Jurisdictional Reference

Provided by Lou Watson from multiple sources
for Gerry Donaldson
Host of "Our Constitution: Foundation and Principles"
Every Tuesday night 8 PM to 10 PM Central Time
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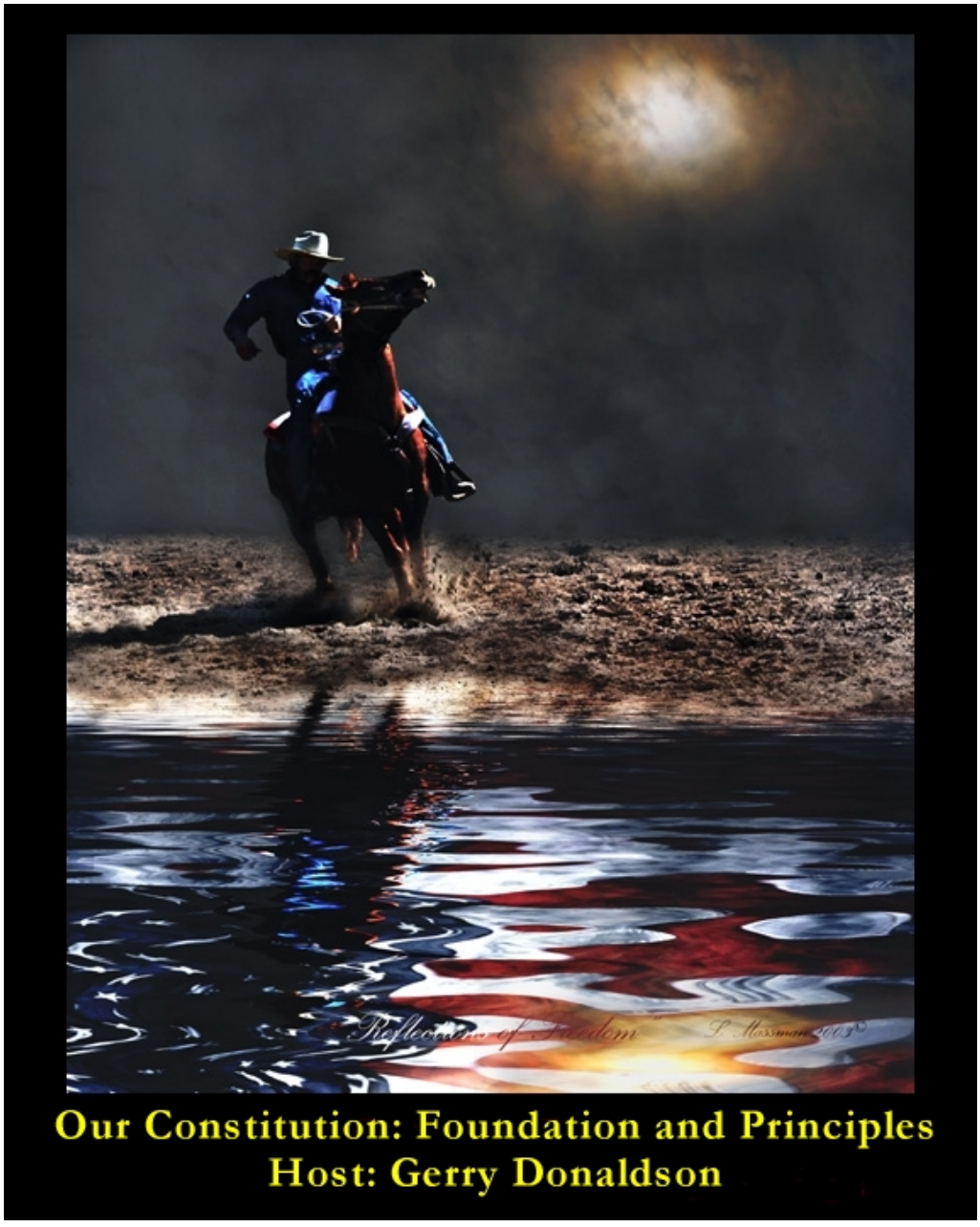


Jurisdictional Challenge

December 26th 1933 49 Statute 3097 Treaty Series 881 (Convention on Rights and Duties of States) stated CONGRESS replaced STATUTES with international law, placing all states under international law.

- December 9th 1945 International Organization Immunities Act relinquished every public office of the United States to the United Nations.
- 22 CFR 92.12-92.31 FR Heading "Foreign Relationship" states that an oath is required to take office.
- Title 8 USC 1481 stated once an oath of office is taken citizenship is relinquished, thus you become a foreign entity, agency, or state. That means every public office is a foreign state, including all political subdivisions. (i.e. every single court is considered a separate foreign entity)
- Title 22 USC (Foreign Relations and Intercourse) Chapter 11 identifies all public officials as foreign agents.
- Title 28 USC 3002 Section 15A states that the United States is a Federal Corporation and not a Government, including the Judiciary Procedural Section.
- Federal Rules of Civil Procedure (FRCP) 4j states that the Court jurisdiction and immunity fall under a foreign State.
- The 11th Amendment states "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of an Foreign State." (A foreign entity, agency, or state cannot bring any suit against aUnited States citizen without abiding the following procedure.)
- Title 22 CFR 93.1-93.2 states that the Department of State has to be notified of any suit, and in turn has to notify the United States citizen of said suit.
- Title 28 USC 1330 states that the United States District Court has to grant permission for the suit to be pursued once the court has been supplied sufficient proof that the United States citizen is actually a corporate entity.
- Title 28 USC 1608 I have Absolute Immunity as a Corporation
- Title 28 USC 1602-1611 (Foreign Sovereign Immunities Act) allows the jurisdiction of a court to be challenged, and a demand of proper jurisdiction to be stated.
- July 27th 1868 15 Statutes at Large Chapter 249 Section 1 "Acts Concerning American Citizens in a Foreign State", expatriation, is what is broken when jurisdiction is demanded, and it is not met with an answer.
- Under the Federal Rules of Civil Procedure 12b 6 the prosecution has failed to provide adequate proof that the parties involved in this situation are actually corporate entities. I have provided ample proof that the prosecution and other agents are actually corporations.
- 1950 81st Congress Investigated the Lawyers Guild and determined that the B.A.R. Association is founded and ran by communists under definition. Thus any elected official that is a member of the B.A.R. will only be loyal to the B.A.R. and not the people.

The law allows you to instigate a suit against the judge and prosecutor for denial of due process. This also puts the judge in a position of conflict of interest.

They are scared to death of the jurisdictional challenge - but a claim of denial of due process is the one thing that will get a judge removed. I did it in Oregon 10 years ago.

When a judge does that, his judgment is void on its fact and can be attacked directly and collaterally. A higher court is mandated to over turn it - if not, it becomes official policy to deny you due process. This opens the door to a suit against the state itself - something the do not want.

In the current courts you only have one right - the right to examine all the facts in a fair and impartial proceeding.

An intimidating judge denies you that.

There are so many cases on jurisdictional challenges that I have and on denial of due process. The higher courts always say the very same thing in this regard.

It is a right and a judge and prosecutor cannot violate that right and hold any kind of civil damage immunity.

Unlike all the civil rights laws, due process is a right secured to even US Citizens by a constitution. It is a personal tort when someone denies you this right.

The judges get scared and react with anger because of their fear. They know if the truth got out, they would be hung for treason in the streets and the jury would acquit.

I knew a guy who challenged jurisdiction, and the judge screamed at him, "Of COURSE I have jurisdiction. I don't have to prove it to YOU! I've got it, and you're stuck with it. If you mention it again, I'll hold you in contempt! Mr. Prosecutor, please continue.

How do you attack that?

Randy

No direct un-apportioned tax confirmed by the US Supreme Court rulings in
CHAS. C. STEWARD MACH. CO. v. DAVIS, 301 U.S. 548, 581-582(1937)

In a message dated 1/25/2010 3:38:20 A.M. US Mountain Standard Time, billmay@wvi.com writes:

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)]

When the Court rules about the impact the elimination of the internal revenue district and district director have in my defense you can honestly say that without your help I could not have defended myself in that regard. It takes a team effort and again, thank you.
On January 25, 2010, the Supreme Court of the United States docketed my Petition for Writ of Mandamus:
http://origin.www.supremecourtus.gov/docket/09-8701.htm

This Petition was actually received on January 11, 2010 by the Court but they lost it and then found it on January 21, 2010.

In this Petition for Writ of Mandamus I raised 3 primary issues with 4 subparts to the first issue:

> Has Chief Circuit Judge in Misc. # 23 and the Panel in 09-5165, so far departed from Title 28, United States Code, Section 292(b), including the sanctioning of such departure by a lower district court, calling for an exercise of this Court's supervisory power pursuant to S.Ct. Rule 10(a) to render such exercise clear abuse of such limited power extended by Section 292(b)?
>
> I. A. Does Title 28, United States Code, Section 292(b) authorize a Chief Judge of a circuit, to designate United States' Judicial District Court Judges commissioned in one "Oklahoma" judicial district, to 1 year terms in the other two "Oklahoma" judicial districts on a renewable yearly basis for no reason?
>
> B. What is the limitation on the meaning of the term "temporarily" and phrase "public interest" in Title 28, United States Code, Section 292(b)?
>
> C. Does Misc. # 23 qualify as a lawful and legal Article III designation pursuant to Title 28, Section 292(b) of Stephen P. Friot to 09-cr-043?
>
> D. Should all orders entered by Stephen P. Friot in 09-cr-043 outside Stephen P. Friot's Western Judicial District Court commission be rendered coram non judice and invalid?
>
> II. When the Secretary abolishes "internal revenue districts," by calender year 2000 encompassing the State of Oklahoma, what original, territorial, and subject matter jurisdiction does a District Court Judge have over alleged "internal revenue law" offenses pursuant to Title 18, United States Code, Section 3231?
>
> III. Is a United States Judicial District under Title 28, United States Code, Section 116(a) a valid substitute for an "internal revenue district" required for administration and enforcement of the "internal revenue laws" pursuant to Title 26, United States Code, Section 7621 in the State of Oklahoma?

If you wish to see a copy of the actual Petition email me and I will forward a copy of it to you. The Appendices I cannot forward (only in paper) but they are listed in the Table of Contents.
Today, I Petitioned the Supreme Court for a Writ of Certiorari regarding the Paperwork Reduction Act decision by the Tenth Circuit on August 31, 2009. Since I petitioned for a Petition for Rehearing I had 90 days from October 27, 2009 which is today. I made it but barely.
In that Petition, I challenged the published decision which held that failure to pay penalty under Title 26, United States Code, Section 6651(a)(3) was not a penalty subject to the protection of the Paperwork Reduction Act of 1980 and 1995's public protection provision. That provision is Title 44, United States Code, Section 3512 [penalty defined at 3502(14)(1995)] The Panel in that case held that interest was not a penalty also.
There are two basic issues I have raised to the Supreme Court in that case with 2 subparts to one of the two main issues. First:

> 4. Does the definition of "penalty" pursuant to Title 44, United States Code, Section 3502(14)(1995) include amounts sought under Title 26, United States Code, Sections 6651(a)(1), 6651(a)(3), 6654(a) and 6601(a)?

A. All penalties labeled as such should be included within meaning of penalty at Title 44, United States Code, Section 3502 and 3512.
B. Interest under Title 26, United States Code, Section 6601 should be held as a penalty in compensating for damages under both Title 44, United States Code, Section 3502 "penalty" and 3512's public protection.

5. Does Title 26, United States Code, Section 6330(c)(2)(B) withstand the "public protection" provided by Congress pursuant to Title 44, United States Code, Section 3512, involving the Commissioner of the Internal Revenue's claims of additional penalties and interest pursuant to §§ 6651(a)(1), 6651(a)(3), 6654(a) and 6601(a) inexorably linked to the request for information Form 1040?

I also raised 3 jurisdictional challenges for good measure because they were inexorably linked to the Tenth Circuit's published decision. Those were:

1. What is the consequence to the "jurisdiction" of the Secretary of the Treasury and Commissioner of the Internal Revenue's claims of statutory additions, penalty or interest, exercised outside the District of Columbia, when the office of district director and each internal revenue district established by law, pursuant to Title 26, United States Code, Section 7621, have been either eliminated completely, abolished in the year 2000, or never existed as a matter of law, in violation of Title 4, United States Code, Section 72?
2. Whether the Commissioner of Internal Revenue has delegation of authority, outside the District of Columbia, to issue or cause to be issued, a notice of levy in the absence of internal revenue districts, district director offices, and proper delegation, among the several States?
3. Whether Fred Rice is a delegate of the Secretary of the Treasury with redelegated authority from the Commissioner of Internal Revenue to act anywhere within the State of Oklahoma since at least the year 2000?

As you can see I have been rather busy. I intend to get relief from the Court. I realize it is difficult to understand for some. Again, this Petition is available for anyone who requests it. Just email me.

I have also filed a series of Motions and Replies in the criminal case brought against me in March of 2009. Those motions include:

(1) Motion to Dismiss for lack of standing to bring charges against me by the United States of America.

In this Motion and Memorandum, I show how without internal revenue district and district director encompassing or surrounding the State of Oklahoma, there is no authority of the Secretary present and that such authority has not been present since 2000 when the Secretary abolished internal revenue districts and district directors.

This leads to a LACK OF ARTICLE III STANDING OF THE UNITED STATES OF AMERICA to be a party in the case they brought against me.

I next claim that such lack of standing leads also to a LACK OF ARTICLE III CASE OR CONTROVERSY at issue between me and the United States of America.

And finally, in this Motion, I claim dismissal appropriate because there is no United States Attorney in the "judicial district" since at least June 28, 2009 and that Title 28, United States Code, Section 547 places exclusive authority to prosecute "offenses against the laws of the United States" in the hands of the United States Attorney "appointed" under Title 28, United States Code, Section 541 by the President of the United States of America.

(2) Motion to Dismiss for Lack of Article III Subject Matter Jurisdiction, Lack of Article III Jurisdiction of the Facts, and Article III venue.

I split this up into two separate Motions. The first covers Count One and the second covers Counts Two through Six.

In this Motion and Memorandum, I show how the district court must have Article III subject matter jurisdiction and that only exists if some words in Article III, Section 2, Clause 1, provides the subject. The only two available are the case involves a law of the United States or the United States is a party. I argue in order for the United States to be a party they must identify their interest in the outcome of application or enforcement of the internal revenue laws. Without such an interest in the State of Oklahoma, the district court lacks subject matter jurisdiction. It is more intense than that but the gist of my claim for dismissal on that score is just that.

Without the first issue resolved in favor of the other United States of America party there certainly is no Article III jurisdiction of the facts or venue.

In summary, my defense is that no power by law exists to allow exercise of the Secretary's authority outside the District of Columbia pursuant to Title 4, United States Code, Section 72, at least without internal revenue districts and district directors, previously established by law and presently in existence.

Also, the Acting United States Attorney was not appointed by the President nor by any other lawful means and thus no authority to prosecute in this judicial district exists as a matter of law.

Furthermore, the Honorable Stephen P. Friot was without any lawful authority to preside over the case brought by the Department of Justice in the northern judicial district as his commission was in the western judicial district. I have also moved to recuse on other grounds for bias and prejudice.

Without district director office over the State of Oklahoma and where I live there would be no delegated authority for anyone legally to act on behalf of the Secretary regarding my monetary events since at least 2000.

Again, if you wish for any copies of these defense submissions email me and I can forward them to you.

I have not heard from Tax Court on my motion to restrain nor have I heard from the northern judicial district where I move to enjoin the Secretary of the Treasury from acting outside the District of Columbia. Interestingly, the Department of Justice simply argued without declaration that the "IRS" was authorized to act as the Secretary. Such argument caused me to raise the question who is the IRS as a delegate and I cannot find any such delegation issued by the Secretary. I did find district director.

Lastly, in the Tenth Circuit, in 09-5088 where the Bivens Defendants (case over theft of $ 2000 while unauthorized raid was taking place in 2005 in my home) are arguing they did steal money when it benefits them but when it hurts them they resort back to arguing they never stole the money. I filed a Motion for Sanctions and they responded. I will reply. When I file that reply I will let you know what I am saying.

The Defendants said that they cannot be sanctioned in that case because they are the United States and they have never been sanctioned before by any Court. I thought you would like that one. I did since the mere name Bivens means sued individually and not in an official capacity.

I realize there is much said and I hope you can see what I am saying and what I am doing. I continue to need your help. I cannot do what I am doing without you.

If you wish to support me there are two ways that can be accomplished. The first is through paypal and either gnutella@mindspring.com or lindsey@mindspring.com. The conventional way remains to Lindsey Springer at 5147 S. Harvard, # 116, Tulsa, Oklahoma 74135.

Again, let me know if there is any of these defense documents you wish to obtain.

January 25, 2010.

Common Law Jurisdiction

In a common law jurisdiction several stages of research and analysis are required to determine what "the law is" in a given situation. First, one must ascertain the facts. Then, one must locate any relevant statutes and cases. Then one must extract the principles, analogies and statements by various courts of what they consider important to determine how the next court is likely to rule on the facts of the present case. Later decisions, and decisions of higher courts or legislatures carry more weight than earlier cases and those of lower courts.[14] Finally, one integrates all the lines drawn and reasons given, and determines what "the law is". Then, one applies that law to the facts.

Interaction of: constitutional law, statutory law and common law

In common law legal systems (connotation 2), the common law (connotation 1) is crucial to understanding almost all important areas of law. For example, in England and Wales and in most states of the United States, the basic law of contracts, torts and property **do not exist in statute, but only in common law** (though there may be isolated modifications enacted by statute). In almost all areas of the law (even those where there is a statutory framework, such as contracts for the sale of goods,[16] or the criminal law),[17] legislature-enacted statutes generally give only terse statements of general principle, and the fine boundaries and definitions exist only in the common law (connotation 1). **To find out what the precise law is that applies to a particular set of facts, one has to locate precedential decisions on the topic, and reason from those decisions by analogy.** To consider but one example, the First Amendment to the United States Constitution states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"—but interpretation (that is, determining the fine boundaries, and resolving the tension between the "establishment" and "free exercise" clauses) of each of the important terms was delegated by Article III of the Constitution to the judicial branch,[18] **so that the current legal boundaries of the Constitutional text can only be determined by consulting the common law**.[19]

In common law jurisdictions, legislatures operate under the assumption that statutes will be interpreted against the backdrop of the pre-existing common law and custom. For example, in most U.S. states, the criminal statutes are primarily codification of pre-existing common law. (Codification is the process of enacting a statute that collects and restates pre-existing law in a single document—**when that pre-existing law is common law, the common law remains relevant to the interpretation of these statutes**.) In reliance on this assumption, modern statutes often leave a number of terms and fine distinctions unstated—for example, a statute might be very brief, leaving the precise definition of terms unstated, under the assumption that these fine distinctions will be inherited from pre-existing common law. (**For this reason, many modern American law schools teach the common law of crime** as it stood in England in 1789, because that centuries-old English common law is a necessary foundation to interpreting modern criminal statutes.)

With the transition from English law, which had common law crimes, **to the new legal system under the U.S. Constitution, which prohibited *ex post facto* laws at both the federal and state level**, the question was raised whether there could be common law crimes in the United States. It was settled **in the case of *United States v. Hudson and Goodwin*, 11 U.S. 32 (1812). which decided that federal courts had no jurisdiction to define new common law crimes**, and that there must always be a (constitutional) statute defining the offense and the penalty for it. Generally speaking, *ex post facto* penal laws are seen as a violation of the rule of law as it applies in a free and democratic society. Most common law jurisdictions do not permit retroactive criminal legislation, though new precedent generally applies to events that occurred prior to the judicial decision. **Ex post facto laws are expressly forbidden by the United States**

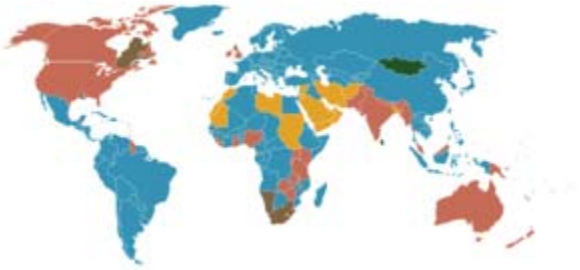
Constitution.
Still, many states retain selected common law crimes. For example, in Virginia, the definition of the conduct that constitutes the crime of robbery exists only in the common law, and the robbery statute only sets the punishment.[20] Virginia Code section 1-200 establishes the continued existence and vitality of common law principles and provides that "The common law of England, insofar as it is not repugnant to the principles of the Bill of Rights and Constitution of this Commonwealth, shall continue in full force within the same, and be the rule of decision, except as altered by the General Assembly."
By contrast to statutory codification of common law, some statutes displace common law, for example to create a new cause of action that did not exist in the common law, or to legislatively overrule the common law. An example is the tort of wrongful death, which allows certain persons, usually a spouse, child or estate, to sue for damages on behalf of the deceased. There is no such tort in English common law; thus, any jurisdiction that lacks a wrongful death statute will not allow a lawsuit for the wrongful death of a loved one. Where a wrongful death statute exists, the compensation or other remedy available is limited to the remedy specified in the statute (typically, an upper limit on the amount of damages). Courts generally interpret statutes that create new causes of action narrowly – that is, limited to their precise terms—because the courts generally recognize the legislature as being supreme in deciding the reach of judge-made law unless such statute should violate some "second order" constitutional law provision (*cf*. judicial activism).
Where a tort is rooted in common law, then all traditionally recognized damages for that tort may be sued for, whether or not there is mention of those damages in the current statutory law. For instance, a person who sustains bodily injury through the negligence of another may sue for medical costs, pain, suffering, loss of earnings or earning capacity, mental and/or emotional distress, loss of quality of life, disfigurement and more. These damages need not be set forth in statute as they already exist in the tradition of common law. However, without a wrongful death statute, most of them are extinguished upon death.
In the United States, the power of the federal judiciary to review and invalidate unconstitutional acts of the federal executive branch is stated in the constitution, Article III sections 1 and 2: "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. ... The judicial Power shall extend to all Cases, in Law and Equity, **arising under *this* Constitution**, **the Laws of the United States**, and *Treaties made*, or which shall be made, **under their Authority**..." The first famous statement of "the judicial power" was *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).
Later cases interpreted the "judicial power" of Article III to establish the power of federal courts to consider or overturn any action of congress or of any state that conflicts with the constitution.
[This is an obviously FALSE INTERPRETATION! Why, because Art. III specifically says:
(federal) judicial power shall extend to all Cases **arising under:**

1. ***this* Constitution**,
2. **the Laws of the United States** and
3. **Treaties** *made*, or which shall be made, **under their Authority**..."

Art. III does **NOT say: (federal) judicial power** shall extend to all Cases **arising under:**

1. **the laws of "any state".]**

Common law legal systems in the present day



Legal Systems of the World Civil law Common law Bijuridical (civil and common law) Customary law Fiqh

The common law constitutes the basis of the legal systems of: federal law in the United States and the law of individual U.S. states (except Louisiana), England and Wales, Northern Ireland, Ireland, federal law throughout Canada and the law of the individual provinces and territories (except Quebec), Australia (both federal and individual states), New Zealand, South Africa, India, Malaysia, Brunei, Pakistan, Singapore, Hong Kong, and many other generally English-speaking countries or Commonwealth countries (except Malta and Scotland).

Essentially, every country which has been colonized at some time by England, Great Britain, or the United Kingdom uses common law except those that had been formerly colonized by other nations.

States (1775 on)
The state of New York, which also has a civil law history from its Dutch colonial days, also began a codification of its law in the 19th century. The only part of this codification process that was considered complete is known as the Field Code applying to civil procedure. The original colony of New Netherlands was settled by the Dutch and the law was also Dutch. When the English captured pre-existing colonies they continued to allow the local settlers to keep their civil law. However, the Dutch settlers revolted against the English and the colony was recaptured by the Dutch. When the English finally regained control of New Netherland they forced, as a punishment unique in the history of the British Empire, the English common law upon all the colonists, including the Dutch. **This was problematic, as the patroon system of land holding, based on the feudal system and civil law, continued to operate in the colony until it was abolished in the mid-nineteenth century.** The influence of Roman Dutch law continued in the colony well into the late nineteenth century. The codification of a law of general obligations shows how remnants of the civil law tradition in New York continued on from the Dutch days.
The U.S. state of California has a system based on common law, but it has codified the law in the manner of the civil law jurisdictions. The reason for the enactment of the codes in California in the nineteenth century was to replace a pre-existing system based on Spanish civil law with a system based on common law, similar to that in most other states. California and a number of other Western states, however, have retained the concept of community property derived from civil law. The California courts have treated portions of the codes as an extension of the common-law tradition, subject to judicial development in the same manner as judge-made common law. (Most notably, in the case *Li v. Yellow Cab Co.*, 13 Cal.3d 804 (1975), the California Supreme Court adopted the principle of comparative negligence in the face of a California Civil Code provision codifying the traditional common-law doctrine of contributory negligence.)

United States federal system (1789 and 1938)

The United States federal government (as opposed to the states) has a variant on a common law system. United States federal courts only act as interpreters of statutes and the constitution (to elaborate and precisely define the broad language, connotation 1(b) above), but, unlike state courts, do not act as an independent source of common law (connotation 1(a) above). Before 1938, the federal courts, like almost all other common law courts, decided the law on any issue where the relevant legislature (either the U.S.

Congress or state legislature, depending on the issue), had not acted, by looking to courts in the same system, that is, other federal courts, even on issues of state law, and even where there was no express grant of authority from Congress or the Constitution. In 1938, the U.S. Supreme Court in *Erie Railroad Co. v. Tompkins* 304 U.S. 64, 78 (1938), overruled earlier precedent,[53] and **held "There is no federal general common law," thus confining the federal courts to act only as interpreters of law originating elsewhere**. *E.g.*, *Texas Industries v. Radcliff*, 451 U.S. 630 (1981) (**without an express grant of statutory authority, federal courts cannot create rules of intuitive justice,** for example, a right to contribution from co-conspirators). Post-1938, federal courts deciding issues that arise under state law are required to defer to state court interpretations of state statutes, or reason what a state's highest court would rule if presented with the issue, or to certify the question to the state's highest court for resolution.
Later courts have limited *Erie* slightly, to create a few situations where **United States federal courts are permitted to create federal common law rules without express statutory authority**, for example, where a federal rule of decision is necessary to protect uniquely federal interests. *See, e.g.*, *Clearfield Trust Co. v. United States*, 318 U.S. 363 (1943) **(giving federal courts the authority to fashion common law rules with respect to issues of federal power, in this case negotiable instruments backed by the federal government);** *see also International News Service v. Associated Press*, 248 U.S. 215 (1918) (creating a cause of action for misappropriation of "hot news" that lacks any statutory grounding, but that is one of the handful of federal common law actions that survives today). **Except on Constitutional issues, Congress is free to legislatively overrule federal courts' common law**.[54]

U.S. state
A **U.S. state** is any one of 50 federated states of the United States of America that share sovereignty with the federal government. Four states use the official title of *commonwealth* rather than *state*. Because of this shared sovereignty, an American is a citizen both of the federal entity and of his or her state of domicile.[1] State citizenship is flexible and no government approval is required to move between states (with the exception of convicts on parole).

The United States Constitution allocates power between the two levels of government. By ratifying the Constitution, each state transferred certain limited sovereign powers to the federal government. Under the Tenth Amendment, all powers not delegated to the U.S. government nor prohibited to the states are retained by the states or the people. Historically, the tasks of public safety (in the sense of controlling crime), public education, public health, transportation, and infrastructure have generally been considered primarily state responsibilities, although all of these now have significant federal funding and regulation as well (based largely upon the "Commerce Clause" and the "Necessary and Proper Clause" of the Constitution).

Over time, the Constitution has been amended, and the interpretation and application of its provisions have changed. The general tendency has been toward centralization and incorporation, with the federal government playing a much larger role than it once did. There is a continuing debate over "states' rights", which concerns the extent and nature of the states' powers and sovereignty in relation to the federal government as well as the rights of individual persons.

United States law
Desuetude does NOT apply to violations of the United States constitution. In *Walz v. Tax Commission of the City of New York*, 397 U.S. 664, 678 (1970), the United States Supreme Court asserted that:

"It is obviously correct that no one acquires a vested or protected right in violation of the Constitution by long use, even when that span of time covers our entire national existence and indeed predates it."

De jure (in Classical Latin ***de iure***) is an expression that means "concerning law", as contrasted with *de facto*, which means "concerning fact".
The terms *de jure* and *de facto* are used instead of "in principle" and "in practice", respectively, when one is describing political or legal situations.
In a legal context, *de jure* is also translated as "concerning law".
A practice may exist *de facto*, where for example the people obey a contract as though there were a law enforcing it ***yet there is no such law***.

Political issue related to "de jure"
Supranational organizations provide mechanisms whereby disputes between states may be resolved through arbitration or mediation. When a country is recognized as *de jure*, it is an *acknowledgment* by the other *de jure* nations that the country has sovereignty and the right to exist.

Sovereignty
The current notion of state sovereignty was laid down in the Treaty of Westphalia (1648), which, in relation to states, codified the basic principles of territorial integrity, border inviolability, and supremacy of the state (rather than the Church). A **sovereign** is a supreme lawmaking authority.

Peace of Westphalia
The term **Peace of Westphalia** denotes the two French-language peace treaties of Osnabrück (15 May 1648) and Münster (24 October 1648) that ended the Thirty Years' War (1618–1648) in the Holy Roman Empire, and the Eighty Years' War (1568–1648) between Spain and the Republic of the Seven United Netherlands.
The Peace of Westphalia treaties involved the Holy Roman Emperor, Ferdinand III (Habsburg), the Kingdoms of Spain, France, Sweden, the Dutch Republic and their allies, the Princes of the Holy Roman Empire, and sovereigns of the Free imperial cities.
The treaties resulted from the first modern diplomatic congress, thereby initiating a new political order in central Europe, based upon the concept of a sovereign state governed by a sovereign. In the event, the treaties' regulations became integral to the constitutional law of the Holy Roman Empire. Moreover, the Treaty of the Pyrenees (1659), ending the Franco–Spanish War (1635–59), is considered part of the Peace of Westphalia, with which were ended the European wars of religion.

Seventh Amendment
The **Seventh Amendment** (**Amendment VII**) of the United States Constitution, which is part of the Bill of Rights, codifies the right to a jury trial in certain civil trials. Unlike most of the Bill of Rights, **the Supreme Court has not incorporated the amendment's requirements to the states under the Fourteenth Amendment.**

SUPREME COURT JURISDICTION CASES

1. *Reily v. Lamar*, 2 Cranch 344 (1804):
Person living in Maryland at time of creation of Washington, D.C., became a D.C. resident by remaining there, and was no longer a state resident.

2. *United States v. Bevans*, 16 U.S. (3 Wheat.) 336 (1818):
Murder committed on U.S. warship in Boston harbor held to be within jurisdiction of the state and not that of the United States.

3. *New Orleans v. United States*, 35 U.S. (10 Pet.) 662 (1836):
Both parties claimed ownership to land; court held that city was owner.

4. *Pollard v. Hagan*, 44 U.S. (3 How.) 212 (1845):
Contest over title to real property adjacent Mobile Bay.

5. *United States v. Erie Ry. Co.*, 106 U.S. 327, 333, 1 S.Ct. 223 (1882):
Federal tax case, no important principle within majority opinion. However, Justice Field wrote in his dissent:

"The power of the United States to tax is limited to persons, property, and business within their jurisdiction, as much as that of a state is limited to the same subjects within its jurisdiction."
6. *Fort Leavenworth R. Co. v. Lowe*, 114 U.S. 525, 5 S.Ct. 995 (1885):
Court held that the state could tax railroad company's property inside Fort Leavenworth enclave due to fact that state reserved power to tax in cession act.

7. *Chicago, R. I. & P. Ry. Co. v. McGlinn*, 114 U.S. 542, 5 S.Ct. 1005 (1885):
Railroad company's train passing through Fort Leavenworth enclave struck and killed McGlinn's cow. State law at time of cession required railroads to fence rights-of-way. Court held state law in existence at time of cession applied to enclave.

8. *Benson v. United States*, 146 U.S. 325, 13 S.Ct. 60 (1892):
Benson convicted of murder committed at Fort Leavenworth; he contended that U.S. had no jurisdiction over fort for part not used for military purposes. But, court held that U.S. had jurisdiction over all property owned by the U.S.

9. *Palmer v. Barrett*, 162 U.S. 399, 16 S.Ct. 837 (1896):
The U.S. had jurisdiction over Brooklyn Navy Yard, but leased part thereof to New York City for a market. City subleased market spaces and this was state court action regarding dispute between two tenants. Court held state court had subject matter jurisdiction since act of cession applied only as long as the U.S. used property for government purposes, and the U.S. lease to city caused reversion of state jurisdiction.

10. *Camfield v. United States*, 167 U.S. 518, 17 S.Ct. 864 (1897):
Railroad owned all odd sections and U.S. owned all even sections in two townships. Camfield fenced around outside of both townships, thus getting benefits of government lands. Court held that fences had to be torn down. It held that U.S., as proprietor of its own lands, could regulate use of its lands via police powers.

11. *Hamburg American Steamship Co. v. Grube*, 196 U.S. 407, 25 S.Ct. 352 (1905):
Suit for wrongful death occurring in New York harbor as result of ship collision. In vicinity, the U.S. owned Sandy Hook, and ship company claimed that state law did not apply at place of collision. Court affirmed

state court judgment, finding that Sandy Hook cession did not likewise include cession over waters.

12. *Battle v. United States*, 209 U.S. 36, 28 S.Ct. 422 (1908):
The U.S. bought land for site of post office and courthouse and state ceded jurisdiction. Battle was convicted of murder which occurred during construction, and he argued that the U.S. had no jurisdiction over this offense. Court held that the U.S. had jurisdiction.

13. *Western Union Telegraph Co. v. Chiles*, 214 U.S. 274, 29 S.Ct. 613 (1909):
Navy gunner at Norfolk Navy Yard sued telegraph company to recover penalty permitted by state law for failure to deliver telegram. Court held that this state law had no application within U.S. jurisdiction.

14. *Holt v. United States*, 218 U.S. 245, 31 S.Ct. 2 (1910):
Indictment charging murder within U.S. jurisdiction held sufficient.

15. *United States v. Grimaud*, 220 U.S. 506, 31 S.Ct. 480 (1911):
The U.S. owned grazing lands in public domain; grazing was regulated via requirement to obtain permit. Grimaud grazed without permit and was indicted. Court held regulations applying to federal property valid. See also *Light v. United States*, 220 U.S. 523, 31 S.Ct. 485 (1911).

16. *Western Union Telegraph Co. v. Brown*, 234 U.S. 542, 34 S.Ct. 955 (1914):
Brown, in D.C., did not receive telegram informing of sister's death; he sued in state to recover damages for non-delivery in D.C. Court held suit could not be based on state law for tort committed in U.S. jurisdiction.

17. *Omaechevarria v. State of Idaho*, 246 U.S. 343, 346, 38 S.Ct. 323 (1918):
Idaho law with penal provisions regulating grazing held applicable to federal rangelands.

> **"[T]he police power of the state extends over the federal public domain, at least when there is no legislation by Congress on the subject."**

18. *Rodman v. Pothier*, 264 U.S. 399, 44 S.Ct. 360 (1924):
The U.S. indicted Pothier for murder committed in Washington State at Camp Lewis; he was arrested in Rhode Island and instituted a habe arguing that Camp Lewis, at the time of offense, was only within state's jurisdiction. Court held that only district court in Washington could make such determination, not court in Rhode Island.

19. *Colorado v. Toll*, 268 U.S. 228, 45 S.Ct. 505 (1925):
State complained in federal court that superintendent of Rocky Mountain National Park was, pursuant to regulations, seeking to enforce the same in derogation of rights of state within the park, especially over roads in the park. State contended that it had never ceded jurisdiction of lands in Park to the U.S. The district court dismissed complaint, but Supreme Court reversed; at issue was state cession of jurisdiction.

20. *Arlington Hotel Co. v. Fant*, 278 U.S. 439, 49 S.Ct. 227 (1929):
The U.S. owned lands at Hot Springs National Park and hotel was built there. In 1903, state law provided that in event of fire an innkeeper was insurer of guest's property; the state ceded jurisdiction of park to U.S. in 1903. Here, there was a fire and property loss at hotel for which injured parties recovered judgment. Court affirmed, holding that law in existence at time of cession, and not law enacted thereafter, applied.

21. *United States v. Unzeuta*, 281 U.S. 138, 50 S.Ct. 284 (1930):
Unzeuta was indicted for murder committed on freight car, event occurring at Fort Robinson in Nebraska. He was successful in district court on his challenge to federal jurisdiction. But, the court reversed, holding that the railroad right-of-way was within U.S. jurisdiction, the state having ceded complete jurisdiction of fort to the U.S.

22. *Surplus Trading Co. v. Cook*, 281 U.S. 647, 50 S.Ct. 455 (1930):
Arkansas county sought to impose tax on personal property of company located within Camp Pike, in U.S. jurisdiction. Court reversed state supreme court decision permitting the tax; court held that the state had no jurisdiction to tax this property within U.S. jurisdiction.

23. *Standard Oil Co. v. California*, 291 U.S. 242, 54 S.Ct. 381 (1934):
Oil company sold and delivered oil to Presidio, within U.S. jurisdiction. Court held that the state had no jurisdiction to lay this tax.

24. *Murray v. Joe Gerrick & Co.*, 291 U.S. 315, 54 S.Ct. 432 (1934):
Puget Sound Navy Yard owned by U.S. was ceded by state to U.S. in 1891. State adopted workmen's comp. law in 1911. Here, estate of decedent killed at Navy Yard sought remedy under comp. law. Held, comp. law didn't apply in U.S. jurisdiction.

25. *James v. Dravo Contracting Co.*, 302 U.S. 134, 58 S.Ct. 208 (1937):
Dravo obtained contract from U.S. to build dams on rivers in West Virginia. State sought tax on gross amounts of contracts and company sued in federal court to restrain collection, and obtained injunction. Court reversed and held that tax could be imposed for work performed in the state because the state statute reserved "concurrent jurisdiction" over federally owned lands.

26. *Silas Mason Co. v. Tax Commission of State of Washington*, 302 U.S. 186, 58 S.Ct. 233 (1937):
Mason had contract to build parts of Grand Coulee Dam on Columbia River and sued in state court to enjoin state's effort to collect income tax, the argument being based upon an alleged lack of state jurisdiction. Court agreed with state supreme court that state cession statute was in this situation inapplicable to confer jurisdiction to U.S. for lands acquired for project; further, court found that evidence disclosed that U.S. did not accept jurisdiction over lands. Finding state jurisdiction, the tax was upheld.

27. *Atkinson v. State Tax Commission of Oregon*, 303 U.S. 20, 58 S.Ct. 419 (1938):
Atkinson had contract to build part of Bonneville Dam on Columbia River in Oregon and challenged state income tax on jurisdictional grounds. Court upheld tax, finding that contractor's work was performed on property not owned by U.S., and on property owned by U.S., but for which the U.S. had not adequately demonstrated acceptance of jurisdiction, this being based on construction of state cession statute.

28. *Collins v. Yosemite Park & Curry Co.*, 304 U.S. 518, 58 S.Ct. 1009 (1938):
State had ceded jurisdiction of park to U.S., but one act reserved right to tax. The park company sued to enjoin state's effort to collect tax on alcoholic beverages, alleging that state had no tax jurisdiction. The district court granted injunction and state appealed. Court reversed, holding that state in its cession act reserved right to tax and state taxes could be collected from park company; but, regulatory provisions of tax acts could not be enforced inside the park.

29. *Bowen v. Johnston*, 306 U.S. 19, 59 S.Ct. 442 (1939):
Bowen was convicted of murder at Chickamauga and Chattanooga National Park in Georgia, with park being in U.S. jurisdiction. He was incarcerated at Alcatraz and brought a habe seeking his release on grounds that the U.S. had no jurisdiction at the park. The court, however, denied his release, finding both U.S. ownership and state cession for park.

30. *James Stewart & Co. v. Sadrakula*, 309 U.S. 94, 60 S.Ct. 431 (1940):
Decedent was working on federal post office site, and state law required certain things regarding construction. This law was not followed at this site and as a result, his death occurred. Suit for wrongful death based on negligence via violating state law was instituted and recovery obtained. Court held that this state labor law, in existence at the time of state cession for post office, applied within enclave.

31. *Penn Dairies v. Milk Control Comm. of Pennsylvania*, 318 U.S. 261, 63 S.Ct. 617 (1943):
State law regulated sales of milk and provided penalties; Penn Dairies sold milk at below lawful price to Army camp built on lands leased from state. Court upheld imposition of state penalty, there being no federal jurisdiction.

32. *Pacific Coast Dairy v. Dept. of Agriculture of California*, 318 U.S. 285, 63 S.Ct. 628 (1943):
State law regulated sales price for milk and imposed penalties. Pacific Coast sold milk to Moffett Field at price below regulated price and state sought to impose penalty. Court held that since Moffett Field was in U.S. jurisdiction, penalty could not be imposed.

33. *Adams v. United States*, 319 U.S. 312, 63 S.Ct. 1122 (1943):
Court held that since U.S. had not accepted jurisdiction over Camp Claiborne, the U.S. could not prosecute for rape committed there.

34. *Johnson v. Yellow Cab Transit Co.*, 321 U.S. 383, 64 S.Ct. 622 (1944):
Liquor in transit to Fort Sill was seized by state officials, and carrier sued to recover the liquor; district court granted relief and state appealed. Court held state law making it illegal to transport liquor into state without a permit had no application to shipment destined for Fort Sill, a place in U.S. jurisdiction.

35. *Wilson v. Cook*, 327 U.S. 474, 66 S.Ct. 663 (1946):
Wilson's partnership had contract to cut timber off U.S. lands and state sought to impose a severance or license tax. Some of federal lands had no cession of state jurisdiction; other lands were subject of state cession of "concurrent jurisdiction". Court upheld the tax, stating the state had territorial jurisdiction to impose it.

36. *S.R.A. v. Minnesota*, 327 U.S. 558, 66 S.Ct. 749 (1946):
The U.S. owned post office and had jurisdiction over it; U.S. sold it in 1939 by conditional sale contract. Buyer objected to 1940 real property tax and argued that property was outside state's taxing jurisdiction. Court held, however, that when U.S. sold the property, state obtained jurisdiction and tax could be imposed.

37. *Howard v. Commissioners of Sinking Fund of City of Louisville*, 344 U.S. 624, 73 S.Ct. 465 (1953):
The U.S. bought property for ordnance plant in 1940 and state ceded jurisdiction to U.S. Louisville then annexed property to city and sought to impose license tax on employees at the plant, who then sued in state court to enjoin collection of tax on jurisdictional grounds. Here, the court sustained the tax as valid on basis of Buck Act.

38. *Offutt Housing Co. v. County of Sarpy*, 351 U.S. 253, 76 S.Ct. 814 (1956):
State housing corporation built apartments on property of U.S. located at Offutt A.F.B. in Nebraska, which was in U.S. jurisdiction. County sought to tax leasehold interest of corporation, who objected on jurisdiction grounds. The court found the tax valid pursuant to Congressional legislation permitting state taxation of these facilities on federal land.

39. *Paul v. United States*, 371 U.S. 245, 83 S.Ct. 426 (1963):
California's milk control law set minimum price for milk and penalized sales below official price. The U.S. sued to enjoin enforcement of state law insofar as the same applied to three military bases, the U.S. contending state law didn't apply in areas of its exclusive jurisdiction. Court held that federal regulations required competitive bidding for U.S. purchases from appropriated funds, thus the regulations overrode state law. But, regarding purchases of milk from non-appropriated funds, in cases of clubs and post exchanges, state law could apply if it were in effect at time the U.S. acquired lands in question.

40. *Humble Pipe Line Co. v. Waggonner*, 376 U.S. 369, 84 S.Ct. 857 (1964):
The U.S. acquired in 1930 lands for Barksdale A.F.B. in Louisiana, and state ceded jurisdiction without reservation to tax. Thereafter, lands at

base were leased to produce oil and gas and state sought to impose tax. Court held, however, the state had no jurisdiction to tax this property outside its jurisdiction.

41. *United States v. State Tax Commission of Mississippi*, 412 U.S. 363, 93 S.Ct. 2183 (1973):
Mississippi commission had regulation requiring foreign liquor distillers and others to collect and send to state a markup on liquor sold to officers' clubs and other places on U.S. bases in Mississippi. The U.S. brought suit to challenge validity of regulation's application to two bases in exclusive jurisdiction of U.S. and another two only in concurrent jurisdiction. Court held the state regulation inapplicable to the two bases in exclusive jurisdiction of the U.S.; as to the two subject to concurrent jurisdiction, the issue was sent back to district court.

42. *McClanahan v. State Tax Comm. of Arizona*, 411 U.S. 164, 93 S.Ct. 1257 (1973):
Arizona sought to impose income tax on Indian living on reservation even though source of income was within reservation. Court held tax could not be imposed. Interesting comments are:

"Arizona courts can exercise neither civil nor criminal jurisdiction over reservation Indians... But the appellee nowhere explains how, without such jurisdiction, the State's tax may either be imposed or collected... The admitted absence of either civil or criminal jurisdiction would seem to dispose of the case.

"The tax is resisted because the state is totally lacking in jurisdiction over both the people and the lands it seeks to tax. In such a situation, the state has no more jurisdiction to reach income generated on reservation lands than to tax the land itself."

43. *California Coastal Comm. v. Granite Rock Company*, 480 U.S. 572, 107 S.Ct. 1419 (1987):
Question of where federal mining regulations applied and who had authority to require permit. State held to have authority over federal lands.

Motion To Dismiss for Lack of Territorial Jurisdiction

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

_____

United States,
Plaintiff

v

Any Citizen,
Defendant

MOTION TO DISMISS FOR LACK OF TERRITORIAL JURISDICTION

COMES NOW {Any Citizen}, the accused, who hereby demands of this legislative tribunal and judicial assembly the dismissal of this cause because of the lack of exclusive jurisdictional authority over the exact geographical location where the alleged criminal activity mentioned in the indictment took place; and hereby files this formal Motion to Dismiss for Lack of Territorial Jurisdiction.

A recent Supreme Court decision, decided April 26, 1995, addresses the issues of exclusive legislative jurisdiction of the Congress, the powers of the Federal government, and the subsequent subject matter of a Federal District Court. Supreme Court Justice Thomas in the concurring majority opinion in the case of United States v. Lopez, No. 93-1260, 115 S. Ct. 1624, 131 L. Ed. 2d 626, states very clearly:

Indeed, on this crucial point, the majority and Justice Breyer [the Justice writing the dissenting opinion] agree in principle: the Federal Government has nothing approaching a police power." (pg 64.)

Then Justice Thomas went on to discuss a regulation of police (pg. 86), wherein he stated:

United States v. Dewitt, 76 US 41 9 Wall 4, 19 L. Ed 593 (870), marked the first time the court struck down as exceeding the power conveyed by the commerce clause. In a 2 page opinion, the court invalidated a nation-wide law prohibiting all sales of naphtha, and illuminating oils. In so doing, the court remarked that the commerce clause has always been understood as limited by its terms; and as a virtual denial of any power to interfere with the internal trade and business of the separate states."

Further support for this understanding is readily available from the courts:

> Special provision is made in the Constitution for the cession of jurisdiction from the states over places where the federal government shall establish forts or other military works. And it is only in these places, or in territories of the United States, where it can exercise a general jurisdiction [New Orleans v. United States, 35 U.S. (10 Pet.) 662 (1836)]
>
> All legislation is prima facie territorial
>
> [American Banana Co. v. U.S. Fruit, 213, U.S. 347 at 357-358]
>
> There is a canon of legislative construction which teaches Congress that, unless a contrary intent appears [legislation] is meant to apply only within territorial jurisdiction of the United States.
> [U.S. v. Spelar, 338 U.S. 217 at 222]
>
> the United States never held any municipal sovereignty, jurisdiction, or right of soil in Alabama or any of the new states which were formed ... The United States has no Constitutional capacity to exercise municipal jurisdiction, sovereignty or eminent domain, within the limits of a state or elsewhere, except in the cases in which it is expressly granted ...
> [Pollard v. Hagan, 44 U.S.C. 213, 221, 223]
>
> ... the states are separate sovereigns with respect to the federal government
> [Heath v. Alabama, 474 U.S. 187]
>
> No sanction can be imposed absent proof of jurisdiction [Stanard v. Olesen, 74 S. Ct.768]
>
> Once challenged, jurisdiction cannot be 'assumed', it must be proved to exist.
> [Stuck v. Medical Examiners, 94 Ca2d 751.211 P2s 389]
>
> Jurisdiction, once challenged, cannot be assumed and must be decided.
> [Maine v. Thiboutot, 100 S. Ct. 250]

> ... Federal jurisdiction cannot be assumed, but must be clearly shown.
> [Brooks v. Yawkey, 200 F. 2d 633]
>
> 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 any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed.
> [Louisville R.R. v. Motley, 211 U.S. 149, 29 S. Ct. 42]

Other cases also such as McNutt v. G.M., 56 S. Ct. 789,80 L. Ed. 1135, Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272, Basso v. U.P.L., 495 F 2d. 906, Thomson v. Gaskiel, 62 S. Ct. 673, 83 L. Ed. 111, and Albrecht v U.S., 273 U.S. 1, also all confirm, that, when challenged, jurisdiction must be documented, shown, and proven, to lawfully exist before a cause may lawfully proceed in the courts..

Title 18 U.S.C. § 7 specifies that the territorial jurisdiction of the United States extends only outside the boundaries of lands belonging to any of the 50 states, and Title 40 U.S.C. § 255 specifies the legal conditions that must be fulfilled for the United States government to have exclusive or shared jurisdiction within the area of lands belonging to the States of the Union.

THEREFORE, the accused would demand of this court to establish the required exclusive Federal jurisdiction that has been merely assumed in this matter, consisting of:

1. Documentation showing ownership of each and every geographical location mentioned in the instant indictment wherein the alleged criminal activity took place.

2. Documentation from the legislature of the Commonwealth of Virginia surrendering jurisdiction to the Federal government over the same geographical location as in #1.

3. Documentation pursuant to Title 40 U.S.C. § 255, wherein the United States accepted jurisdiction to the same geographical location as specified in #1, OR, documentation showing concurrent jurisdiction with the Commonwealth of Virginia over the geographical location in #1;

OR, absent the production of such required documentation showing lawful Federal jurisdiction over this geographical location; dismiss the action entirely, immediately.
Respectfully submitted this ____ day of _____, 19____.

_____
Printed Name
Address