiating or challenging the ruling in the Pollock Case that the word direct had a broader significance since it embraced also taxes levied directly on personal property because of its ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the Constitution -- a condition which clearly demonstrates that the purpose was not to change the existing interpretation except to the extent

necessary to accomplish the result intended, that is, the prevention of the resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself and thereby to take an income tax out of the class of excises, duties and imposts and place it in the class of direct taxes...

Indeed in the light of the history which we have given and of the decision in the Pollock Case and the ground upon which the ruling in that case was based, there is no escape from the Conclusion that the Amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock Case was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the Amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment…

1939: Congress passes the Public Salary tax, taxing the wages of federal employees.

1940: Congress passes the Buck Act authorizing the federal government to tax federal workers living in the States.

1942, Congress passes the Victory Tax under Constitutional authority to support the WWII effort. President Roosevelt proposes a voluntary tax withholding program allowing workers across the nation to pay the tax in installments. The program is a success and the number of tax payers increases from 3 percent to 62 percent of the U.S. population.

1944: The Victory Tax and Voluntary Withholding laws are repealed as required by the U.S. Constitution, however, the federal government continues to collect the tax claiming it's authority under the 1913 income tax and the 16th Amendment.

Erie Railroad v. Tompkins, 1938
Supreme Court of the United States had decided on the basis of Commercial (Negotiable Instruments) Law: that Tompkins was not under any contract with the Erie Railroad, and therefore he had no standing to sue the company. Under the Common Law, he was damaged and he would have had the right to sue.
Hence, all courts since 1938 are operating in an Admiralty Jurisdiction and not Common Law courts because lawful money (silver or gold coin) does not exist.
Courts of Admiralty only has jurisdiction over maritime contracts on the high seas ad navigable water ways.

In Blockburger v. U.S., 284 U.S. 299 (1932), the Supreme Court held that punishment for two statutory offenses arising out of the same criminal act or transaction does not violate the Double Jeopardy Clause if 'each provision requires proof of an additional fact which the other does not.' Id. at 304.

Boyd v. United, 116 U.S. 616 at 635 (1885)

Justice Bradley, "It may be that it is the obnoxious thing in its mildest form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of persons and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the Courts to be watchful for the

Constitutional Rights of the Citizens, and against any stealthy encroachments thereon. Their motto should be Obsta Principiis."

Downs v. Bidwell, 182 U.S. 244 (1901)"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgement in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution."

Duncan v. Missouri, 152 U.S. 377, 382 (1894) Due process of law and the equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

Giozza v. Tiernan, 148 U.S. 657, 662 (1893), Citations Omitted "Undoubtedly it (the Fourteenth Amendment) forbids any arbitrary deprivation of life, liberty or property, and secures equal protection to all under like circumstances in the enjoyment of their rights... It is enough that there is no discrimination in favor of one as against another of the same class. ...And due process of law within the meaning of the [Fifth and Fourteenth] amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

Kentucky Railroad Tax Cases, 115 U.S. 321, 337 (1885) "The rule of equality... requires the same means and methods to be applied impartially to all the constitutents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances".

Butz v. Economou, 98 S. Ct. 2894 (1978); United States v. Lee, 106 U.S. at 220, 1 S. Ct. at 261 (1882) "No man [or woman] in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government from the highest to the lowest, are creatures of the law, and are bound to obey it."

Olmstad v. United States, (1928) 277 U.S. 438 "Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

Mallowy v. Hogan, 378 U.S. 1 "All rights and safeguards contained in the first eight amendments to the federal Constitution are equally applicable."

U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882) "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance, with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law are bound to obey it."

"It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives."

Ableman v. Booth, 21 Howard 506 (1859) "No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence."

Stump v. Sparkman, id., 435 U.S. 349 Some Defendants urge that any act "of a judicial nature" entitles the Judge to absolute judicial immunity. But in a jurisdictional vacuum (that is, absence of all jurisdiction) the second prong necessary to absolute judicial immunity is missing. A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity.

Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803) "... the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written

constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument."

"In declaring what shall be the supreme law of the land, the Constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank".

"All law (rules and practices) which are repugnant to the Constitution are VOID".

Since the 14th Amendment to the Constitution states "NO State (Jurisdiction) shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional.

Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872)

"Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction."

Chandler v. Judicial Council of the 10th Circuit, 398 U.S. 74, 90 S. Ct. 1648, 26 L. Ed. 2d 100Justice Douglas, in his dissenting opinion at page 140 said, "If (federal judges) break the law, they can be prosecuted." Justice Black, in his dissenting opinion at page 141) said, "Judges, like other people, can be tried, convicted and punished for crimes... The judicial power shall extend to all cases, in law and equity, arising under this Constitution".

Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938) A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts.

"Jurisdiction, once challenged, cannot be assumed and must be decided."
Maine v. Thiboutot, 100 S. Ct. 250

The U.S. Supreme Court, in Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974) stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States". [Emphasis supplied in original]

NOTE: By law, a judge is a state officer.

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers". Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1878)

U.S. v. Dixon, 113 S.Ct. 2849, 2856 (1993), the Court clarified the use of the 'same elements test' set forth in Blockburger when it over-ruled the 'same conduct' test announced in Grady v. Corbin, 495 U.S. 508 (1990), and held that the Double Jeopardy Clause bars successive prosecutions only when the previously concluded and subsequently charged offenses fail the

'same elements' test articulated in Blockburger. See also Gavieres v. U.S., 220 U.S. 338, 345 (1911) (early precedent establishing that in a subsequent prosecution '[w]hile it is true that the conduct of the accused was one and the same, two offenses resulted, each of which had an element not embraced in the other').

JUDICIAL IMMUNITY:

See Judicial Immunity page for more citations (links) and news articles regarding the topic.

See also, 42 USC 1983 - Availability of Equitable Relief Against Judges.

Note: [Copied verbiage; we are not lawyers.] Judges have given themselves judicial immunity for their judicial functions. Judges have no judicial immunity for criminal acts, aiding, assisting, or conniving with others who perform a criminal act or for their administrative/ministerial duties, or for violating a citizen's constitutional rights. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act; he is performing a ministerial act.

Nowhere was the judiciary given immunity, particularly nowhere in Article III; under our Constitution, if judges were to have immunity, it could only possibly be granted by amendment (and even less possibly by legislative act), as Art. I, Sections 9 & 10, respectively, in fact expressly prohibit such, stating, "No Title of Nobility shall be granted by the United States" and "No state shall... grant any Title of Nobility." Most of us are certain that Congress itself doesn't understand the inherent lack of immunity for judges.

Article III, Sec. 1, "The Judicial Power of the United States shall be vested in one supreme court, and in such inferior courts, shall hold their offices during good behavior."

Tort & Insurance Law Journal, Spring 1986 21 n3, p 509-516, "Federal tort law: judges cannot invoke judicial immunity for acts that violate litigants' civil rights." - Robert Craig Waters.

ENGLISH TORT LAW
61. Ashby v. White, (1703) 92 Eng. Rep. 126 (K.B.); BLACKSTONE, supra note 59, at 23.
62. 5 U.S. (1 Cranch) 137, 163-66 (1803) ("It is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded . . . . [F]or it is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress.").

ENGLISH TORT LAW
Ashby v. White, (1703) 92 Eng. Rep.
Facts
Mr Ashby was prevented from voting at an election by the misfeasance of a constable, Mr White, on the apparent pretext that he was not a settled inhabitant.

At the time, the case attracted considerable national interest, and debates in Parliament. It was later known as the Aylesbury election case. In the Lords, it attracted the interest of Peter King, 1st Baron King who spoke and maintained the right of electors to have a remedy at common law for denial of their votes, against Tory insistence on the privileges of the Commons.

Sir Thomas Powys (c. 1649–1719) defended William White in the House of Lords. The argument submitted was that the Commons alone had the power to determine election cases, not the courts.

Judgment

Holt CJ was dissenting in his judgment in the High Court, but this was upheld by the House of Lords. He said at pp 273-4:
“ "If the plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it, and, indeed it is a vain thing to imagine a right without a remedy; for want of right and want of remedy are reciprocal...

And I am of the opinion that this action on the case is a proper action. My brother Powell indeed thinks that an action on the case is not maintainable, because there is no hurt or damage to the plaintiff, but surely every injury imports a damage, though it does not cost the party one farthing, and it is impossible to prove the contrary; for a damage is not merely pecuniary but an injury imports a damage, when a man is thereby hindered of his rights.

To allow this action will make publick officers more careful to observe the constitution of cities and boroughs, and not to be so partial as they commonly are in all elections, which is indeed a great and growing mischief, and tends to the prejudice of the peace of the nation.

A Collection of Court Authorities
in re the
District Court of the United States

by

Paul Andrew Mitchell, B.A., M.S.

We begin with one of the great masters of Constitution, Chief Justice John Marshall, writing in the year 1828. Here, Justice Marshall make a very clear distinction between judicial courts, authorized by Article III, and legislative (territorial) courts, authorized by Article IV. Marshall even utilizes some of the exact wording of Article IV to differentiate those courts from Article III "judicial power" courts, as follows:

These [territorial] courts then, are not Constitutional courts, in which the judicial power conferred by the Constitution on the general government can be deposited. They are incapable of receiving it.They are legislative courts, created in virtue of the general rights of sovereignty which exists in the government, or in virtue of that clause which enables Congress to make all needful rules and regulations, respecting the territory belonging to the United States. The jurisdiction with which they are invested, is not a part of that judicial power which is defined in the 3d article of the Constitution, but is conferred by Congress, in the execution of those general powers which that body possesses over the territories of the United States. Although admiralty jurisdiction can be exercised in the States in those courts only which are established in pursuance of the 3d article of the Constitution, the same limitation does not extend to the territories. In legislating for them, Congress exercises the combined powers of the general and of the State government.

[American Insurance Co. v. 356 Bales of Cotton]

[1 Pet. 511 (1828), emphasis added]

Though the judicial system set up in a Territory of the United States is a part of federal jurisdiction, the phrase "court of the United States", when used in a federal statute, is generally construed as not referring to "territorial courts." See Balzac v. Porto Rico, 258 U.S. 298 at 312 (1921), 42 S.Ct. 343, 66 L.Ed. 627. In Balzac, the high Court stated:

The United States District Court is not a true United States court established under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article IV, Section 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court. [Balzac v. Porto Rico, 258 U.S. 298 at 312] [42 S.Ct. 343, 66 L.Ed. 627 (1921)]

Constitutional provision against diminution of compensation of federal judges was designed to secure independence of judiciary. [O'Donoghue v. U.S., 289 U.S. 516 (1933)] [headnote 2. Judges]

The term "District Courts of the United States," as used in Criminal Appeals Rules, without an addition expressing a wider connotation, had its historic

significance and described courts created under article 3 of Constitution, and did not include territorial courts. [Mookini et al. v. U.S., 303 U.S. 201]
[headnote 2. Courts, emphasis added]

Where statute authorized Supreme Court to prescribe Criminal Appeals Rules in District Courts of the United States including named territorial courts, omission in rules when drafted of reference to District Court of Hawaii, and certain other of the named courts, indicated that Criminal Appeals Rules were not to apply to those [latter] courts.
[Mookini et al. v. U.S., 303 U.S. 201]
[headnote 4. Courts, emphasis added]

The following paragraph from Mookini is extraordinary for severalreasons: (
1) it refers to the "historic and proper sense" of the term "District Courts of the United States",
(2) it makes a key distinction between such courts and application of their rules to
territorial courts;
(3) the application of the maxim inclusion unius est exclusio alterius is obvious here, namely, the omission of territorial courts clearly shows that they were intended to be omitted:

Not only did the promulgating order use the term District Courts of the United States in its historic and proper sense, but the omission of pr sions for the application of the rules to the territorial courts and other courts mentioned in the authorizing act clearly shows the limitation that was intended.
[Mookini et al. v. U.S., 303 U.S. 201]

[emphasis added]

The words "district court of the United States" commonly describe constitutional courts created under Article III of the Constitution, not the legislative courts which have long been the courts of the Territories.
[Int'l Longshoremen's and Warehousemen's Union et al.] v. Juneau Spruce Corp., 342 U.S. 237 (1952)]

[emphasis added]

The phrase "court of the United States", without more, means solely courts created by Congress under Article III of the Constitution and not territorial courts.
[Int'l Longshoremen's and Warehousemen's Union et al.] [v. Wirtz, 170 F.2d 183 (9th Cir. 1948), headnote 1]

[emphasis added]

United States District Courts have only such jurisdiction as is conferred by an Act of Congress under the Constitution.
U.S.C.A. Const. art. 3, sec. 2; 28 U.S.C.A. 1344]
[Hubbard v. Ammerman, 465 F.2d 1169 (5th Cir., 1972)]
[headnote 2. Courts]

The United States district courts are not courts of general jurisdiction. They have no jurisdiction except as prescribed by Congress pursuant to Article III of the Constitution. [many cites omitted]
[Graves v. Snead, 541 F.2d 159 (6th Cir. 1976)]

The question of jurisdiction in the court either over the person, the subject-matter or the

place where the crime was committed can be raised at any stage of a criminal proceeding; it is never presumed, but must always be proved; and it is never waived by a defendant.
[U.S. v. Rogers, 23 F. 658 (D.C.Ark. 1885)]

In a criminal proceeding lack of subject matter jurisdiction cannot be waived and may be asserted at any time by collateral attack.
[U.S. v. Gernie, 228 F.Supp. 329 (D.C.N.Y. 1964)]

Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus.
[U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

The United States District Court has only such jurisdiction as Congress confers.
[Eastern Metals Corp. v. Martin][191 F.Supp 245 (D.C.N.Y. 1960)]

U.S. v. Halper, 490 U.S. 435, 440 (1989). DOUBLE JEOPARDY - Being tried twice for the same offense; prohibited by the 5th Amendmen tto the U.S. Constitution. '[T]he Double Jeopardy Clause protects against three distinct abuses: [1] a second prosecution for the same offense after acquittal; [2] a second prosecution for the same offense after conviction; and [3] multiple punishments for the same offense.'

2 Am Jur 2d, page 129 (1962)
Administrative Law
Section 301. -- Particular applications.

In application of the principles that the power of an administrative agency to make rules does not extend to the power to make legislation and that a regulation which is beyond the power of the agency to make is invalid, it has been held that an administrative agency may not create a criminal offense or any liability not sanctioned by the lawmaking authority, and specifically a liability for a tax [fn 2] or inspection fee. [bold emphasis added]

Footnote 2:

2. Commissioner of Internal Revenue v. Acker, 361 U.S. 87, 4 L.Ed.2d 127, 80 S.Ct. 144 (1959); Roberts v. Commissioner of Internal Revenue, 176 F.2d 221, 10 ALR.2d 186 (9th Cir. 1949) (... regulations "can add nothing to income as defined by Congress." citing M.E. Blatt Co. v. United States, 305 U.S. 267, 279, 59 S.Ct. 186, 190, 83 L.Ed. 167 (1938)); Independent Petroleum Corp. v. Fly, 141 F.2d 189, 152 ALR 928 (5th Cir. 1944) (... the power to make regulations does not extend to making taxpayers of those whom the Act, properly construed, does not tax); Indiana Dept. of State Revenue v. Colpaert Realty Corp., 231 Ind. 463, 109 NE.2d 415 (no power to render taxable a transaction which the statute did not make taxable); Morrison-Knudsen Co. v. State Tax Com., 242 Iowa 33, 44 NW.2d 449, 41 ALR.2d 523 (use tax).

Liability for the payment of the sales tax is controlled by statute; it cannot be controlled by rulings or regulations of the board. Acorn Iron Works v. State Board of Tax Administration, 295 Mich. 143, 294 NW 126, 139 ALR 368. Annotation: 139 ALR 380 ("retail sale").

City of Canton v. Harris, 498 U.S. 378 (1989) "failure to train"

train its officers adequately with respect to implementing the following

Department policies:

Your Right of Defense Against Unlawful Arrest

"Citizens may resist *unlawful* arrest to the point of taking an arresting officer's life if necessary." *Plummer v. State*, 136 Ind. 306. This premise was upheld by the Supreme Court of the United States in the case: *John Bad Elk v. U.S.*, 177 U.S. 529. The Court stated: "Where the officer is killed in the course of the disorder which naturally accompanies an attempted arrest that is resisted, the law looks with very different eyes upon the transaction, when the officer had the right to make the arrest, from what it does if the officer had no right. What may be murder in the first case might be nothing more than manslaughter in the other, or the facts might show that no offense had been committed."

"An arrest made with a defective warrant, or one issued without affidavit, or one that fails to allege a crime is within jurisdiction, and one who is being arrested, may resist arrest and break away. lf the arresting officer is killed by one who is so resisting, the killing will be no more than an involuntary manslaughter." *Housh v. People*, 75 111. 491; reaffirmed and quoted in State v. Leach, 7 Conn. 452; State v. Gleason, 32 Kan. 245; Ballard v. State, 43 Ohio 349; State v Rousseau, 241 P. 2d 447; State v. Spaulding, 34 Minn. 3621.

"When a person, being without fault, is in a place where he has a right to be, is violently assaulted, he may, without retreating, repel by force, and if, in the reasonable exercise of his right of self defense, his assailant is killed, he is justified." *Runyan v. State*, 57 Ind. 80; Miller v. State, 74 Ind. 1.

"These principles apply as well to an officer attempting to make an arrest, who abuses his authority and transcends the bounds thereof by the use of unnecessary force and violence, as they do to a private individual who unlawfully uses such force and violence." *Jones v. State*, 26 Tex. App. I; Beaverts v. State, 4 Tex. App. 1 75; Skidmore v. State, 43 Tex. 93, 903.

"An illegal arrest is an assault and battery. The person so attempted to be restrained of his liberty has the same right to use force in defending himself as he would in repelling any other assault and battery." (*State v. Robinson*, 145 ME. 77, 72 ATL. 260).

"Each person has the right to resist an unlawful arrest. In such a case, the person attempting the arrest stands in the position of a wrongdoer and may be resisted by the use of force, as in self-defense." (*State v. Mobley*, 240 N.C. 476, 83 S.E. 2d 100).

"One may come to the aid of another being unlawfully arrested, just as he may where one is being assaulted, molested, raped or kidnapped. Thus it is not an offense to liberate one from the

unlawful custody of an officer, even though he may have submitted to such custody, without resistance." (*Adams v. State*, 121 Ga. 16, 48 S.E. 910).

"Story affirmed the right of self-defense by persons held illegally. In his own writings, he had admitted that 'a situation could arise in which the checks-and-balances principle ceased to work and the various branches of government concurred in a gross usurpation.' There would be no usual remedy by changing the law or passing an amendment to the Constitution, should the oppressed party be a minority. Story concluded, 'If there be any remedy at all ... it is a remedy never provided for by human institutions.' That was the 'ultimate right of all human beings in extreme cases to resist oppression, and to apply force against ruinous injustice.'" (From *Mutiny on the Amistad* by Howard Jones, Oxford University Press, 1987, an account of the reading of the decision in the case by Justice Joseph Story of the Supreme Court.

As for grounds for arrest: "The carrying of arms in a quiet, peaceable, and orderly manner, concealed on or about the person, is not a breach of the peace. Nor does such an act of itself, lead to a breach of the peace." (*Wharton's Criminal and Civil Procedure*, 12th Ed., Vol.2: *Judy v. Lashley*, 5 W. Va. 628, 41 S.E. 197)

DECISIONS FOR RIGHT TO TRAVEL
Dear Law Enforcement Officer:

With all due respect,

Demand for Trial By Jury to First decide the innocence or guilt of this individual upon the instant matter is hereby made on all proceedings arising from charges made by this Officer or Department of Government.

Demand that Nature and Cause be proven into the record of the Court for any charges arising from charges made by this Officer or Department of Government is hereby demanded.

Please attach this document in it's entirety with any charge, summons, or information you may make regarding me as this Document constitutes a specific demand for Jury trial to FIRST decide my innocence or guilt and

that the Nature and Cause for said charge be proven in this or any matter arising out of this matter and that it must be made a part of the record of any and all proceedings as my communication to the court and as these demands are fully supported by the 6th amendment to the Constitution of the United States of America (the law of the land, all others notwithstanding).

I am hereby informing you that I do not consent to talk to you, and that I must insist, unless you are placing me under arrest, or can state specific and articulable facts which warrant your detaining me that you immediately leave me alone to go about my business, as is my right as a United States Citizen.

I am engaged in the ownership and use of Property belonging to me as I see fit to use it, and as is my Constitutional Right to do. My responsibility to that act does not extend beyond any harm my decision does to another. If you (the officer or applicable Department of Government) are attempting to curtail my free use of my property you are hereby requested to identify the injured party and to instruct said injured party articulate the specific harm I or my use of my property has caused, in writing and provided to me and to the applicable court.

Should you choose to ignore this request and to detain me or cause me costly litigation knowing that no injured party exists as a result of my actions, be advised you are very likely acting outside the authority of your office and your Sovereign immunity.

I am not operating a motor vehicle pursuant to TITLE 18 > PART I > CHAPTER 2 > § 31Definitions (6) Motor vehicle.— The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of

passengers, passengers and property, or property or cargo.

Whereas I recognize it is your charge to protect the safety and welfare of citizenry, you must also see that I have not harmed nor caused to be harmed anyone. I state here and now that I have exercised my unalienable rights in a fashion that is within the meaning and protection of the U. S. Constitution and beyond that I have no responsibility.

In addition, as it is my opinion, this detention is completely about converting my money to the use of this municipality, city, county and/or state, I inform you that my property is also protected by the Constitution just mentioned and that my money is my property. I do not choose to surrender it nor any other right protected for me by that Constitution, nor could I if I did so choose.

In addition, be advised that any act on your part to proceed under color of law against me knowing full well I am not party to a contract which enables you to enforce traffic and property laws (unless, there is a real/true injured party willing to testify that I have done them harm) will be met with an aggressive and protracted and time consuming Court battle before a Jury of my peers.

I am party to NO contract (visible or invisible) with corporate body politics in the City of Clinton, County of Clinton, State of Iowa, or any other city, county, state in the Union or the Federal Government. In clarification, I pay for the few services supplied by this government that I use with MONEY (the legal tender of this land i.e. Income tax, fuel tax, cigarette tax, sales tax, property tax, real estate tax ,,,,,, etc. etc. etc.). I DO NOT PAY WITH MY RIGHTS, as do most

other Americans. Beyond that payment I am not indebted to this or any other government entity. As such, there can be no valid contract, (visible or invisible) which binds me to the laws by contract you are heretofore attempting to enforce.

I HAVE NO HISTORY OF PHYSICAL VIOLENCE AND AM THEREBY NO THREAT TO YOUR SAFETY AS THAT FACT WILL NOT CHANGE NOW.

IN ADDITION

Any assumed contracts this court or this city may be acting in accordance with have been rescinded from their inception per Affidavit currently published at http://www.doprocess.net/

I was acting within my Rights with respect to the use I made of my property as is defined in Spann vs City of Dallas, Tx SC (1921)

and/or

I was exercising my Constitutional Right to travel in an automobile as pointed out in Chicago Motor Coach v Chicago quoted #169NE221 which says: Use of a highway for purpose of travel and transportation is not a mere privilege but is a common and fundamental Right of which the Public and Individuals cannot be deprived.

"Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen." Escobedo v. State 35 C2d 870 in 8 Cal
Jur 3d p.27

"Users of the highway for transportation of persons and property for hire may be subjected to special regulations not applicable to those using the highway

for public purposes." Richmond Baking Co. v. Department of Treasury 18 N.E. 2d 788.

The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the of a liberty within the meaning of the Constitutional guarantees. . .." Berberian v. Lussier (1958) 139 A2d 869, 872

"The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts." People v. Horton 14 Cal. App. 3rd 667 (1971)

"A "US Citizen" upon leaving the District of Columbia becomes involved in "interstate commerce", as a "resident" does not have the common-law right to travel, of a Citizen of one of the several states." Hendrick v. Maryland S.C. Reporter's Rd. 610-625. (1914)

"One who DRIVES an automobile is an operator within meaning of the Motor Vehicle Act." Pontius v. McClean 113 CA 452

"The word 'operator' shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation." Statutes at Large California Chapter 412 p.833

"The right of a citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or automobile is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right

to life, liberty, and the pursuit of happiness."
Slusher v. Safety Coach Transit Co., 229 Ky 731, 17 SW2d 1012,
and affirmed by the Supreme Court in Thompson v. Smith 154 S.E. 579.

Also See:

- EDWARDS VS. CALIFORNIA, 314 U.S. 160
- TWINING VS NEW JERSEY, 211 U.S. 78
- WILLIAMS VS. FEARS, 179 U.S. 270, AT 274
- CRANDALL VS. NEVADA, 6 WALL. 35, AT 43-44
- THE PASSENGER CASES, 7 HOWARD 287, AT 492
- U.S. VS. GUEST, 383 U.S. 745, AT 757-758 (1966)
- GRIFFIN VS. BRECKENRIDGE, 403 U.S. 88, AT 105-106 (1971)
- CALIFANO VS. TORRES, 435 U.S. 1, AT 4, note 6
- SHAPIRO VS. THOMPSON, 394 U.S. 618 (1969)
- CALIFANO VS. AZNAVORIAN, 439 U.S. 170, AT 176 (1978)
researched and furnished by George Mercier, Federal Judge (retired)

Further, If the Authority you are enforcing is assumed by you and your superiors to be an act of "Police Power" granted the State by the people pursuant to the State's Right to provide for the Health and Welfare of all the people, I am informing you that the action to which you are undertaking now is beyond the scope and limits of such power of the State and I therefore demand that you cease and desist the present intervention. see
Spann v City of Dallas, get cite at http://www.doprocess.net/

And finally, Davis v. Mississippi, 394 U.S. 721, to make sure all are informed regarding the fact that my fingerprints are private property which cannot be taken over your objection without a valid court order.

Be aware that in 1781 two men came here from England and created two Federal corporations, one was the "AMERICAN BAR ASSOCIATION" and the other "THE UNITED STATE CORPORATION". The control of the government transferred to the UNITED STATES CORPORATION at that time, which was one of the first ILLEGAL UNLAWFUL CONSTITUTIONAL ACTS of our GOVERNMENT. Following the precepts formulated by Colonel Mandel House, personal advisor to Woodrow Wilson (President of the United States) and an unknown member of the Illuminati, our country (a Dream of Baron Rothschild and the other members of the Illuminati are still being used by our Rulers to this date in their quest to take over and own the United States of America.

"Perhaps it should be mentioned that as a general rule a person is placed under arrest when he is deprived of his liberty by an officer who intends to arrest him. It is not always necessary for the officer to make a formal declaration of arrest. See: 1 Varon, Searches, Seizures and Immunities, 75 (1961);" Henry v. United States, 361 U.S. 98, 4 L.Ed.2d 134, 80 S.Ct. 168 (1959) and United States v. Boston, 330 F.2d 937 (1964).

"The stopping of an automobile by a highway patrol officer for inspection of a driver's license, or for any other purpose where it is accomplished by the authority of the officers, is an "arrest." Robinson v. State, 198 S.W.2d 633, 635, 184 Tenn. 277

"A motorist stopped by a traffic officer for a traffic offense would be considered "arrested" . . . even if the motorist was not specifically informed that he had been arrested." People ex rel. Winkle v. Bannan, 125 N.W.2d 875, 879, 372 Mich. 292.

"Any restraint, however slight, upon another's liberty to come and go as one pleases, constitutes an "arrest." Swetnam v. W.F. Woolworth Co., 318 P.2d 364, 366, 83 Ariz. 189.

YOUR GOVERNMENT'S DEFINITION OF THE WORD "PERSON"

The word "person" is used in many laws. If you don't know what the term means, you might think that you are one of these.

American Law and Procedure, Vol 13, page 137, 1910:

> *"This word `person' and its scope and bearing in the law, involving, as it does, legal fictions and also apparently natural beings, it is difficult to understand; but it is absolutely necessary to grasp, at whatever cost, a true and proper understanding to the word in all the phases of its proper use ... A person is here not a physical or individual person, but the status or condition with which he is invested... not an individual or physical person, but the status, condition or character borne by physical persons... The law of persons is the law of status or condition."*

People are not persons. On the next page you will read legal definitions of the word `person'. As you will see, persons are defined as non-sovereigns. A sovereign is someone who is not subject to statutes. A person is someone who voluntarily submits himself to statutes.

In the United States the people are sovereign over their civil servants:

> *Romans 6:16 (NIV): "Don't you know that when you offer yourselves to someone to obey him as slaves, you are slaves to the one whom you obey..."*

Spooner v. McConnell, 22 F 939 @ 943:

> *"The sovereignty of a state does not reside in the persons who fill the different departments of its government, but in the People, from whom the government emanated; and they may change it at their discretion. Sovereignty, then in this country, abides with the constituency, and not with the agent; and this remark is true, both in reference to the federal and state government."*

1794 US Supreme Court case Glass v. Sloop Betsey:

> *"... Our government is founded upon compact. Sovereignty was, and is, in the people"*

1829 US Supreme Court case Lansing v. Smith:

> *"People of a state are entitled to all rights which formerly belong to the King, by his prerogative."*

US Supreme Court in 4 Wheat 402:

> *"The United States, as a whole, emanates from the people... The people, in their capacity as sovereigns, made and adopted the Constitution..."*

US Supreme Court in Luther v. Borden, 48 US 1, 12 LEd 581:

"... The governments are but trustees acting under derived authority and have no power to delegate what is not delegated to them. But the people, as the original fountain might take away what they have delegated and intrust to whom they please. ...The sovereignty in every state resides in the people of the state and they may alter and change their form of government at their own pleasure."

US Supreme Court in Yick Wo v. Hopkins, 118 US 356, page 370:

"While sovereign powers are delegated to ... the government, sovereignty itself remains with the people.."

Yick Wo is a powerful anti-discrimination case. You might get the impression that the legislature can write perfectly legal laws, yet the laws cannot be enforced contrary to the intent of the people. It's as if servants do not make rules for their masters. It's as if the Citizens who created government were their masters. It's as if civil servants were to obey the higher authority. You are the higher authority of Romans 13:1. You as ruler are not a terror to good works per Romans 13:3. Imagine that! Isn't it a shame that your government was surrendered to those who are a terror to good works? Isn't it a shame that you enlisted to obey them?

US Supreme Court in Julliard v. Greenman, 110 US 421:

"There is no such thing as a power of inherent sovereignty in the government of the United States .... In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld."

US Supreme Court in Wilson v. Omaha Indian Tribe, 442 US 653, 667 (1979):

"In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it."

US Supreme Court in U.S. v. Cooper, 312 US 600,604, 61 S.Ct 742 (1941):

"Since in common usage the term `person' does not include the sovereign, statutes employing that term are ordinarily construed to exclude it."

US Supreme Court in U.S. v. United Mine Workers of America, 330 U.S. 258 67 SCt677 (1947):

"In common usage, the term `person' does not include the sovereign and statutes employing it will ordinarily not be construed to do so."

US Supreme Court in US v. Fox, 94 US 315:

"Since in common usage, the term `person' does not include the sovereign, statutes employing the phrase are ordinarily construed to exclude it."

U.S. v. General Motors Corporation, D.C. Ill, 2 F.R.D. 528, 530:

> *"In common usage the word `person' does not include the sovereign, and statutes employing the word are generally construed to exclude the sovereign."*

Church of Scientology v. US Department of Justice, 612 F.2d 417 @425 (1979):

> *"the word `person' in legal terminology is perceived as a general word which normally includes in its scope a variety of entities other than human beings., see e.g. 1, U.S.C. § para 1."*

In the 1935 Supreme Court case of Perry v. US (294 US 330) the Supreme Court found that:

> *"In United States, sovereignty resides in people... the Congress cannot invoke the sovereign power of the People to override their will as thus declared.",*

Wages Are Not INCOME

Courts today may rule that "wages are income" until they are blue in the face, but the judges can only do so because they have an armed bailiff in the court who will visit physical violence on anyone who continues to ask about the cases below after the judge has said, "Shut up!" It still all comes down to lies and the power to impose those lies. ICE

* **Stapler v U.S., 21 F Supp 737 AT 739.**

"Income within the meaning of the Sixteenth Amendment and the Revenue Act, means 'gain'... And in such connection 'Gain' means profit...proceeding from property, severed from capital, however invested or employed, and coming in, received, or drawn by the taxpayer, for his separate use, benefit and disposal... Income is not a wage or compensation for any type of labor."

* **Oliver v. Halstead 86 S.E. Rep 2nd 85e9**

"There is a clear distinction between `profit' and `wages', or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word `profit', as ordinarily used, means the gain made upon any business or investment -- a different thing altogether from the mere compensation for labor."

* **Helvering v Edison Bros. Stores, 133 F2d 575.**

"The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment."

* **Flora v U.S., 362 US 145, never overruled**

"... The government can collect the tax from a district court suitor by exercising it's power of distraint... But we cannot believe that compelling resort to this extraordinary procedure is either wise or in accord with congressional intent. Our system of taxation is based upon

<http://www.prostar.com/web/amerika/cfr601.htmVOLUNTARY ASSESSMENT AND PAYMENT , NOT UPON DISTRAINT"

[Footnote 43]
If the government is forced to use these remedies(distraint) on a large scale, it will affect adversely the taxpayers willingness to perform under our VOLUNTARY assessment system.

* **Evens v Gore, 253 U.S. 245. US Supreme court, never overruled**
"After further consideration, we adhere to that view and accordingly hold that the Sixteenth Amendment does not authorize or support the tax in question. " (A tax on salary)

* **Edwards v. Keith, 231 F 110,113**
"The phraseology of form 1040 is somewhat obscure .... But it matters little what it does mean; the statute and the statute alone determines what is income to be taxed. It taxes only income "derived" from many different sources; one does not "derive income" by rendering services and charging for them... IRS cannot enlarge the scope of the statute."

* **McCutchin v Commissioner of IRS, 159 F2d,**
"The 16th Amendment does not authorize laying of an income tax upon one person for the income derived solely from another."[wages]

* **Blatt Co. V U.S., 59 S.Ct. 186.**
"Treasury regulations can add nothing to income as defined by Congress."

* **Olk v. United States, February 18, 1975, Las Vegas, Nevada.**
"Tips are gifts and therefore are not taxable."

* **Commissioner of IRS v Duberstein, 80 5. Ct. 1190.**
"Property acquired by gift is excluded from gross income."

* **Brushaber v Union Pacific R/R 240 U.S. I, 17; 36 S.Ct. 236, 241.**
"Income has been taken to mean the same thing as used in the Corporation Excise Tax of 1909 (36 Stat. 112). The worker does not receive a profit or gain from his/her labors-merely an equal exchange of funds for services"

* **Central Illinois Publishing Service v. U.S., 435 U.S. 31**
"Decided cases have made the distinction between wages and income and have refused to equate the two."

* **Anderson Oldsmobile, Inc. Vs Hofferbert, 102 F Supp 902**
"Constitutionally the only thing that can be taxed by Congress is "income." And the tax actually imposed by Congress has been on net income as distinct from gross income. THE TAX IS NOT, NEVER HAS BEEN, AND COULD NOT CONSTITUTIONALLY BE UPON "GROSS RECEIPTS" ..."

* **Conner v US 303 F supp 1187 Federal District court, Houston, never overruled**
"..whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true at the time of Eisner V Mcomber, it was true under section 22(a) of the Internal Revenue code of 1938, and it is likewise true under Section 61(a) of the IRS code of

1954. If there is not gain, there is not income,CONGRESS HAS TAXED INCOME, NOT COMPENSATION"!!!

* **Bowers vs Kerbaugh-Empire Co., 271 US 174D**
"Income" has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment and in the various revenue acts subsequently passed ...."

* **Brushaber v. Union Pacific R.R. Co., 240 U.S. 1**
"The conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such..."

* **Simms v. Ahrens, 271 SW 720**
"An income tax is neither a property tax nor a tax on occupations of common right, but is an http://www.prostar.com/web/amerika/courts2.htm EXCISE tax...The legislature may declare as 'privileged' and tax as such for state revenue, those pursuits not matters of common right, but it has no power to declare as a 'privilege' and tax for revenue purposes, occupations that are of common right."

* **Eisner v. Macomber, 252 US 189 US Supreme court, never overruled**
"...the definition of 'income' approved by this court is: The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets."

* **Laureldale Cemetery Assoc. vs Matthews, 345 Pa. 239;**
"Reasonable compensation for labor or services rendered is not profit"

* **Schuster v. Helvering, 121 F 2nd 643**
"Income is realized gain."

And in one of the most eloquent opinions ever delivered by the Court..

* **Butchers' Union Co. v. Crescent City Co., 111 U.S. 746. 1883**
"Among these unalienable rights, as proclaimed in the Declaration of Independence is the right of men to pursue their happiness, by which is meant, the right any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment...It has been well said that, THE PROPERTY WHICH EVERY MAN HAS IS HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE MOST SACRED AND INVIOLABLE..."

a.. 1818: U.S. v. Bevans, 16 U.S.336. Establishes two separate
> jurisdictions within the United States Of America: 1. The "federal
> zone" and 2. "the 50 States". The I.R.C. only has jurisdiction
> within the "federal zone".
>

> "The exclusive jurisdiction which the United States have in forts
> and dock-yards ceded to them, is derived from the express assent
> of the states by whom the cessions are made. It could be derived
> in no other manner; because without it, the authority of the state
> would be supreme and exclusive therein," 3 Wheat., at 350, 351.
>
> a.. 1883: Butchers' Union Co. v. Crescent City Co., 111
> U.S. 746. Defines labor as property, and the most sacred kind
> of property
>
> "Among these unalienable rights, as proclaimed in the Declaration
> of Independence is the right of men to pursue their happiness,
> by which is meant, the right any lawful business or vocation,
> in any manner not inconsistent with the equal rights of others,
> which may increase their prosperity or develop their faculties,
> so as to give them their highest enjoyment...It has been well said
> that, THE PROPERTY WHICH EVERY MAN HAS IS HIS OWN LABOR, AS IT IS
> THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE MOST
> SACred AND INVIOLABLE..."
>
> a.. 1894: Caha v. United States, 152 U.S. 211. Restricts jurisdiction
> of the federal government inside the states.
>
> "The law of Congress in respect to those matters do not extend
> into the territorial limits of the states, but have force only
> in the District of Columbia, and other places that are within the
> exclusive jurisdiction of the national government."
>> b.. 1900: Knowlton v. Moore, 178 U.S. 41. Defines the meaning of
> "direct taxes".
>
> "Direct taxes bear immediately upon persons, upon the possession and
> enjoyment of rights; indirect taxes are levied upon the happening
> of an event as an exchange."
>
> a.. 1901: Downes v. Bidwell, 182 U.S. 244. Establishes that
> constitutional limits on the Congress do not apply within the
> "federal zone" and described where they do apply.
>
> "CONSTITUTIONAL RESTRICTIONS AND LIMITATIONS [Bill of Rights]
> WERE NOT APPLICABLE to the areas of lands, enclaves, territories,
> and possessions over which Congress had EXCLUSIVE LEGISLATIVE
> JURISDICTION"

>
> a.. 1906: Hale v. Henkel, 201 U.S. 43. Defined the distinction
> between natural persons and corporations as it pertains to 5th
> Amendment protections within the U.S. Constitution.
>
> "...we are of the opinion that there is a clear distinction in this
> particular between an individual and a corporation, and that the
> latter has no right to refuse to submit its books and papers for an
> examination at the suit of the state. The individual may stand upon
> his constitutional rights as a citizen. He is entitled to carry
> on his private business in his own way. His power to contract is
> unlimited. He owes no duty to the state or to his neighbors to
> divulge his business, or to open his doors to an investigation,
> so far as it may tend to criminate him. He owes no such duty to the
> state, since he receives nothing therefrom, beyond the protection
> of his life and property. His rights are such as existed by the law
> of the land long antecedent to the organization of the state, and
> can only be taken from him by due process of law, and in accordance
> with the Constitution. Among his rights are a refusal to incriminate
> himself, and the immunity of himself and his property from arrest
> or seizure except under a warrant of the law. He owes nothing to
> the public so long as he does not trespass upon their rights.
>
> Upon the other hand, the corporation is a creature of the state. It
> is presumed to be incorporated for the benefit of the public. It
> receives certain special privileges and franchises, and holds
> them subject to the laws of the state and the limitations of its
> charter. Its powers are limited by law. It can make no contract not
> authorized by its charter. Its rights to [201 U.S. 43, 75] act as a
> corporation are only preserved to it so long as it obeys the laws
> of its creation. There is a reserved right in the legislature to
> investigate its contracts and find out whether it has exceeded its
> powers. It would be a strange anomaly to hold that a state, having
> chartered a corporation to make use of certain franchises, could not,
> in the exercise of its sovereignty, inquire how these franchises
> had been employed, and whether they had been abused, and demand the
> production of the corporate books and papers for that purpose. The
> defense amounts to this: That an officer of a corporation which
> is charged with a criminal violation of the statute, may plead the
> criminality of such corporation as a refusal to produce its books. To
> state this proposition is to answer it. While an individual may
> lawfully refuse to answer incriminating questions unless protected

> by an immunity statute, it does not follow that a corporation,
> vested with special privileges and franchises, may refuse to show
> its hand when charged with an abuse of such privileges. "
>
> b.. 1911: Flint v. Stone Tracy Co., 220 U.S. 107. Defined excise
> taxes as taxes laid on corporations and corporate privileges,
> not in natural persons.
>
> "Excises are taxes laid upon the manufacture, sale or consumption
> of commodities within the country, upon licenses to pursue certain
> occupations and upon corporate privileges...the requirement
> to pay such taxes involves the exercise of [220 U.S. 107, 152]
> privileges, and the element of absolute and unavoidable demand
> is lacking...Conceding the power of Congress to tax the business
> activities of private corporations.. the tax must be measured by some
> standard...It is therefore well settled by the decisions of this
> court that when the sovereign authority has exercised the right to
> tax a legitimate subject of taxation as an exercise of a franchise
> or privilege, it is no objection that the measure of taxation is
> found in the income produced in part from property which of itself
> considered is nontaxable."
>
> a.. 1914: Weeks v. U.S., 232 U.S. 383. Established that illegally
> obtained evidence may not be used by the court or admitted into
> evidence. This case is very useful in refuting the use by the IRS
> of income tax returns that were submitted involuntarily (note that
> these returns must say "submitted under compulsion in violation of
> 5th Amendment rights" or some such thing at the bottom.
>
> "The effect of the 4th Amendment is to put the courts [232 U.S. 383,
> 392] of the United States and Federal officials, in the exercise
> of their power and authority, under limitations and restraints as
> to the exercise of such power and authority, and to forever secure
> the people, their persons, houses, papers, and effects, against all
> unreasonable searches and seizures under the guise of law. This
> protection reaches all alike, whether accused of crime or not,
> and the duty of giving to it force and effect is obligatory upon
> all intrusted under our Federal system with the enforcement of
> the laws. The tendency of those who execute the criminal laws of
> the country to obtain conviction by means of unlawful seizures and
> enforced confessions, the latter often obtained after subjecting
> accused persons to unwarranted practices destructive of rights

> secured by the Federal Constitution, should find no sanction in the
> judgments of the courts, which are charged at all times with the
> support of the Constitution, and to which people of all conditions
> have a right to appeal for the maintenance of such fundamental
> rights.
>
> [.]
>
> The case in the aspect in which we are dealing with it involves
> the right of the court in a criminal prosecution to retain for the
> purposes of evidence the letters and correspondence of the accused,
> seized in his house in his absence and without his authority, by a
> United States marshal holding no warrant for his arrest and none
> for the search of his premises. The accused, without awaiting
> his trial, made timely application to the court for an order
> for the return of these letters, as well or other property. This
> application was denied, the letters retained and put in evidence,
> after a further application at the beginning of the trial, both
> applications asserting the rights of the accused under the 4th
> and 5th Amendments to the Constitution. If letters and private
> documents can thus be seized and held and used in evidence against a
> citizen accused of an offense, the protection of the 4th Amendment,
> declaring his right to be secure against such searches and seizures,
> is of no value, and, so far as those thus placed are concerned,
> might as well be stricken from the Constitution. The efforts of
> the courts and their officials to bring the guilty to punishment,
> praiseworthy as they are, are not to be aided by the sacrifice of
> those great principles established be years of endeavor and suffering
> which have resulted in their embodiment in the fundamental law of
> the land. The United States marshal could only have invaded the
> house of the accused when armed with a warrant issued as required
> by the Constitution, upon sworn information, and describing with
> reasonable particularity the thing for which the search was to be
> made. Instead, he acted without sanction of law, doubtless prompted
> by the desire to bring further proof to the aid of the government,
> and under color of his office undertook to make a seizure of private
> papers in direct violation of the constitutional prohibition against
> such action. Under such circumstances, without sworn information
> and particular description, not even an order of court would [232
> U.S. 383, 394] have justified such procedure; much less was it within
> the authority of the United States marshal to thus invade the house
> and privacy of the accused. In Adams v. New York, 192 U.S. 585 ,

> 48 L. ed. 575, 24 Sup. Ct. Rep. 372, this court said that the 4th
> Amendment was intended to secure the citizen in person and property
> against unlawful invasion of the sanctity of his home by officers
> of the law, acting under legislative or judicial sanction. This
> protection is equally extended to the action of the government
> and officers of the law acting under it. Boyd Case, 116 U.S. 616 ,
> 29 L. ed. 746, 6 Sup. Ct. Rep. 524. To sanction such proceedings
> would be to affirm by judicial decision a manifest neglect, if not
> an open defiance, of the prohibitions of the Constitution, intended
> for the protection of the people against such unauthorized action.
>
> b.. 1916: Brushaber vs. Union Pacific Railroad, 240
> U.S. 1. Established that the 16th Amendment had no affect on the
> constitution, and that income taxes could only be sustained as
> excise taxes and not as direct taxes.
>
> "...the proposition and the contentions under [the 16th
> Amendment]...would cause one provision of the Constitution to
> destroy another;
>
> That is, they would result in bringing the provisions of
> the Amendment exempting a direct tax from apportionment into
> irreconcilable conflict with the general requirement that all direct
> taxes be apportioned;
>
> This result, instead of simplifying the situation and making
> clear the limitations of the taxing power, which obviously the
> Amendment must have intended to accomplish, would create radical
> and destructive changes in our constitutional system and multiply
> confusion.
>
> Moreover in addition the Conclusion reached in the Pollock Case did
> not in any degree involve holding that income taxes generically and
> necessarily came within the class of direct taxes on property, but on
> the contrary recognized the fact that taxation on income was in its
> nature an excise entitled to be enforced as such unless and until
> it was concluded that to enforce it would amount to accomplishing
> the result which the requirement as to apportionment of direct
> taxation was adopted to prevent, in which case the duty would arise
> to disregard form and consider substance alone and hence subject
> the tax to the regulation as to apportionment which otherwise as
> an excise would not apply to it.

>
> .....the Amendment demonstrates that no such purpose was intended
> and on the contrary shows that it was drawn with the object of
> maintaining the limitations of the Constitution and harmonizing
> their operation."
>
> .....the [16th] Amendment contains nothing repudiating or challenging
> the ruling in the Pollock Case that the word direct had a broader
> significance since it embraced also taxes levied directly on
> personal property because of its ownership, and therefore the
> Amendment at least impliedly makes such wider significance a part
> of the Constitution -- a condition which clearly demonstrates that
> the purpose was not to change the existing interpretation except
> to the extent necessary to accomplish the result intended, that
> is, the prevention of the resort to the sources from which a taxed
> income was derived in order to cause a direct tax on the income to
> be a direct tax on the source itself and thereby to take an income
> tax out of the class of excises, duties and imposts and place it
> in the class of direct taxes...
>
> Indeed in the light of the history which we have given and of the
> decision in the Pollock Case and the ground upon which the ruling
> in that case was based, there is no escape from the Conclusion
> that the Amendment was drawn for the purpose of doing away for the
> future with the principle upon which the Pollock Case was decided,
> that is, of determining whether a tax on income was direct not
> by a consideration of the burden placed on the taxed income upon
> which it directly operated, but by taking into view the burden
> which resulted on the property from which the income was derived,
> since in express terms the Amendment provides that income taxes,
> from whatever source the income may be derived, shall not be subject
> to the regulation of apportionment.
>
> c.. 1916: Stanton v. Baltic Mining, 240 U.S. 103. Declared that
> the 16th Amendment conferred no new powers of taxation to the
> U.S. government, but simply prevented income taxes from being
> taken out of the category of indirect (excise) taxes to which they
> inherently belonged.
>
> "..by the previous ruling it was settled that the provisions of
> the Sixteenth Amendment conferred no new power of taxation but
> simply prohibited the previous complete and plenary power of income

> taxation possessed by Congress from the beginning from being taken
> out of the category of indirect taxation to which it inherently
> belonged and being placed in the category of direct taxation subject
> to apportionment by a consideration of the sources from which the
> income was derived, that is by testing the tax not by what it was
> --a tax on income, but by a mistaken theory deduced from the origin
> or source of the income taxed. "
>
> a.. 1918: Peck v. Lowe, 247 U.S. 165. Stated that the 16th Amendment
> does not extend the taxing power to new or excepted subjects,
> but removed the need to apportion direct taxes on income.
>
> The plaintiff is a domestic corporation chiefly engaged in buying
> goods in the several states, shipping them to foreign countries and
> there selling them. In 1914 its net income from this business was
> $30,173.66, and from other sources $12,436.24. An income tax for that
> year, computed on the aggregate of these sums, was assessed against
> it and paid under compulsion. It is conceded that so much of the
> tax as was based on the income from other sources was valid, and the
> controversy is over so much of it as was attributable to the income
> from shipping goods to foreign countries and there selling them.
>
> The tax was levied under the Act of October 3, 1913, c. 16, 11,
> 38 Stat. 166, 172, which provided for annually subjecting every
> domestic corporation to the payment of a tax of a specified per
> centum of its 'entire net income arising or accruing from all
> sources during the preceding calendar year.' Certain fraternal and
> other corporations, as also income from certain enumerated sources,
> were specifically excepted, but none of the exceptions included
> the plaintiff or any part of its income. So, tested merely by the
> terms of the act, the tax collected from the plaintiff was rightly
> computed on its total net income. But as the act obviously could not
> impose a tax forbidden by the Constitution, we proceed to consider
> whether the tax, or rather the part in question, was forbidden by
> the constitutional provision on which the plaintiff relies.
>
> The Sixteenth Amendment, although referred to in argument, has no
> real bearing and may be put out of view. As pointed out in recent
> decisions, it does not extend the taxing power to new or excepted
> subjects, but merely removes all occasion, which otherwise might
> exist, for an apportionment among the states of taxes [247 U.S. 165,
> 173] laid on income, whether it be derived from one source or

> another. Brushaber v. Union Pacific R. R. Co., 240 U.S. 1, 17-19,
> 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; Stanton
> v. Baltic Mining Co., 240 U.S. 103, 112-113, 36 Sup. Ct. 278.
>
> b.. 1920: Evens v. Gore, 253 U.S. 245. Overturned by O'Malley
> v. Woodrough (307 U.S. 277). Court ruled that income taxes on
> federal judges were unconstitutional.
>
> "After further consideration, we adhere to that view and accordingly
> hold that the Sixteenth Amendment does not authorize or support the
> tax in question. " [A direct tax on salary income of a federal judge]
>
> a.. 1920: Eisner v. Macomber, 252 U.S. 189. Defined income within
> the meaning of the 16th Amendment as "profit". Prohibited direct,
> unapportioned taxation of income of a stockholder.
>
> The Sixteenth Amendment must be construed in connection with the
> taxing clauses of the original Constitution and the effect attributed
> to them before the amendment was adopted. In Pollock v. Farmers' Loan
> & Trust Co., 158 U.S. 601 , 15 Sup. Ct. 912, under the Act of August
> 27, 1894 (28 Stat. 509, 553, c. 349, 27), it was held that taxes upon
> rents and profits of real estate and upon returns from investments
> of personal property were in effect direct taxes upon the property
> from which such income arose, imposed by reason of ownership; and
> that Congress could not impose such taxes without apportioning them
> among the states according to population, as required by article 1,
> 2, cl. 3, and section 9, cl. 4, of the original Constitution.
>
> Afterwards, and evidently in recognition of the limitation upon the
> taxing power of Congress thus determined, the Sixteenth Amendment was
> adopted, in words lucidly expressing the object to be accomplished:
>
> 'The Congress shall have power to lay and collect taxes on incomes,
> from whatever source derived, without apportionment among [252
> U.S. 189, 206] the several states, and without regard to any census
> or enumeration.'
>
> As repeatedly held, this did not extend the taxing power to new
> subjects, but merely removed the necessity which otherwise might
> exist for an apportionment among the states of taxes laid on
> income. Brushaber v. Union Pacific R. R. Co., 240 U.S. 1 , 17-19,
> 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; Stanton

> v. Baltic Mining Co., 240 U.S. 103 , 112 et seq., 36 Sup. Ct. 278;
> Peck & Co. v. Lowe, 247 U.S. 165, 172 , 173 S., 38 Sup. Ct. 432.
>
> A proper regard for its genesis, as well as its very clear language,
> requires also that this amendment shall not be extended by loose
> construction, so as to repeal or modify, except as applied to income,
> those provisions of the Constitution that require an apportionment
> according to population for direct taxes upon property, real and
> personal. This limitation still has an appropriate and important
> function, and is not to be overridden by Congress or disregarded
> by the courts.
>
> [.]
>
> After examining dictionaries in common use (Bouv. L. D.; Standard
> Dict.; Webster's Internat. Dict.; Century Dict.), we find little to
> add to the succinct definition adopted in two cases arising under
> the Corporation Tax Act of 1909 (Stratton's Independence v. Howbert,
> 231 U.S. 399, 415 , 34 S. Sup. Ct. 136, 140 [58 L. Ed. 285]; Doyle
> v. Mitchell Bros. Co., 247 U.S. 179, 185 , 38 S. Sup. Ct. 467,
> 469 [62 L. Ed. 1054]), 'Income may be defined as the gain derived
> from capital, from labor, or from both combined,' provided it be
> understood to include profit gained through a sale or conversion
> of capital assets, to which it was applied in the Doyle Case,
> 247 U.S. 183, 185 , 38 S. Sup. Ct. 467, 469 (62 L. Ed. 1054).
>
> Brief as it is, it indicates the characteristic and distinguishing
> attribute of income essential for a correct solution of the
> present controversy. The government, although basing its
> argument upon the definition as quoted, placed chief emphasis
> upon the word 'gain,' which was extended to include a variety
> of meanings; while the significance of the next three words was
> either overlooked or misconceived. 'Derived-from- capital'; 'the
> gain-derived-from-capital,' etc. Here we have the essential matter:
> not a gain accruing to capital; not a growth or increment of value
> in the investment; but a gain, a profit, something of exchangeable
> value, proceeding from the property, severed from the capital,
> however invested or employed, and coming in, being 'derived'-that
> is, received or drawn by the recipient (the taxpayer) for his
> separate use, benefit and disposal- that is income derived from
> property. Nothing else answers the description.
>

> [.]
>
> Thus, from every point of view we are brought irresistibly to the
> conclusion that neither under the Sixteenth Amendment nor otherwise
> has Congress power to tax without apportionment a true stock dividend
> made lawfully and in good faith, or the accumulated profits behind
> it, as income of the stockholder. The Revenue Act of 1916, in so far
> as it imposes a tax upon the stockholder because of such dividend,
> contravenes the provisions of article 1, 2, cl. 3, and article 1,
> 9, cl. 4, of the Constitution, and to this extent is invalid,
> notwithstanding the Sixteenth Amendment.
>
> a.. 1922: Bailey v. Drexel Furniture Co., 259 U.S. 20. Prohibited
> Congress from legislating or controlling benefits that employers
> provide to their employees. A major blow against socialism in
> America!
>
> "Out of a proper respect for the acts of a co-ordinate branch of the
> government, this court has gone far to sustain taxing acts as such,
> even though there has been ground for suspecting, from the weight
> of the tax, it was intended to destroy its subject. But in the act
> before [259 U.S. 20, 38] U.S. the presumption of validity cannot
> prevail, because the proof of the contrary is found on the very
> face of its provisions. Grant the validity of this law, and all
> that Congress would need to do, hereafter, in seeking to take over
> to its control any one of the great number of subjects of public
> interest, jurisdiction of which the states have never parted with,
> and which are reserved to them by the Tenth Amendment, would be to
> enact a detailed measure of complete regulation of the subject and
> enforce it by a socalled tax upon departures from it. To give such
> magic to the word 'tax' would be to break down all constitutional
> limitation of the powers of Congress and completely wipe out the
> sovereignty of the states. "
>
> a.. 1924: Cook v. Tait, 265 U.S. 47. The Supreme Court ruled that
> Congress has the power to tax the income received by a native citizen
> of the United States domiciled abroad from property situated abroad
> and that the constitutional prohibition of unapportioned direct taxes
> within the states of the union does not apply in foreign countries.
>
> b.. 1930: Lucas v. Earl, 281 U.S. 111. The Supreme Court ruled
> that wages and compensation for personal services were not to be

> taxed in their entirety, but instead, the gain or profit derived
> indirectly from them.
>
> c.. 1935: Railroad Retirement Board v. Alton Railroad Company,
> 295 U.S. 330. The Supreme Court ruled that Congress that it has no
> constitutional authority whatsoever to legislate for the social
> welfare of the worker. The result was that when Social Security
> was instituted, it had to be treated as strictly voluntary.
>
> "The catalog of means and actions which might be imposed upon an
> employer in any business, tending to the comfort and satisfaction
> of his employees, seems endless.
>
> Provisions for free medical attendance and nursing, for clothing,
> for food, for housing, for the education of children, and a hundred
> other matters might with equal propriety be proposed as tending to
> relieve the employee of mental strain and worry.
>
> Can it fairly be said that the power of Congress to regulate
> interstate commerce extends to the prescription of any or all of
> these things?
>
> Is it not apparent that they are really and essentially related
> solely to social welfare of the worker, and therefore remote from any
> regulation of commerce as such? We think the answer is plain. These
> matters obviously lie outside the orbit of Congressional power."
>
> a.. 1938: Hassett v. Welch, 303 U.S. 303. Ruled that disputes
> over uncertainties in the tax code should be resolved in favor of
> the taxpayer.
>
> "In view of other settled rules of statutory construction, which
> teach that... if doubt exists as to the construction of a taxing
> statute, the doubt should be resolved in favor of the taxpayer..."
>
> a.. 1939: O'Malley v. Woodrough, 307 U.S. 277. Overturned portions
> of Evens v. Gore, 253 U.S. 245, but not the part about the 16th
> Amendment.
>
> "However, the meaning which Evans v. Gore, supra, imputed to the
> history which explains Article III, 1 was contrary to the way in
> which it was read by other English-speaking courts.[1] The decision

> met wide and steadily growing disfavor from legal scholarship and
> professional opinion. Evans v. Gore, supra, itself was rejected
> by most of the courts before whom the matter came after that
> decision[2]"
>
> a.. 1945: Hooven & Allison Co. v. Evatt, 324 U.S. 652. Ruled that
> there are three distinct and separate definitions for the term
> "United States". The income tax only applies to one of the three
> definitions!
>
> "The term 'United States' may be used in any one of several
> senses. It may be merely the name of a sovereign occupying the
> position analogous to that of other sovereigns in the family of
> nations. It may designate the territory over which the sovereignty
> of the United States ex- [324 U.S. 652, 672] tends, or it may be
> the collective name of the states which are united by and under
> the Constitution."
>
> a.. 1959: Flora v. United, 362 U.S. 145. Ruled that our tax system is
> based on voluntary assessment and payment, not on force or coercion.
>
> "Our system of taxation is based upon voluntary assessment and
> payment, not upon distraint."
>
> a.. 1961: James v. United States, 366 U.S. 213, p. 213, 6 L.Ed 2d
> 246. Income that is taxed under the 16th Amendment must derive from a
> "source". Also established that embezzled money is taxable as income.
>
> ".the Sixteenth Amendment, which grants Congress the power
> "to lay and collect taxes on incomes, from whatever source
> derived." Helvering v. Clifford, 309 U.S. 331, 334; Douglas
> v. Willcuts, 296 U.S. 1,9. It has long been settled that Congress'
> broad statutory definitions of taxable income were intended "to
> use the full measure of taxing power." The Sixteenth Amendment
> is to be taken as written and is not to be extended beyond the
> meaning clearly indicated by the language used." Edwards v. Cuba
> R. Co. 268 U.S. 628, 631 [From separate opinion by Whittaker, Black,
> and Douglas, JJ.] (Emphasis added)
>
> a.. 1970: Brady v. U.S., 397 U.S. 742 at 748. Supreme Court ruled
> that: "Waivers of Constitutional Rights not only must be voluntary,
> they must be knowingly intelligent acts, done with sufficient

> awareness of the relevant circumstances and consequences."
>
> b.. 1975: Garner v. United States, 424 U.S. 648. Supreme Court ruled
> that income taxes constitute the compelled testimony of a witness:
> "The information revealed in the preparation and filing of an income
> tax return is, for the purposes of Fifth Amendment analysis, the
> testimony of a witness."
>
> "Government compels the filing of a return much as it compels,
> for example, the appearance of a 'witness' before a grand jury."
>
> c.. 1978: Central Illinois Public Service Co. v. United States,
> 435 U.S. 21. Established that wages and income are NOT equivalent
> as far as taxes on income are concerned.
>
> "Decided cases have made the distinction between wages and
> income and have refused to equate the two in withholding or
> similar controversies. Peoples Life Ins. Co. v. United States,
> 179 Ct. Cl. 318, 332, 373 F.2d 924, 932 (1967); Humble Pipe Line
> Co. v. United States, 194 Ct. Cl. 944, 950, 442 F.2d 1353, 1356
> (1971); Humble Oil & Refining Co. v. United States, 194 Ct. Cl. 920,
> 442 F.2d 1362 (1971); Stubbs, Overbeck & Associates v. United
> States, 445 F.2d 1142 (CA5 1971); Royster Co. v. United States,
> 479 F.2d, at 390; Acacia Mutual Life Ins. Co. v. United States,
> 272 F. Supp. 188 (Md. 1967)."
>
> a.. 1985: U.S. v. Doe, 465 U.S. 605. The production of evidence or
> subpoenad tax documents cannot be compelled.
>
> "We conclude that the Court of Appeals erred in holding that the
> contents of the subpoenaed documents were privileged under the Fifth
> Amendment. The act of producing the documents at issue in this case
> is privileged and cannot be compelled without a statutory grant
> of use immunity pursuant to 18 U.S.C. 6002 and 6003." a.. 1991:
> Cheek v. United States, 498 U.S. 192. Held that if the defendant
> has a subjective good faith belief no matter how unreasonable, that
> he or she was not required to file a tax return, the government
> cannot establish that the defendant acted willfully in not filing
> an income tax return. In other words, that the defendant shirked
> a legal duty that he knew existed.
>
> b.. 1992: United States v. Burke, 504 U.S. 229, 119 L Ed 2d 34,

> 112 S Ct. 1867. Court held that income that is taxed under the 16th
> Amendment must come from a "source".
>
> Congress's intent through § 61 of the Internal Revenue Code (26
> USCS § 61(a))--which provides that gross income means all income
> from whatever source derived, subject to only the exclusions
> specifically enumerated elsewhere in the Code...and § 61(a)'s
> statutory precursors..."
>
> a.. 1995: U.S. v. Lopez, 000 U.S. U10287. Establishes strict
> limits on the constitutional power and jurisdiction of the federal
> government inside the 50 States.
>
> "We start with first principles. The Constitution creates a
> Federal Government of enumerated powers. See U.S. Const., Art. I,
> 8. As James Madison wrote, "[t]he powers delegated by the proposed
> Constitution to the federal government are few and defined. Those
> which are to remain in the State governments are numerous and
> indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter
> ed. 1961). This constitutionally mandated division of authority
> "was adopted by the Framers to ensure protection of our fundamental
> liberties." Gregory v. Ashcroft, 501 U.S. 452, 458 (1991) (internal
> quotation marks omitted). "Just as the separation and independence of
> the coordinate branches of the Federal Government serves to prevent
> the accumulation of excessive power in any one branch, a healthy
> balance of power between the States and the Federal Government will
> reduce the risk of tyranny and abuse from either front." Ibid. The
> Constitution delegates to Congress the power "[t]o regulate Commerce
> with foreign Nations, and among the several States, and with the
> Indian Tribes." U.S. Const., Art. I, 8, cl. 3. The Court, through
> Chief Justice Marshall, first defined the nature of Congress'
> commerce power in Gibbons v. Ogden, 9 Wheat. 1, 189-190 (1824):
>
> "Commerce, undoubtedly, is traffic, but it is something more:
> it is intercourse. It describes the commercial intercourse between
> nations, and parts of nations, in all its branches, and is regulated
> by prescribing rules for carrying on that intercourse."
>
> The commerce power "is the power to regulate; that is, to prescribe
> the rule by which commerce is to be governed. This power, like all
> others vested in Congress, is complete in itself, may be exercised
> to its utmost extent, and acknowledges no limitations, other than

> are prescribed in the constitution." Id., at 196. The Gibbons Court,
> however, acknowledged that limitations on the commerce power are
> inherent in the very language of the Commerce Clause.
>
> "It is not intended to say that these words comprehend that commerce,
> which is completely internal, which is carried on between man and
> man in a State, or between different parts of the same State, and
> which does not extend to or affect other States. Such a power would
> be inconvenient, and is certainly unnecessary.
>
> "Comprehensive as the word `among' is, it may very properly
> be restricted to that commerce which concerns more States than
> one. . . . The enumeration presupposes something not enumerated;
> and that something, if we regard the language or the subject of the
> sentence, must be the exclusively internal commerce of a State." Id.,
> at 194-195.
>
> For nearly a century thereafter, the Court's Commerce Clause
> decisions dealt but rarely with the extent of Congress' power,
> and almost entirely with the Commerce Clause as a limit on state
> legislation that discriminated against interstate commerce. See,
> e.g., Veazie v. Moor, 14 How. 568, 573-575 (1853) (upholding a
> state-created steamboat monopoly because it involved regulation
> of wholly internal commerce); Kidd v. Pearson, 128 U.S. 1, 17,
> 20-22 (1888) (upholding a state prohibition on the manufacture
> of intoxicating liquor because the commerce power "does not
> comprehend the purely domestic commerce of a State which is carried
> on between man and man within a State or between different parts
> of the same State"); see also L. Tribe, American Constitutional
> Law 306 (2d ed. 1988). Under this line of precedent, the Court
> held that certain categories of activity such as "production,"
> "manufacturing," and "mining" were within the province of state
> governments, and thus were beyond the power of Congress under the
> Commerce Clause. See Wickard v. Filburn, 317 U.S. 111, 121 (1942)
> (describing development of Commerce Clause jurisprudence).
>
> [.]
>
> Consistent with this structure, we have identified three broad
> categories of activity that Congress may regulate under its
> commerce power. Perez v. United States, supra, at 150; see also
> Hodel v. Virginia Surface Mining & Reclamation Assn., supra, at

> 276-277. First, Congress may regulate the use of the channels of
> interstate commerce. See, e.g., Darby, 312 U.S., at 114 ; Heart
> of Atlanta Motel, supra, at 256 ("`[T]he authority of Congress
> to keep the channels of interstate commerce free from immoral and
> injurious uses has been frequently sustained, and is no longer open
> to question.'" (quoting Caminetti v. United States, 242 U.S. 470,
> 491 (1917)). Second, Congress is empowered to regulate and protect
> the instrumentalities of interstate commerce, or persons or things
> in interstate commerce, even though the threat may come only
> from intrastate activities. See, e.g., Shreveport Rate Cases, 234
> U.S. 342 (1914); Southern R. Co. v. United States, 222 U.S. 20 (1911)
> (upholding amendments to Safety Appliance Act as applied to vehicles
> used in intrastate commerce); Perez, supra, at 150 ("[F]or example,
> the destruction of an aircraft (18 U.S.C. 32), or . . . thefts from
> interstate shipments (18 U.S.C. 659)"). Finally, Congress' commerce
> authority includes the power to regulate those activities having a
> substantial relation to interstate commerce, Jones & Laughlin Steel,
> 301 U.S., at 37 , i.e., those activities that substantially affect
> interstate commerce. Wirtz, supra, at 196, n. 27.
>
> FEDERAL CIRCUIT COURT CASES:
>
> a.. U.S. v. Tweel, 550 F.2d 297, 299-300 (1977)
>
> "Silence can only be equated with fraud when there is a legal or
> moral duty to speak, or when an inquiry left unanswered would
> be intentionally misleading... We cannot condone this shocking
> conduct...If that is the case we hope our message is clear. This
> sort of deception will not be tolerated and if this is routine it
> should be corrected immediately"
>
> a.. Lavin v. Marsh, 644 F.2nd 1378, 9th Cir., (1981)
>
> "Persons dealing with government are charged with knowing government
> statutes and regulations, and they assume the risk that government
> agents may exceed their authority and provide misinformation"
>
> a.. Bollow v. Federal Reserve Bank of San Francisco, 650 F.2d 1093,
> 9th Cir., (1981)
>
> "All persons in the United States are chargeable with knowledge
> of the Statutes-at-Large.. It is well established that anyone who

> deals with the government assumes the risk that the agent acting
> in the government's behalf has exceeded the bounds of his authority"
>
> a.. Economy Plumbing and Heating v. U.S., 470 F.2d 585 (Ct. Cl. 1972)
>
> "Persons who are not taxpayers are not within the system and
> can obtain no benefit by following the procedures prescribed for
> taxpayers, such as the filing of claims for refunds."
>
> a.. Long v. Rasmussen, 281 F. 236, at 238
>
> "The revenue laws are a code or a system in regulation of tax
> assessment and collection. They relate to taxpayers, and not to
> non-taxpayers. The latter are without their scope. No procedures
> are prescribed for non-taxpayers, and no attempt is made to annul
> any of their rights and remedies in due course of law. With them
> Congress does not assume to deal, and they are neither the subject
> nor the object of the revenue laws."
>
> a.. redfield v. Fisher, 292 P. 813, 135 Or. 180, 294 P.461, 73
> A.L.R. 721 (1931)
>
> "The individual, unlike the corporation, cannot be taxed for the
> mere privilege of existing. The corporation is an artificial entity
> which owes its existence and charter powers to the state; but the
> individuals' rights to live and own property are natural rights
> for the enjoyment of which an excise cannot be imposed."
>
> a.. U.S. v. Ballard, 535 F2d 400, cert denied, 429 U.S. 918, 50
> L.Ed.2d 283, 97 S.Ct. 310 (1976)
>
> "income" is not defined in the Internal Revenue Code
>

Act of state

"An act of state cannot be questioned or made the subject

of legal proceedings in a court of law"

Banco Nacional de Cuba vs. Sabbatino, 376 U.S. 398:

Ricaud vs. American Metal Co., 246 U.S. 304:

Oetjen vs. Central Leather Co., 246 U.S. 297:

F. Palacio y Compania, S.A. vs. Brush, 389 U.S. 830;

256 F. Supp. 481; 375 F.2nd 1011:

Black's Law Dictionary, 6th ed. Pgs. 33-34.

BANKS cannot lend credit:

1. "In the federal courts, it is well established that a national bank has not power to lend its credit to another by becoming surety, indorser, or guarantor for him." ***Farmers and Miners Bank v. Bluefield Nat 'l Bank, 11 F 2d 83, 271 U.S. 669.***

2. "A national bank has no power to lend its credit to any person or corporation . . ." ***Bowen v. Needles Nat. Bank, 94 F 925, 36 CCA 553,*** certiorari denied in ***20 S.Ct 1024, 176 US 682, 44 LED 637.***

3. "Mr. Justice Marshall said: The doctrine of ultra vires is a most powerful weapon to keep private corporations within their legitimate spheres and to punish them for violations of their corporate charters, and it probably is not invoked too often . . .
Zinc Carbonate Co. v. First National Bank, 103 Wis 125, 79 NW 229."
American Express Co. v. Citizens State Bank, 194 NW 430.

4. "A bank may not lend its credit to another, even though such a transaction turns out to have been of benefit to the bank, and in support of this a list of cases might be cited, which would look like a catalog of ships." [Emphasis added] ***Norton Grocery Co. v. Peoples Nat. Bank, 144 SE 505, 151 Va 195.***

5. "It has been settled beyond controversy that a national bank, under federal law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires . . ." ***Howard & Foster Co. v. Citizens Nat'l Bank of Union, 133 SC 202, 130 SE 759(1926).***

6. ". . . checks, drafts, money orders, and bank notes are not lawful money of the United States . . ." ***State v. Neilon, 73 Pac 324, 43 Ore 168.***

7. "Neither, as included in its powers not incidental to them, is it a part of a bank's business to lend its credit. If a bank could lend its credit as well as its money, it might, if it received compensation and was careful to put its name only to solid paper, make a great deal more than any lawful interest on its money would amount to. If not careful, the power would be the mother of panics,... Indeed, lending credit is the exact opposite of lending money, which is the real business of a bank, for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another. ***1 Morse, Banks and Banking, 5th Ed. Sec 65; Magee, Banks and Banking, 3rd Ed. Sec 248." American Express Co. v. Citizens State Bank, 194 NW 429.***

8. "It is not within those statutory powers for a national bank, even though solvent, to lend its credit to another in any of the various ways in which that might be done." ***Federal Intermediate Credit Bank v. L 'Herrison, 33 F 2d 841, 842 (1929).***

RESTRICTIONS ON SEARCH AND SEIZURE

DISTRICT COURT CLERK'S MANUAL

Overton v. Ohio, 151 L.Ed 2d 317 (October 2001): The Fourth Amendment provides that no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. U.S. Const., Amdt. 4. The probable-cause determination must be made by a neutral magistrate in order ëto insure that the deliberate, impartial judgment of a judicial officer will be interposed between the citizen and the police, to assess the weight and credibility of the information which the complaining officer adduces as probable cause.íî If there is no victim, there is no crime. This case makes it clear there shall be NO anonymous complaints, and it is the courtís duty to interpose a neutral and detached judicial officer between the complaining parties to determine if a PUBLIC offense has been committed. In California, a warrant can only be issued on a FELONY.

CITIES AND COUNTIES CANNOT TELL YOU

WHAT YOU CAN AND CANNOT DO AND OWN

California Penal Code ß 1548(d): Laws of the United States means (1) those laws of the United States passed by Congress pursuant to authority given to Congress by the Constitution of the United States where the laws of the United States are controlling, and (2) those laws of the United States not controlling the several states of the United States but which are not in conflict with the provisions of this chapter. CONGRESS makes laws, NOT counties, cities, code enforcement, or dog-catchers.

Schad v. Ephraim, 452 U.S. 61, 68 L.Ed.2d 671, 101 S.Ct. 2176: Convictions, pursuant to zoning ordinance prohibiting live entertainmen live nude dancing, held invalid under First and Fourteenth Amendments. A town or county may not legislatively prevent its citizens from engaging in or having access to forms of protective expression that are incompatible with its majorityís conception of ìdecent life solely because these activities are sufficiently available in other locales. If the Supreme Court said that the city and county cannot dictate against live nude dancing, they certainly cannot dictate raising small or large animals or owning old cars either. Property ownership, and especially farming, are forms of expression. Farmers, like painters, actors, musicians, writers, dancers, etc., use their experience, imagination, and skill to produce something from nothing. The Supreme Court said this is PROTECTED.

West Virginia State Board of Education et al. v. Barnett et al., 319 U.S. 624, 63 S.Ct. 1178 The United States Government was set up by the consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. The Fourteenth Amendment as applied to the states protects the citizen against the state itself and all of its creatures. One's right to life, liberty and property and other fundamental rights may not be submitted to vote, and they depend on the outcome of no election The Supreme Court said that if the STATE cannot take away any inalienable right, the CITY or COUNTY cannot, either!

DUE PROCESS AND EMINENT DOMAIN

U.S. CONSTITUTION Amendment 5. Self-Incrimination; Double Jeopardy; Due process. No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. If any city or county wants to regulate, restrict or eliminate ANY private property, or restrict any right, it must PAY for it out of its General Fund. Regulations and restrictionsî are TAKINGS, and must be compensated. So POST your property No Trespassingî to show that it belongs to YOU.

Protection; California Constitution Article 1, section 9 Due Process; Equal Privileges and Immunities: (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws. Due process means that anybody wishing to restrain property or file a protest against property of another, be it land, livestock, etc. must first put up a Bond to indemnify the lawful owner(s) for the takings, THEN go through the process of having the matter decided by a jury. THAT is Due Process.

Monterey v. Del Monte Dunes, 526 U.S.__, 143 L Ed 2d 882, 119 S.Ct.___ (1999): [T]he District Court's jury instructions directed the jury that (1) it should find for the landowner if the jury found that (a) the landowner had been denied all economically viable use of its property, or (b) the cityís decision did not substantially advance a legitimate public purpose (the jury awarded the landowner $8 million for the takingsî and $1.45 million for the cityís unlawful acts -no just compensation or providing an adequate post deprivation remedy for the loss). The County is liable for any city employee violating the takings clause of the Fifth Amendment. The property owner owns all bundle of rights that come with his Deed, as he bought it ìas is and nobody can convert, alter, change or amend his deed except him. The law forbids the City or County to amend any deed, steal any

deed, restrict its use, or to use deceit, extortion, fear, and threats to get the owner to amend it by restricting his ownership and use of livestock, property, or his land. Post-deprivation loss also attaches to the sale of any agriculture or other commodity in interstate OR intrastate commerce, which sales were diminished by the takings/restriction. This includes anything the landowner would buy for his use and enjoyment of his property ñ building materials, landscaping/gardening supplies, animal feed, livestock, pets, vehicles, etc. Damages for the takings without just compensation and for the extortion will be decided by a jury pursuant to the Seventh Amendment.

California Constitution Article 1, section 19 Eminent Domain: Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.î In an unpublished court order in the Daily Appellate, the Sierra Club was ordered to post a Bond of $250,000 for a takings because it didnít want some logger to cut down his own trees. If private corporations or individuals such as the Humane Society wish to get rid of all roosters and restrict ownership of other pets and livestock in the County, they must likewise pay for it by putting up a Bond.

California Civil Code Title 1 Nature of Property, section 654 Ownership defined: The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this code, the thing of which there may [be] ownership is called property. You own all your property to the exclusion of all others. Nobody can tell you how to care for your own property, and nobody can rescue property from you unless they BUY it, first.

California Civil Code Title 1 Nature of Property, Section 655 Things Subject to ownership: There may be ownership of all inanimate things [there may be ownership] of all domestic animalsÖ Animals, land, junk cars, etc., are PROPERTY.

Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 120 L.Ed.2d 798: There are a number of non-economic interests in land, such as interest in excluding strangers from oneís land, the impairment of which will invite exceedingly close scrutiny under takings clause (5th Amend.) if the protection against physical appropriations of private property was to be meaningfully enforced, the governmentís power to redefine the range of interests included in the ownership of property was necessarily constrained by constitutional limits If, instead, the uses of private property were subject to unbridled, uncompensated qualification under the police power, the natural tendency of human nature [would be] to extend the

qualification more and more until at last private property disappeared. These considerations gave birth to the oft cited maxim that, ìwhile property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking. Where permanent physical occupati on of land is concerned, we have refused to allow the government to decree it anew without compensation no matter how weighty the asserted public interests involved Unless just compensation is offered, the city or county is committing fraud, theft, racketeering and terrorism if it wants to exert ìacts of ownership or controlî private property and livestock ownership rights. It is illegal to impose public policy upon private land; to do so constitutes a takings for which the City and County are liable for compensating the owner for his loss, no matter how small the intrusion.

Palazzolo v. Rhode Island, 533 U.S.__, 150 L.E.d.2d 592, 121 S.Ct.__ (2001) (quoting both Monterey v. Del Monte Dunes and Lucas v. South Carolina Coastal Council): ìPetitioners acquisition of title after the regulations effective date did not bar his takings claims. This Court rejects the State Supreme Courts sweeping rule that a purchaser or a successive title holder like petitioner is deemed to have notice of an earlier-enacted restriction and is barred from claiming that it effects a taking. Were the Court to accept that rule, the postenactment transfer of title would absolve the State of its obligation to defend any action restricting land use, no matter how extreme or unreasonable. A State would be allowed, in effect, to put an expiration date on the Takings Clause. This ought not to be the rule. Future generations, too, have a right to challenge unreasonable limitations on the use and value of land.

The Takings Clause of the Fifth Amendment, applicable to the States through the Fourteenth Amendment, Chicago, B.&Q. R.Co. v. Chicago, 166 U.S. 226 (1897), prohibits the government from taking private property for public use without just compensation. In Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922), Justice Holmes well-known formulation, while property may be regulated to a certain extent, if a regulation goes too far it will be recognized as a taking. (To quote Justice Stevens) It is wrong for the government to take property, even for public use, without tendering just compensation The Supreme Court ruled over 100 years ago that it is wrong for government to steal. If the restriction is not listed in the Deed, the city or county cannot come in AFTER the fact and say it's restricted, even if the restriction occurred before the property was purchased. If the city did not reimburse the FORMER owner for the ìregulatory taking, it cannot get away with failing to reimburse the PRESENT owner. That is FRAUD. If it isn't listed in the Deed, IT IS NOT RESTRICTED. And if the city or county still wants to

impose any restriction, they have to lawfully acquire the property by justly compensating the owner/buying the land.

CITIES AND COUNTIES CANNOT DO ILLEGAL SEARCH AND SEIZURE

Steagald v. United States, 68 L.Ed.2d 38 Held: 2. The search in question violated the Fourth Amendment, where it took place in the absence of consent or exigent circumstances. (a) Absent exigent circumstances or consent, a home may not be searched without a warrant (c) A search warrant requirement will not significantly impede effective law enforcement effortsno warrant is required to apprehend a suspected felon in a public place. Moreover, the exigent-circumstances doctrine significantly limits the situations in which a search warrant is needed. And in those situations in which a search warrant is necessary, the inconvenience incurred by the police is generally insignificant. In any event, whatever practical problems there are in requiring a search warrant they cannot outweigh the constitutional interest at stake in protecting the right of presumptively innocent people to be secure in their homes from unjustified, forcible intrusions by the government The purpose of a warrant is to allow a neutral judicial officer to assess whether the police have probable cause to make an arrest or conduct a search. As we have often explained, the placement of this checkpoint between the Government and the citizen implicitly acknowledges that an officer engaged in the often competitive enterprise of ferreting out crime, Johnson v. United States, 333 U.S. 10, 13-15 (1948), at 14, may lack sufficient objectivity to weigh correctly the strength of the evidence supporting the contemplated action against the individualís interests in protecting his own liberty and the privacy of his home. Warrantless search or arrest can ONLY occur IN A PUBLIC PLACE during ìhot pursuit.î In all other cases, a fair, neutral and detached judicial officer determines FROM THE COMPLAINT that a warrant should issue based upon the commission OF A FELONY. This is where the public's ignorance is used by robbers posing as code enforcement, etc.,

THERE ARE NO FISHING EXPEDITIONS TO SEIZE PROPERTY THAT IS NOT REPORTED AS STOLEN!!!

Carrera v. Bertaini, 63 C.A. 3d 721; 134 Cal.Rptr. 14: [I]mpoundment of an owner's farm animals without prior notice or hearing, and without a hearing in the superior court was unlawful and the owner was entitled either to have animals

returned or their reasonable value the due process clause of the Fourteenth Amendment requires some form of notice and hearing the hearing must take place before the property is taken. Cities try to wriggle around this one, by holding public hearings. These hearings, however, are NOT proper hearings with the property owner or his counsel present in superior court with the value of all property and bundle of rights tallied and presented for just compensation by the city or county out of the General Fund. The County is liable for the city using fraud and deceit to try to con the public into believing that public hearings take the place of ìa notice and hearing in superior court.

CITIES AND COUNTIES CANNOT VIOLATE THE FOURTH AMENDMENT

U.S. CONSTITUTION Amendment 4. Search and Seizure. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. We have forgotten that this was drafted to correct the evils of swarms of the King's officers barging in, and arbitrarily confiscating seditious material, which was determined by them to be seditious, without benefit of a judge or a public trial. Today, we see the same set of circumstances ñ invasion and terrorism because somebody else invaded our privacy and did a bench trial because they determined that our lifestyle was seditious.

People v. Camacho, 23 Cal.4th 824; 98 Cal.Rptr.2d 232; 3 P.3d 878 (2000): Police observation from non-public area constitutes unlawful search. The County is liable for Fourth Amendment violations, and has no immunity when its employees trespass upon areas that ìmembers of the public cannot be said to have been implicitly invited. No such implicit public invitation exists in a side yard, back yard, or neighborís yard for county employees or anybody else to conduct invasion of privacy and/or pretextual search without probable cause to inventory livestock or other property by peeking over or through fences, even chain-link fences, which are there to exclude the eyes of strangers and trespassers.

U.S. v. Hotal, 143 F.3d 1223 (9th Cir. 1998). To comply with Fourth Amendment, anticipatory search warrant must either on its face or on the face of the accompanying affidavit clearly, expressly, and narrowly specify the triggering event Consent to search that is given after illegal entry is tainted and invalid under

the Fourth Amendment. Plain-view doctrine did not apply to seizure of evidence from defendants residence after officers conducted initial search based on invalid anticipatory search warrant Plain-view doctrine does not apply unless the initial entry is lawful pursuant to a valid warrant The county is liable for its agents/employees stealing anything without probable cause on a tainted warrant that fails to narrowly list things with particularity that are connected with a crime, and that fails to have an attached affidavit from a victim injured in his or her business or property. State and federal law protects the unalienable right to own property / livestock, so the county is liable for its employees fabricated charges and pretextual search without probable cause.

See v. City of Seattle, 387 US 541, 18 L.Ed.2d 943, 87 S.Ct. 1737: [I]t was held that the Fourth Amendment forbids warrantless inspections of commercial structures as well as of private residences. The search of private commercial property, as well as the search of private houses, is presumptively unreasonable if conducted without a warrant. Again, if there is no victim, there is no crime. The county would be liable for violating the Fourth Amendment in allowing any of its agents or employees to conduct ìwarrantless inspectionsî to search for livestock and other property on residences.

U.S. v. U.S. District Court, 407 U.S. 297 (1972): The Government's duty to safeguard domestic security must be weighed against the potential danger that unreasonable surveillances pose to individual privacy and free expression [t]he freedoms of the Fourth Amendment cannot properly be guaranteed if domestic surveillances are conducted [violates] the citizens right to be secure in his privacy against unreasonable Government intrusion. The city and county is liable for conducting illegal surveillance on private citizens to see who might be keeping or raising livestock. Violation of the Fourth Amendment strips public employees of all immunity. NOTE: U.S. v. U.S. District Court was about protecting the rights of persons who actually blew up federal property and conspired to blow up some more. It appears that terrorist bombers have more constitutional protections than a livestock owners today.

Camara v. Municipal Court, 387 US 523, 18 L.ed.2d 930, 87 S.Ct. 1727: The basic purpose of the Fourth Amendment is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials; the Amendment thus gives concrete expression to a right of the people which is basic to a free society. The guaranty against unreasonable searches and seizures contained in the Fourth Amendment is applicable to the states by reason of the due process clause of the Fourteenth Amendment. The protection of the Fourth Amendment against

unreasonable searches and seizures is not limited to a situation in which an individual is suspected of criminal behavior. The County is liable for violations of the Fourth, Fifth and Fourteenth Amendments by their agents / employees for suspecting that a citizen is a criminal because he or she happens to own and raise livestock for their own use. The County needs to remember the hundreds of innocent citizens who were released in the Rampart scandal, because corrupt city and county employees fabricated charges and committed perjury.

Hanlon v. Berger, 526 U.S.___, 143 L.Ed 2d 978, 119 S. Ct.__: It is a violation of the Fourth Amendment for media to be present during the execution of a search warrant. The County is liable and has no immunity for using the local media to invade the privacy of, and slander fowl and livestock owners while falsely representing the County's racketeering enterprise is lawful to facilitate raids on other livestock owners for the proceeds of the specified unlawful activity prohibited under Title 18 ß 1962 Racketeering Influenced and Corrupt Organizations Act.

CITES AND COUNTIES CANNOT VIOLATE CIVIL RIGHTS

Title 42 Section 1983: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress... The County would be liable for discrimination against ìlivestock owners, 4-H, FFA, feed stores, and feed mills.

Title 28 United States Code ñ Section 1343 Civil rights and elective franchise. (a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.î The County is liable to reimburse disenfranchised livestock owners for property loss without just compensation and deprivation of the right to own all livestock both large and small for personal use, food, or profit. Cities and counties cannot set themselves up as heads of vigilante organizations. The County is liable to provide redress for the deprivation, under color, of the rights secured by the Constitution of the United States and Acts of Congress providing for equal rights of citizens to have just compensation for any County takings; and is liable to pay damages or to secure equitable or other relief providing for the protection of civil rights, including the right to own and raise pigeons, cats, dogs, large or small livestock, chickens whether they be hens or roosters, and to buy and sell livestock feed.

Estate of Macias v. Lopez, 42 F.Supp.2d 957 (N.D.Cal. 1999): Öther district court began its analysis by setting forth the elements of a ß 1983 claim against an individual state actor as follows:

[the plaintiff(s)] possessed a constitutional right of which [they were] deprived;

the acts or omissions of the defendant were intentional;

the defendant acted under color of law; and

the acts or omissions of the defendant caused the constitutional deprivation.

The court also stated that, to establish municipal liability, a plaintiff must show that:

[the plaintiff] possessed a constitutional right of which [he/she] was deprived;

the municipality had a policy or custom;

this policy or custom amounts to deliberate indifference to [the plaintiffís] constitutional right; and

the policy or custom caused the constitutional deprivation.

The district court then stated, however, that [b]efore there can be any liability under section 1983, there must be ëa direct causal link between the personal conduct of Deputy Lopez or the municipal conduct of Sonoma County and the alleged constitutional deprivation, in this case the murder of Maria Teresa Macias. In each of these cases, the Supreme Court and this court treated the deprivation of a constitutional right as the alleged injury. See Monell v. Dept. of Social Services, 435 U.S. 658, 690 (1978), 436 U.S. at 692 (holding that a ß 1983 ìplainly imposes liability on a government that, under color of some official policy, causes an employee to violate another's constitutional rights); City of Canton v. Harris, 489 U.S. 378 (1989) at 385 (stating that our first inquiry in any case alleging municipal liability under ß 1983 is the question whether there is a direct causal link between a municipal policy or custom and the alleged constitutional deprivationî); City of Springfield v. Kibbe, 480 U.S. 378 (1987) at 267 (stating that ìthe Court repeatedly has stressed the need to find a direct causal connection between municipal conduct and the constitutional deprivationî); Harris v. City of Roseburg, 664 F.2d 1121 (9th Cir. 1981) at 1125 (liability under ß 1983 can be established by showing that the defendants either personally participated in a deprivation of the plaintiffís rights, or caused such a deprivation to occur). There is a constitutional right, however, to have police services administered in a nondiscriminatory manner ñ a right that is violated when a state actor denies such protection to disfavored persons. See Navarro v. Block, 72 F.3d 712, 715-17 (9th Cir. 1996) (recognizing a cause of action under ß 1983 based upon the discriminatory denial of police services); Balistreri v. Pacifica Police Dept., 901 F.2d 696, 701 (9th Cir. 1990) (same); see also Penrod v. Zavaras, 94 F.3d 1399, 1406 (10th Cir. 1996) (stating that [a]n equal protection violation occurs when the government treats someone differently [from] another who is similarly situated). The alleged constitutional deprivation in this matter was the alleged denial of equal police protection to Mrs. Macias. There became a direct causal link between the city and the constitutional deprivation of its citizens under equal protection when the city, through its agents and employees, showed indifference to the rights of its residents and businessmen (feed mills) and adopted a custom or policy to discriminate against disfavored individuals, who were disenfranchised because they owned or raised livestock or were ìkeeping any property the city doesnít like; this policy or custom amounts to deliberate indifference to injured citizens constitutional rights. Any hearings done in conspiracy with other private individuals to restrict commerce and deprive citizens of equal protection constitutes the cause/point of threat to citizensí unalienable rights of property ownership, equal protection, and benefit of honest government services before the citizen gets robbed.

CITIES AND COUNTIES CANNOT ENGAGE IN

EXTORTIONATE CREDIT TRANSACTIONS

Title 18 USC sections 891-896. Section 891 Definition and rules of construction: (7) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property. This applies to bogus utility liens or attorney's fees, which sanctions are only for licensed attorneys, and only for DEFENDANTS for causing undue delay and needlessly increasing the cost of litigation. Private attorneys conspiring with private corporations / Humane Societies to bribe federal or state judges, etc. to get rulings/judgments favorable to the robbers fits these rules of construction, as only Hitler punished those who sued and confiscated their property. The county is not immune for cities criminal profiteering within the county, when they are paid to protect and serve, NOT to rob and do these white-collar con games.

CITIES AND COUNTIES CANNOT IMPERSONATE

FEDERAL AUTHORITY

Under Title 7 section 2159, Congress restrains all states subject to Public Law regarding animals and livestock. All investigations for ìalleged animal neglectî fall under the jurisdiction of the Department of Agriculture, NOT the County. The United States Department of Agriculture Secretary, sends a request to the United States Attorney General, now John Ashcroft, to request of a United States District Court Judge to issue a restraining order or injunction pursuant to section 2159 of Title 7 United States Code, whenever the Secretary has reason to believe the health of any animal [is] in serious danger. The County employees and agents are not the United States Department of Agriculture Secretary, and The County Board of Supervisors are not United States District Court judges, therefore, they conspired to intentionally and willfully impersonate federal authority, restricted since 1966 under the following explicit statute:

Title 7, Section 2159. Authority to Apply for Injunctions.- (a) Request. Whenever the Secretary has reason to believe that any dealer, carrier, exhibitor, or intermediate handler is dealing in stolen animals, or is placing the health of any animal in serious danger in violation of this Act or the regulations or standards promulgated thereunder, the Secretary shall notify the Attorney General who may

apply to the United States district court in which such dealer, carrier, exhibitor, or intermediate handler resides or conducts business for a temporary restraining order or injunction to prevent any such person from operating in violation of this Act or the regulations and standards prescribed under this Act. The County is not immune from city's criminal conduct, and impersonating federal authority in order to commit terrorism and theft under color.

TERRORISM IS AGAINST THE LAW - FEDERAL CRIMINAL CODES:

Title 18 USC CHAPTER 113B TERRORISM, Section 2331. Definitions. As used in this chapter ñ (1) the term ìinternational terrorismî means activities that - (A) involve violent acts; (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping. The end results of all terrorist acts are to restrict the victimsí freedoms and put them out of business. That is what cities and counties do if they come to your door (trespass, impersonate an officer), and tell you that you cannot own over x number of dogs, roosters, or junk cars (regulatory takings in violation of due process). If they issue a citation, it's filing a false complaint,î because 1) they are not a victim of a public offense and 2) they cannot enforce city and county codes on PRIVATELY owned land ñ even if it is in the MIDDLE of the city, and even though you are RENTING! THEN it also becomes ìinterference with contract. City and County Codes and Ordinances are ONLY for city and county-owned property! The punishment for terrorism is imprisonment for 25 years. If they come to my door, I ask them where is the copy of the cancelled check, where they BOUGHT my property FIRST. Because my place is PRIVATE, and, just like Disneyland which is ALSO private, and which has its own rules and regulations, MY rule is, if the city or county want to LOOK at my property, they must PAY me first. That's the law, and my admission fee to them is $5 million.

Title 18 CHAPTER 105 ñ SABOTAGE, Section 2152 Definitions As used in this chapter: The words war material include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food. The words war premises include all buildings, grounds, mines, or other places wherein such war material is being produced The words national-defense material include arms, armament, ammunition, livestock, forage, forest products and standing

timber, stores of clothing, air, water, food. The words national-defense premisesí include all buildings, grounds, mines, or other places wherein such war material is being produced Livestock are second in importance as war materials and defense materials only to guns and ammo, and the places where chickens are raised are war premisesî and national defense premises. All those men on aircraft carriers eat eggs every morning. Anybody who interferes with the raising of livestock is sabotaging national defense materials. And anybody who restricts or prevents one American citizen from spending one dollar on one dog, cat, chicken, or pigeon is committing domestic terrorism, as nobody has the power to regulate these Title 7 sec. 2 agricultural commodities except Congress.

The President has declared WAR on terrorism. After September 11, 2001, ANYBODY who conspires to interfere with lands for growing livestock gets 30 years in jail and a fine for committing SABOTAGE against the United States. Anonymous complaints were abolished over 200 years ago.

Title 18 CHAPTER 113 STOLEN PROPERTY, Section 2311 Definitions: As used in this chapter: aircraft means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air; cattle means one or more bulls, steers, oxen, cows, heifers, or calves, or the carcass or carcasses thereof; livestock means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof; money means the legal tender; motor vehicles includes an automobile truck wagon, motorcycle, or any other self-propelled vehicle; securities includes any note, stock certificate, bond check, draft, warrant, travelerís check, letter of credit, warehouse receipt bill of lading valid or blank motor vehicle title; certificate of interest in property, tangible or intangible; tax stamp includes any tax stamp, tax token, tax meter imprint; ëvalueí means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof. The first capital offense prosecuted in this nation was for stealing chickens and eggs. Chickens and eggs were used as currency during the Depression, and are still on the books as valuable property, more important than stolen money or stolen car. Owning and raising cats, dogs, livestock, pigeons, etc. is an unalienable right guaranteed by the Constitution, and anybody stealing or conspiring to steal small animals or livestock gets 10 years in jail.

Title 18 section 43. Animal enterprise terrorism. Whoever (2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing or causing the loss of, any property (including animals or records) or conspires to do so; shall be fined under this title or imprisoned not more than one year, or both...(d) Definitions the term animal enterpriseí means-(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture (B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or (C) any fair or similar event intended to advance agriculture arts and sciences (b) Aggravated offense Whoever causes serious bodily injury shall be fined or imprisoned not more than 10 years, or both. The County is liable for their or cities employees taking anonymous complaints and using threats, fear, and intimidation (animal terrorism) to restrict federally protected ìevents intended to advance agriculture arts and sciences, namely, all 4H and FFA projects, all hobbyists who raise livestock and small animals and birds including pigeons for shows and competitions, and anybody who raises an animal for food. NOTE: The Humane Society is a private corporation, contracted with the County to get rid of unwanted pets and nuisance wildlife. They are NOT contracted to violate the Fourth Amendment in order to inventory and steal dogs, cats, chickens, horses, etc. under ANY pretext, or to conspire with corrupt judges, lawyers and court clerks to use the courts as a racketeering enterprise. The Humane Society was declared by the FBI to be an animal terrorist organizationî in 1993, and they use bribe/protection money to void judgments against them in court. **See REPORT TO CONGRESS ON THE EXTENT OF DOMESTIC AND INTERNATIONAL TERRORISM ON ANIMAL ENTERPRISE** online at Department of Justice Reports at findlaw.com or first gov.gov.

Title 18 section 3112. Repealed November 16, 1981. This federal law used to provide for the issuance of search warrants for seizure of animals, birds, and eggs, but it was repealed, which means that it has been illegal since 1981 for anybody to issue a warrant to seize an animal, a bird, or an egg. The County is liable for any of its cities, agents or employees acting outside the law to restrict ownership of livestock, and using fear, threat, intimidation, and fraud to coerce citizens to give up their property rights.

THREAT TO DOMESTIC & NATIONAL SECURITY

Title 18, section 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified: (b) Aggravating factors for espionage and treason. In determining whether a sentence of death is justified for an offense the court shall consider each of the following aggravating factors for

which notice has been given and determine which, if any, exist: (2) Grave risk to national security. In the commission of the offense the defendant knowingly created a grave risk of danger to the national security. Our dwindling resource of farmers is being wiped out by vigilantes in government and private sectors committing terrorism, racketeering and theft under color of law. Farmers, by their own hard work, produce something out of nothing to feed our nation. The 3 million farmers left in the United States today are under threat of dwindling down to zero, because Title 18 sec. 43 Animal enterprise terrorism is adopted and perpetrated by county employees. The County is liable for any of its agents or employees taking anonymous complaintsî and illegally imposing limits or restrictions on livestock and property ownership without just compensation, and who threaten food supplies through regulation and control of all wealth with the aid of private vigilantes to enforce a no ownership policy upon citizens to the point where they can no longer keep and raise livestock, food or pets. The County would be liable for its agents threatening national security/food supply.

CITIES & COUNTIES CANNOT LEGISLATE EXCEPT AS TO LANDS THEY OWN.

UNITED STATES CONSTITUTION Article 6, Cl.2 Supremacy of Constitution. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding. We have three separate branches of government legislative, administrative, and judicial - set up this way to ensure we would not become a dictatorship. Dictatorship means that one branch assumes all control, takes over the other branches, and becomes a legislator who makes its own laws, administrates to set up its own and country prosecutes its own laws. Under a dictatorship, citizens have no rights, and property ownership is eliminated, as the dictatorship assumes regulation and control over all private property. The penalty for conspiring to overthrow the government of the United States is death or life imprisonment.

Schulz v. Milne, 849 F.Supp. 708 (N.D.Cal. 1994: [D]efendants fail to apprehend basic constitutional tenets restricting the extent to which state power may be delegated to private parties. See also page 6694, footnotes 1 & 5: 1. It appears to the court that the City may have improperly contracted away its legislative and governmental functions to the Board and Milne, both of whom are private

parties.The Ninth Circuit clearly held that a municipality may not surrenderî its control of a municipal function to a private party. Cities and Counties are private municipalities; they CANNOT assume legislative powers without the Governors signature, or without it going through the State Legislature. Only the Governor can sign laws against consumer goods. If any city or county does this, itís racketeering, fraud, embezzlement, extortion, and impersonating an officer; in this case, a State Legislator or the Governor.

In re **Ellett, 254 F.3d 1135 (9th Cir. 2001):** Under Ex Parte Young and its progeny, a suit seeking prospective equitable relief against a state official who has engaged in a continuing violation of federal law is not deemed to be a suit against the State for purposes of state sovereign immunity; Ex Parte Young, 209 U.S. at 159-160, 28 S.Ct. 441; Will v. Mich. Depít of State Police, 491 U.S. 58, 71 n. 10, 109 S.Ct. 2304, 105 L.Ed.2d 45 (1989) (stating that ìofficial-capacity actions for prospective relief are not treated as actions against the State.). Since the State cannot authorize its officers to violate federal law, such officers are stripped of [their] official or representative character and [are] subjected in [their] person to the consequences of [their] individual conduct. Ex Parte Young, 209 U.S. at 160, 28 S.Ct. 441ÖEx Parte Young gives life to the Supremacy Clause, as remedies designed to end a continuing violation of federal law are necessary to vindicate the federal interest in assuring the supremacy of that law. Cities and Counties are private municipalities; they CANNOT assume legislative powers to regulate federally protected articles livestock (including dogs, cats and pigeons) and feeds in commerce. Cities and counties have NO IMMUNITY for legislating away ANY property rights and/or ownership rights without the Governorís signature, or without it going through the State Legislature. If they do, it's impersonating an officer and treason against the United States.

THE COUNTY CANNOT SHIRK ITS LIABLE FOR THE CONDUCT OF ITS EMPLOYEES OR AGENTS, OR ANY CITY EMPLOYEES OR AGENTS

Allen v. City of Portland, 73 F.3rd, 232 (9th Cir. 1995): By definition, probable cause to arrest can only exist in relation to criminal conduct; civil disputes cannot give rise to probable cause contract dispute cannot give rise to probable cause to arrest. Cities or counties CANNOT butt in on any civil dispute between neighbors, or presume there is any criminal activity related to ownership of

livestock, fowl or other property. Civil disputes go through the DISTRICT ATTORNEY. If the city gets involved, it commits domestic terrorism.

Watkins v. City of Oakland, 145 F.3d 1087 (9th Cir. 1998) at 1088: 6. Civil Rights 214(4) Municipality is not entitled to the shield of qualified immunity from liability under 42 U.S.C.A. section 1983. Discrimination against disenfranchised citizens because they own fowl (roosters) and/or other livestock, and/or are Latinos, strips the County of immunity.

Burns v. Reed, 500 U.S. 478, 486, 111 S.Ct. 1934, 114 L.Ed.2d 547 (1991): [T]he law requires that the official seeking immunity to bear the burden of demonstrating that immunity attaches to the particular function. County or city employees could not bear the burden of demonstrating that sabotage, terrorism, extortion, theft under color of law, discrimination, racketeering, violation of due process, and takings without compensation attaches to their particular function of upholding the Constitution and protecting the property and rights of tax-paying citizens and property owners; therefore, the County would not be immune, either for the conduct of criminals posing as city or county employees.

Brandon v. Holt, 105 S.Ct. 873 (1985) at pp. 873, 874: ì2. Civil Rights 13.16 - In cases arising under section 1983, judgment against a public servant ëin his official capacityí imposes liability on the entity that he represents provided the public entity receives notice and an opportunity to respond. 42 U.S.C.A. section 1983. Held: 2. In cases under section 1983, a judgment against a public servant ëin his official capacityí imposes liability on the entity that he represents. This rule was plainly implied in Monell, supra; Hutto v. Finney, 437 U.S. 678, 98 S.Ct. 2565, 57 L.Ed.2d 522; and Owen v. City of Independence, 455 U.S. 622, 100 S.Ct. 1398, 63 L.Ed.2d 673. Cities and counties cannot take anonymous complaints. The Supreme Court says that the County is the municipality upon which liability is imposed for civil rights claims against city employees within its jurisdiction. Any County Claim Form filed regarding these terrorist acts, frauds and swindles will be the County's Notice and Opportunity to be heard regarding city or county employees criminal conduct/conspiring to steal property.

Lalonde v. County of Riverside, 204 F.3d 947 (9th Cir. 2000): If, however, there is a material dispute as to the facts regarding what the officer or the plaintiff actually did, the case must proceed to trial, before a jury if requested10 even when immunity from suit was an issue. Issues of credibility belong to the trier of fact. The Seventh Amendment to the Constitution so requires See also Johnson v. Jones, 515 U.S. 304, 317-318 (1995) (holding that the existence of genuine issues of

material facts render not appealable a pre-trial denial of summary judgment on the issue of qualified immunity) [O]nce the plaintiff established that material issues of fact existed, the court was required to submit the factual dispute to a jury. Thomson v. Mahre, 110 F.3d 716, 719 (9th Cir. 1997) ([W]here there is a genuine issue of fact on a substantive issue of qualified immunity, ordinarily the controlling principles of summary judgment and, if there is a jury demand and a material issue of fact, the Seventh Amendment, require submission to a jury.). It would be impossible for the County to prove any immunity, when, after receiving a Claim or civil RICO suit with additional charges of terrorism and sabotage, it automatically rejects it in order to ìplay the odds that the Claimant would be too ignorant to follow up where these issues would be taken to trial. The rejected Claim would become Exhibit A.

Robinson v. Solano County, 2000 Daily Journal D.A.R. 7643: [T]he court awarded partial summary judgement after Robinson filed both state and federal claims in federal court. As to the county, the court found that Robinson had failed to provide evidence to support municipal liability under the rule set out in Monell v. Dept. of Social Services, 435 U.S. 658, 690 (1978). However, California has rejected the Monell rule, under which a county may be held liable in a ß 1983 suit only if it has adopted an illegal or unconstitutional policy or custom. California holds counties liable for acts of their employees under the doctrine of respondeat superior, and grants immunity to counties only where the public employee would also be immune from liability. See C.G.C. ß 815.2; see also Scott v. County of Los Angeles, 32 Cal. Rptr. 2d 643, 650 (Ct. App. 1994) (Under Government Code section 815.2, subdivision (a), the County is liable for acts and omissions of its employees under the doctrine of respondeat superior to the same extent as a private employer.

CITIES AND COUNTIES CANNOT VIOLATE RACKETEERING LAWS

Title 18 section 1951 Interference with Commerce: Whoever in any way or degree obstructs, delays or affects commerce or the movement of any article or commodity by robbery or extortion or attempts or conspires to do so shall be fined or imprisoned not more than twenty years (2) the term extortion means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. Title 7, section 2 [Agricultural commodities] Definitions: The word person shall include individuals, associations, partnerships, corporations, and trusts. The word

commodity shall mean wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, [Irish potatoes], wool, wool tops, fats and oils cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles. Title 7 section 2131 The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order. (3) to protect the owners of animals from theft of their animals by preventing the sale or use of animals which have been stolen. Title 18 section 1962. Prohibited activities: (b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce (d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section. Title 18 Stolen Property, section 2311 Definitions: As used in this chapter livestock means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof. Title 7 Agriculture section 601: No state can restrict the raising of any commodity (chicken - hen or cock, other poultry, cattle, horse, goat, pig, sheep, parakeet, frog, fish, chinchilla, guinea pig, rabbit, etc.) for personal use. If the state is forbidden to restrict commodities, neither can the city or county. City or county employees get 20 years in prison for conspiring to restrict the free flow of commerce and agricultural commodities known as chickens (roosters and hens), birds and poultry, cattle, crowing fowl, pigeons, goats, horses, pigs, sheep, other small farm animals (rabbits, fish, chinchillas, frogs, parakeets, guinea pigs, etc.), and animal/livestock feed consisting of mill feeds: rice, corn, oats, barley, rye, flaxseed, and grain sorghums. The penalty is 20 years imprisonment or $250,000 fine.

Salinas v. United States, 118 S.Ct. 469 (1997): [I]nterprative canon is not license for judiciary to rewrite language enacted by legislature Predominant elements in substantive Racketeer Influenced and Corrupt Organizations Act (RICO) violations are (1) conduct (2) of enterprise (3) through pattern of racketeering activity. 18 U.S.C. ß 1962(c). Racketeer Influenced and Corrupt Organizations Act. 18 U.S.C. ß 1962(d)Ö. (RICO) conspiracy conviction does not require overt or specific act. If conspirators have plan which calls for some conspirators to perpetrate crime and others to provide support, supporters are as guilty as perpetrators. Conspiracy may exist and be punished whether or not substantive crime ensues, for conspiracy is a

distinct evil, dangerous to the public, and punishable in itself. Judges and cities are forbidden to rewrite language enacted by legislature. They are forbidden to even think about using the courts to uphold bogus, fabricated charges for hot pursuit of revenue. By their conduct of falsely representing the character, amount, or legal status of any debt, participants violate 15 U.S.C. sections 1681s-2 and 1692(e), and become principles in a pattern of racketeering by putting false liens or debts on court or credit records without verifying that the liens or debts were illegally valid as the result of having the matter determined by a jury prior to having an abstract of judgment entered. The fraud continues when these bogus judgments are used for collection of unlawful debt. The language of 15 U.S.C. section 1681s-2 is particularly clear: a person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or consciously avoids knowing that the information is inaccurate.

Amortization: The World Book Dictionary defines amortize as: 1. To set money aside regularly in a special fund for future wiping out of (a debt); 2. Law. To convey (property) to a body, especially an ecclesiastical body, which does not have the right to sell or give it away. Amortizationí is: 1. The act of amortizing a debt; 2. The money set aside for this purpose. The County is liable for cities fraudulent misuse of the word amortization to mean an 18-month grace period before county agents crack down on all livestock and other small farm animal owners, 4-H, and FFA. The correct definition of amortization means that the county and cities need to set money aside right now for conveying property (deeds/bundle of rights chickens/chicken feed/livestock) to a body, (city or county agents), which does not have the right to sell or give it away. This is hard evidence of County's liability for fraud ñ they know they have no right to con citizens into amending their own Deeds by giving up their property, but count on the public being too ignorant to look up the real definition of amortize.

CIVIL RICO by DAVID B. SMITH and TERRANCE G. REED, 1999 Edition published by MATTHEW BENDER, publication update September 1999, front page: Injuries to Business or Property: Interpreting the scope of compensable business or property injuries under section 1964(c), THE Sixth Circuit recently held in Isaak v. Trumble Savings & Loan Co., 169 F.3d 390 (6th Cir. 1999), that the use and enjoyment of real estate constitutes property within the meaning of RICO so as to trigger the accrual of a RICO claim. The county and its cities are liable for racketeering conduct of its employees/agents use of fear, threats, and

intimidation to interfere with the use and enjoyment of property by citizens who pay city and county employees to protect and serve their property rights.

U.S. v. Frega, 179 F.3d 793 (9th Cir. 1999) at 793: To establish conspiracy under Racketeer Influenced and Corrupt Organizations Act (RICO) does not require proof that individual defendant participated personally, or agreed to participate personally, in two predicate offenses; rather, the conspiracy must contemplate the commission of two predicate acts by one or more of its members. 18 U.S.C. section 1962(d). More than two predicate acts occur when private individuals conspire with public employees to violate state and federal law by restricting property ownership without just compensation in furtherance of a racketeering scheme or artifice (denial of honest government services and theft under color of law); therefore, the County is the municipality upon which the liability is imposed for conduct constituting RICO conspiracy through fraud and deceit to effect ìtakingsî without due process and without just compensation, which is theft under color. The county needs to remember the judicial officers who went to jail in this Frega case for operating the courts as a racketeering enterprise, the $42 million that went back into Uncle Sam's Treasury as fruits of a racketeering enterprise, and needs to remember the 1,500 crooked employees who used to work for the DMV and who took bribes to do favors and manufacture fake licenses for their friends. In the Frega case, the feds only collected $42 million, because it was pled improperly and a lot more big fish escaped the net.

Salinas v. United States, 118 S.Ct. 469 (1997): [C]onspiracy is a distinct evil, dangerous to the public, and punishable in itself.î City and county employees are liable for conspiring to restrict property (including old cars) and agricultural commodities (Title 7, section 2) without just compensation, and conspiring to target disenfranchised livestock owners and feed mills in violation of Title 42 section 1983, when they admit to having met (conspired) with code enforcement and private persons in violation of the Brown Act in order to steal. The county is liable for its employeesí intent (conspiracy) to conduct city and county business as a racketeering enterprise.

In Re Grand Jury Proceedings, 87 F.3d 377 (9th Cir. 1996) at 378: Attorney need know nothing about clientís ongoing or planned illicit activity for crime-fraud exception to attorney-client privilege to apply. The County is liable for city employees ìplanned illicit activityî to turn property ownership into a crime, and any attorney representing the city or county agents in a lawsuit is liable under

crime-fraud exception, and their malpractice insurance will not cover RICO allegations; nor can any of their clients recover ANY attorney fees (this notion was rejected by the full House in 1970 see CIVIL RICO, footnote 25)

Crowe v. Henry, 43 F.3d 198, 199 (5th Cir. 1995): A preanswer Motion to Dismiss action for failure to state a claim admits facts alleged in complaint but challenges plaintiffís right to relief based upon those facts. The County would have no hope of using a 12(b)(6) motion to deny the fact that any of its citizens exists, and that one citizen was subjected to Animal Enterprise Terrorism, threats, fear, intimidation, trespass, and robbery by city employees.

Guerrero v. Gates, et al, CV 00-7165, WILLIAM J. REA, August 28, 2000, United States District Court for the Central District of California, quoting pertinent parts relating to nationwide news the LAPD CONDUCT SUBJECT TO CIVIL RICO: DISCUSSION: Legal Standard Pursuant to Federal Rule of Civil Procedure 12(b)(6): A party may bring a motion to dismiss a plaintiffís claims if the plaintiffís allegations fail to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). Generally, [a] complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). Thus, dismissal is proper where the complaint lacks either a cognizable legal theory or insufficient facts to support a cognizable legal theory. See Balistreri v. Pacifica Police Depít., 901 F.2d 696, 699 (9th Cir. 1990). In reviewing a Rule 12(b)(6) motion, a court must construe all allegations contained in the complaint in the light most favorable to the plaintiff, and must accept as true all material allegations in the complaint, as well as any reasonable inferences to be drawn from them. See Hospital Bldg. Co. v. Trustees of the Rex Hosp., 425 U.S. 738 (1976). Thus, no matter how improbable the alleged facts are, the court must accept them as true for the purposes of the action. See Nietzke v. Williams, 490 U.S. 319, 326-27 (1989). The first amended complaint alleges planting evidence and extortion by Rampart police, which are both racketeering violations under Title 18. Attorneys for the defendant police made a motion to dismiss based on failure to state a claim. The court recommended that this motion be denied, and encouraged the plaintiff to pursue his racketeering claims. Likewise, it would be very easy to prove the set of facts that the city and county employees aided and abetted racketeering activity by restricting property use, and by conspiring with private individuals and corporations to terrorize tax-paying citizens.

AR zoning: ìExisting animal keeping uses in the AR Agricultural-Residential District which become nonconforming by reason of development on an adjoining site which was vacant when the animal keeping use was established may be continued indefinitely; provided, however, if the animal keeping use is abandoned or discontinued for a period of eighteen (18) months, it shall not be resumed except in conformity with the provisions of Section 9-3.420 of this article. The County is liable for illegally proposing (extortion) that citizens be given 18 months to get rid of chickens or face charges in order to threaten and intimidate citizens to give up their property rights, which is a scheme or artifice to defraud under color of official right. The County is liable for any of its employees/agents using extortion, threats, fear and intimidation to coerce citizens to amend their Deeds and give up their property rights without just compensation or due process, and for falsely purporting that if the chickens or other livestock/small farm animals are gone for 18 months, the County can then fraudulently ìamendî the owners deed, illegally convert the title, and get rid of the Prop 13 tax break.

Dewey J. Jones v. United States, 529 U.S. __, 146 L.Ed.2d 902, 120 S.Ct. __ (2000): Held: Because an owner-occupied residence not used for any commercial purpose does not qualify as property used in commerce or commerce-affecting activity, arson of such a dwelling is not subject to prosecution. The Supreme Court says that you cannot be prosecuted by anybody for damaging your own property. The county is liable for its employees/agents fraud, perjury, and extortion to steal property under the guise of rescuing it from its lawful owner.

PROPERTY OWNERíS STANDING TO SUE UNDER RICO

Rotella v. Wood, 528 US__, 145 Led 2d 1047, 120 SCt.__, at pg. 1047: The Racketeer Influenced and Corrupt Organizations Act (RICO) (18 USCS ßß 1961 et seq.) provides that (1) it is unlawful to conduct an enterpriseís affairs through a pattern of racketeering activity (18 USCS ß 1962(c), (2) a pattern requires at least two acts of racketeering activity, the last of which occurs within 10 years after the commission of a prior act (18 USCS ß 1962(c), (3) a person injured by a RICO violation can bring a civil RICO action (18 USCS 1964(c)). Any person injured by racketeering activity can file a civil RICO lawsuit.Racketeering activity is anything which interferes with land use and property rights ñ threats, fear, false process, false liens, etc.

CITIES AND COUNTIES ARE FORBIDDEN TO INTERFERE WITH FEDERALLY PROTECTED AND FUNDED PROGRAMS FFA and 4H

Title 18 section 666. Theft or bribery concerning programs receiving Federal funds. Whoever being an agent of a State, or local government, or any agency thereof-(A) embezzles, steals, obtains by fraud, or otherwise converts to the use of any person other than the rightful owner shall be fined under this title, imprisoned not more than 10 years, or both. The circumstances referred to is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance As used in this section-(1) the term agent means a person authorized to act on behalf of another person or government and includes a servant or employee, and a partner, director, officer, manager, and representative; (2) the term government agency means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a governmental or intergovernmental program. The County is liable for its servants or employees, boards, etc. embezzlement of federal funds in excess of $10,000 for restricting federally funded and protected ìanimal enterprises including hobbyists, petting zoos, fairs, aquariums, 4H and FFA, pigeon shows, etc. by stealing, obtaining by fraud, or otherwise convert to the use of any person other than the rightful owner livestock and small animals lawfully owned within the County. The county does not get to receive federal funds for protected 4H and FFA programs, then turn around and restrict them. Not only is this a crime against the tax-paying citizens in the County, it is a crime against the United States. Anything which interferes with land use is racketeering.

Authority - AFFIDAVIT V. MOTION

Bench: I have considered the Defense Motions & they are all DENIED.
Real Man: I did not file any motions, I filed affidavits.
Bench: Well I am treating your documents as motions!!
Real Man: AGAIN, I did not file any motions, I filed affidavits; it is a criminal offense to file a false affidavit, I notice I am not under arrest for filing a false affidavit so it is clear that my affidavits are true, correct, and accurate; an affidavit is a statement of truth so my UNCONTESTED AFFIDAVITS are the TRUTH; I'm sure this court isn't deliberately DENYING THE TRUTH in order to FALSIFY THE RECORD!!! I'm certain it isn't this court's intent to FALSIFY THE RECORD AND CREATE DENIAL OF DUE

PROCESS...is it???

MORRIS V NATIONAL CASH REGISTER,
&
GROUP V FINLETTER

Defendant is likely to be the only individual, now or in the future, who is willing and able to place a sworn affidavit affirming the herein disclosed facts under penalties of perjury, into the record of this case and as such, in absence of sworn counter-affidavit signed under the penalties of perjury regarding these same facts, laws, caselaws and evidence, Defendant should be the only prevailing party. Morris v National Cash Register, 44 S.W. 2d 433, clearly states at point #4 that "uncontested allegations in affidavit must be accepted as true.", and the Federal case of Group v Finletter, 108 F. Supp. 327 states, "Allegations in affidavit in support of motion must be considered as true in absence of counter-affidavit."