**In The Magisterial District Court #\_\_\_\_\_\_\_\_\_\_ of the**

**Commonwealth of Pennsylvania.**

Address of ) Memorandum And

) Motion To Dismiss For

*Plaintiff* ) Lack Of subject Matter

) Jurisdiction.

vs. )

)

)

Address of )

)

*Defendant* ) Court Case No\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Comes Now The Accused denying and challenging the jurisdiction of the above-named court over the subject matter in the above-entitled cause, for reasons explained in the following memorandum:

**Memorandum Of Law**

1. **The Nature of Subject Matter Jurisdiction.**

The jurisdiction of a court over the subject matter has been said to be essential, necessary, indispensable and an elementary prerequisite to the exercise of judicial power. 21 C.J.S., “Courts,” Section 18, p. 25. A court cannot proceed with a trial or make a judgment without such jurisdiction existing.

It is elementary that the jurisdiction of the court over the subject matter of the action is the most critical aspect of the court's authority to act. Without it the court lacks any power to proceed; therefore, a defense based upon this lack cannot be waived and may be asserted at any time. *Matter of Green,*  313 S.E.2d 193 (N.C. App. 1984)

Subject matter jurisdiction cannot be conferred by waiver or consent, and may be raised at any time.  *Rodrigues v. State*, 441 So.2d 1129 (Fla.App. 1983). The subject matter jurisdiction of a criminal case is related to the cause of action in general, and more specifically to the alleged crime or offense which creates the action.

The subject-matter of a criminal offense is the crime itself. Subject-matter in its

broadest sense means the cause: the object: the thing in dispute.

*Stillwell v. Markham,*  10 P.2d 15, 16 135 Kan. 206 (1932).

An indictment or complaint in a criminal case is the main means by which a court

obtains subject jurisdiction, and is “the jurisdictional instrument upon which

the accused stands trial “ *State v. Chatmon,* 671 P.2d 531, 538 (Kan. 1983)**.**

The complaint is the foundation of the jurisdiction of the magistrate or court.

Thus if these charging instruments are invalid, there is a lack of subject matter

jurisdiction.

Without a formal and sufficient indictment or information, a court does not acquire

subject matter jurisdiction and thus an accused may not be punished for a crime.

*Honomichl v. State,* 333 N.W. 2D 797,798 (S.D. 1983).

A formal accusation is essential for every trial of crime. Without it the court

acquires no jurisdiction to proceed, even with the consent of the parties, and

where the indictment or information is invalid the court is without jurisdiction.

*Ex parte Carlson,* 186 N.W. 722, 725, 176 Wis. 538 (1922).

Without a valid complaint any judgement or sentence rendered is “void ab initio”

*Ralph v. Pol*ice *Court of El Cerrito,* 190 P.2d 632,634, 84 Cal. App.2d 257 (1948).

Jurisdiction to try and punish for a crime cannot be acquired by the mere assertion

of it, or invoked otherwise than in the mode prescribed by law, and if it is not so

acquired or invoked any judgment is a nullity. 22 C.J.S., “Criminal Law,”

167, p. 202.

The charging instrument must not only be in the particular mode or form

prescribed by the constitution and statute to be valid, but it also must contain

reference to valid laws. Without a valid law, the charging instrument is

insufficient and no subject matter jurisdiction exists for the matter to be tried.

Where an information charges no crime, the court lacks jurisdiction to try the accused.

*People v. Hardiman,* 347 N.W.,2d 460, 462, 132 Mich.App. 382 (1984).

[W]hether or not the complaint charges an offense is a jurisditional matter.

*Ex parte Carlson,* 186 N.W. 722,725, 176 Wis. 538 (1922).

An invalid law charged against one in a criminal matter also negates subject

matter jurisdiction by the sheer fact that it fails to create a cause of action.

“Subject matter is the thing in controversy.” *Holmes v. Mason,* 115 N.W. 770,80

Neb. 454, citing *Black's Law Dictionary.* Without a valid law, there in no issue

or controversy for a court to decide upon. Thus, where a law does not exist or does

not constitutionally exist, or where the law is invalid, void or unconstitutional,

there is no subject matter jurisdiction to try on offense alleged under such law.

If a criminal statute is unconstitutional, the court lacks subject-matter jurisdiction and

cannot proceed to try case. 22 C.J.S. “Criminal Law,” 157, p. 189, citing

*People v. Katrinak,* 185 Cal.Rptr. 869, 136 Cal.App.3d 145 (1982).

Where the offense charged does not exist, the court lacks jurisdiction.

*State v. Cristenses,* 329 N.W. 2D 382, 383, 110 Wis.2d 538 (1983).

Not all statutes create a criminal offense. Thus where a man was charged with

“a statute which does not create a criminal offense,” such person was never legally

charged with any crime or lawfully convicted because the trial court did not have

“jurisdiction of the subject matter,” *State ex rel. hansen v. rigg,* 258 Minn. 388,

104 N.W.2d 553 (1960). There must be a valid law in order for subject matter

to exist.

In a case where a man was convicted of violating certain sections of some laws,

he later claimed that the laws were unconstitutional which deprived the county

court of jurisdiction to try him for those offenses. The Supreme Court of Oregon

held:

If these sections are unconstitutional, the law is void and an offense created by

them is not a crime and a conviction under them cannot be a legal cause of

imprisonment, for no court can acquire jurisdiction to try a person for acts which

are made criminal only by an unconstitutional law. *Kelly v Meyers,* 263 Pac 903,

905 (Ore. (1928).

Without a valid law there can be no crime charged under that law, and where there

is no crime or offense there is no controversy or cause of action, and without a cause

of action there can be no subject matter jurisdiction to try a person accused of

violating said law. The court then has no power or right to hear and decide a particular

case involving such invalid or nonexistent laws.

These authorities and others make it clear that if there are no valid laws charged

against a person, there is nothing that can be deemed a crime, and without a crime

there is no subject matter jurisdiction. Further, invalid or unlawful laws make

the complaint fatally defective and insufficient, and without a valid complaint there

is a lack of subject matter jurisdiction.

The Accused asserts that the laws charged against him are not valid, or do

not constitutionally exist as they do not conform to certain constitutional prerequisites,

and thus are not laws at all, which prevents subject matter jurisdiction to the above-

named court.

The complaints in question allege that the Accused has committed several crimes

by the violation of certain laws which are listed in said complaints, to wit:

Intent to escape tax -M.S. 168.35

No Plates Affixed to Vehicle – M.S. 169.79

No insurance – M.S. 169-797, Subd. 2

No Minnesota Registration – M.S. 168.36

Driving after revocation – M.S. 171.24, Subd.2

I have been informed that these laws or statutes used in the complaints against

myself are located in and derived from a collection of books entitled “Pennsylvania

Statutes.” Upon looking up these laws in his publication, I realized that they do

not adhere to several constitutional provisions of the Pennsylvania Constitution.

By Article 2 of the Constitution of Pennsylvania (1857), all lawmaking authority

for the State is vested in the Legislature of Pennsylvania . This Article also prescribes

certain forms, modes and procedures that must be followed in order for a valid law

to exist under the Constitution, It is fundamental that nothing can be a law that is

not enacted by the Legislature prescribed in the Constitution, and which fails to

conform to constitutional forms, prerequisites or prohibitions. These are the grounds

for a complaint or indictment goes to the jurisdiction of a court. The following

explains in authoritative detail why the laws cited in the complaints against the

Accused are not constitutionally valid laws.

1. **By Constitutional Mandate, all Laws Must Have an Enacting Clause.**

One of the forms that all laws are required to follow by the Constitution of Pennsylvania (1776), is that they contain an enacting style or clause. This provision is stated as follows:

Preamble: “..*.do by the authority vested in us by our constituents , ordain, declare, and establish the following Declaration of Rights and Frame of Government, to be the Constitution of this commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement and which shall be the same authority of the people, fairly delegated as this frame of government directs, be amended or improved for the more effectual obtaining and securing the great end and design of all government, herein before mentioned*.”

None of the laws cited in the complaints against the Accused, as found in the

State of Pennsylvania Statutes,: 1968, contain any enacting clauses.

The constitutional provision which prescribes an enacting clause for all laws is

not directory, but is mandatory. This provision is to be strictly adhered to as

asserted by the Supreme Court of Pennsylvania :

Upon both principle and authority, we hold that article 2, Section 16, of our

Constitution, which provides that “the style of all laws of this state shall be, 'Be

it enacted by the legislature of the Commonwealth of Pennsylvania ,' “ is mandatory,

and that a statute without any enacting clause is void. *Sjobert v. Security Savings & Loan*

*Assn,* 73 Minn. 203, 212 (1898).

**[Add other material here relating to the mandatory nature of enacting clauses]**

1. What is the Purpose of the Constitutional Provision for an Enacting Clause?

To determine the validity of using law without an exacting clause against

citizens, we need to determine the purpose and function of an enacting clause: and

also to see what problems or evils were intended to be avoided by including such

a provision in our State Constitution. One object of the constitutional mandate

for and enacting clause is now to show that the law is one enacted by the legislative

body which has been given the lawmaking authority under the constitution.

The purpose of thus prescribing an enacting clause--”the style of the acts”--is to

establish it: to give it permanence, uniformity, and certainty: to identify the act of

legislation as of the general assembly: to afford evidence of its legislative statutory

nature:and to secure uniformity of identification, and thus prevent inadvertence,

possibly mistake and fraud. *State v. Patterson,* 4 S.E. 350, 352, 98 N.C. 660 (1887);

82 C.J.S. “Statutes,” Section 65, p. 104; *Joiner v. State,* 155 S.E.2d 8, 10, 223 Ga.

367 (1967)

What is the object of the style of a bill or enacting clause anyway? To show the

authority by which the bill is enacted into law; to show that the act comes from a place

pointed out by the Constitution as the source of legislation. *Ferrill v. Keel,* 1151 X.W. 269,

272, 105 Ark. 380 (1912).

To fulfill the purpose of identifying the lawmaking authority of a law, it has been

repeatedly declared by the courts of this land that an enacting clause is to appear

**on the face of every law** which the people are expected to follow and obey.

The almost unbroken custom of centuries has been to preface laws with a statement

in some form declaring the enacting authority. The purpose of an enacting clause of

a statute is to identify it as an act of legislation by expressing on its face the authority

behind the act. 73 Am. Jur. 2D, “Statutes,” Section 93, p. 319, 320:

*Preckel v. Byrne,* 243 N.W. 823, 826, 62 N.D. 356 (1932).

For an enacting clause to appear on the face of the law, it must be recorded or

published with the law so that the public can readily identify the authority for

that particular law which they are expected to follow. The “statutes” used in the

complaints against the Accused have no enacting clauses. They thus cannot be

identified as acts of legislation of the Commonwealth of Pennsylvania (1776), since a law is

mainly identified as a true and Constitutional law by way of its enacting clause.

The Supreme Court of Georgia asserted that a statute must have an enacting clause,

even though their State Constitution had no provision for the measure. The Court

stated that an enacting clause establishes a law or statute as being a true and

authentic law of the State:

The enacting clause is that portion of a statute which gives it jurisdictional identity

and constitutional authenticity. *Joiner v. State* 155 S.E. 2D 8, 10 (Ga. 1967).

The failure of a law to display on its face an enacting clause deprives it of

essential legality, and renders a statute which omits such clause as “a nullity

and of no force of law.” *Joi*ner v. *State,* supra. The statutes cited in the

complaints have no jurisdictional identity and are not authentic laws under the

Constitution of Pennsylvania .

The Court of Appeals of Kentucky held that the constitutional provision

requiring an enacting clause is a basic concept which has a direct affect

upon the validity of a law. The Court, in dealing with a law that had contained

no enacting clause, stated:

The alleged act or law in question is unnamed: it shows no sign of authority: it

carries with it no evidence that the General Assembly or any other lawmaking

power is responsible or answerable for it.**\*\*\***By an enacting clause, the makers

of the Constitution intended that the General Assembly should make its impress

or seal, as it were, upon each enactment for the sake of identity, and to assume

and show responsibility. \* \* \* While the Constitution makes this a necessity,

it did not originate it. The custom is in use practically everywhere, and is old

as parliamentary government, as old king's decrees, and even they borrowed it.

The decrees of Cyrus, King of Persia, which Holy Writ records, were not the first

to be prefaced with a statement of authority. The law was delivered to Moses in

the name of the Great I Am, and the prologue to the Great Commandments is no

less majestic and impelling. But, whether these edicts and commands be

promulgated by the Supreme Ruler or by petty kings, or by the sovereign people

themselves, they have always begun with some such form as a evidence of power

and authority. *Commonwealth v. Illinois Cent. R. Co.,* 170 S.W. 171, 172, 175,

160 Ky. 745 (1914).

The “Laws” used against the Accused are unnamed. They show no sign of

authority on their face as recorded in the “Pennsylvania Statutes.” They carry with

them no evidence that the Legislature of Pennsylvania , pursuant to Article 2 of

the Constitution of Pennsylvania (1776), is responsible for these laws. Without

an enacting clause the laws referenced to in the complaints have no official

evidence that they are from an authority which I am subject to or required to

obey.

When the question of the “objects intended to be secured by the enacting

clause provision: was before the Supreme Court of Minnesota, the Court held

that such a clause was necessary to show the people who are to obey the law,

the authority for their obedience. It was revealed that historically this was a main

use for an enacting clause, and thus it use is fundamental concept of law.

The Court stated:

All written laws, in all times and in all countries, whether in the form of decrees issued

by absolute monarchs, or statutes enacted by king and council, or by a representative

body, have, as a rule, expresses upon their face the authority by which they were

promulgated or enacted. The almost unbroken custom of centuries has been to

preface laws with a statement in some form declaring the enacting authority. If such

an enacting clause is a mere matter of form, a relic of antiquity, serving no useful

purpose, why should the constitutions of so many of our states require that all laws

must have an enacting clause, and prescribe its form. If an enacting clause is useful

and important, if it is desirable that laws shall bear upon their face the authority by

which they are enacted, so that the people who are to obey them need not search

legislative and other records to ascertain the authority, then it is not beneath the

dignity of the framers of a constitution, or unworthy of such an instrument, to

prescribe a uniform style for such enacting clause.

The words of the constitution, that the style of all laws of this state shall be, “Be

it enacted by the legislature of the Commonwealth of Pennsylvania .” imply that all laws must

be so expresses or declared, to the end that they may express upon their face the

authority by which they were enacted; and, if they do not so declare, they are not laws

of this Commonwealth. *Sjoberg v. Security savings Loan Assn,*  73 Minn. 203, 212-214 (1898).

This case was initiated when it was discovered that the law relation to “building,

loan and savings associations,” had no enacting clause as it was printing in the

statute book, “Laws 1897, c. 250.” The Court made it clear that a law existing

in that manner is “void” *Sjberg,* p. 214.

The purported laws in the complaints, which the Accused is said to have violated,

are referenced to various laws found printed in the :Pennsylvania Statutes” book. I

have looked up the laws charged against me in this book and found no enacting

clause for any of these laws. A citizen is not expected or required to search through

other records or books for the enacting authority. If such enacting authority is not

“on the face” of the laws which are referenced in a complaint, then “they are not

laws of this state”, and thus are not laws to which I am subject. Since they are not

laws of this State, the above-named Court has no subject matter jurisdiction, as there

can be no crime which can exist from failing to follow laws which do not constitutionally

exist.

In speaking on the necessity and purpose that each law be prefaced with an

enacting clause, the Supreme Court of Tennessee quoted the first portions of the

*Sjoberg* case cited above, and then stated:

The purpose of provisions of this character is that all statutes may bear upon their

faces a declaration of sovereign authority by which they are enacted and declared

to be the law, and to promote and preserve uniformity in legislation. Such clauses

also import a command of obedience and clothe the statute with a certain dignity,

believed in all times to command respect and aid in the enforcement of laws.

*State v. burrow,* 104 S.W. 526, 529, 119 Tenn. 376 (1907).

The use of an enacting clause does not merely serve as a “flag” under which

bills run the course through the legislative machinery. *Vaughn & ragsdale Co. v.*

*State Bd.* Of Eq., 96 P2d. 420, 424 (Mont. 1939). The enacting clause of a law

goes to its substance, and is not merely procedural. *Morgan v. Murray,* 328 P.2d

644, 654 (Mont. 1958).

Any purported statute which has no enacting clause on its face, is not legally

binding and obligatory upon the people, as it is not constitutionally a law at all.

The Supreme Court of Michigan, in citing numerous authorities, said that an

enacting clause was a requisite to a valid law since the enacting provision was

mandatory:

The enacting clause must be intrinsic to the law, and not “ extrinsic” to it, that

is, it cannot be hidden away in other records or books. Thus the enacting clause

is regarded as part of the law, and has to appear directly with the law, on its face,

so that on charged with said law knows the authority by which it exists.

1. **Laws Must be Published and Recorded with Enacting Clauses.**

Since it has been repeatedly held that an enacting clause must appear “on the face”

of a law, such a requirement affects the printing and publishing of laws. The fact that

the constitution requires “all laws” to have an enacting clauses makes it a requirement

on not just bills within the legislature, but on published laws as well. If the constitution

said “all bills” shall have an enacting clause, it probably could be said that their use in

publications would not be required. But the historical usage and application of an

enacting clause has been for them to be printed and published along with the body of

the law, thus appearing “on the face” of the law.

It is obvious, then, that the enacting clause must be readily visible on the face of a

statute in the common mode in which it is published so that citizens don't have to

search through the legislative journals or other records and booked to see the kind of clause

used, or if any exists at all. Thus a law in a statute book without an enacting clause is not

a valid publication of law. In regards to the validity of a law that was found in their books with

a defective enacting clause, the Supreme Court of Nevada held:

Our Constitution expressly provided that the enacting clause *of every law* shall be, “The

people of the state state if Nevada, represented in senate and assembly, do enact as follows,”

This language is susceptible of but one interpretation. There is no doubtful meaning as

to the intention. It is, in our judgment, an imperative mandate of the people, in their

sovereign capacity, to the legislature, requiring that all laws, to be binding upon them,

shall, upon their face, it *is not a law.*” *State of Nevada v. Rogers,* 10 Nev. 120, 261

(1875); *approved* in *Caine v. Robbins,* 131 P2d 516, 518, 61 Nev. 416 (1942);

*Kefauver v. Spurling,* 290 S.W. 14, 15 (Tenn. 1926).

The manner in which the law came to the court was by the way it was found in the

statute book, cited by the Court as “Stat. 1875,66,” and that is how they judge the

validity of the law. Since tey saw that the act, as it was printed in the statute book,

had an insufficient enacting clause on its face, it was deemed to be “not a law.” It is

only by inspecting the publicly printed statute book that the people can determine the

source, authority and unconstitutional authenticity of the law they are expected to follow.

**[Add other material here relating to the publication of statutes]**

It should be noted that laws in the above cases were held to be void for having no

enacting clauses despite the fact that they were published in an official statute book of

the State, and were next to other laws which had the proper enacting clauses.

The preceding examples and declarations on the use and purpose of enacting clauses

shows beyond doubt that nothing can be called or regarded as a law of this State which

is published without an enacting clause on its face. Nothing can exist as a State which

except in the manner prescribed by the State Constitution. Article 2, Section 15 of the

1776 Penna. Const. as follows:

*“To t “To the end that laws before they are enacted may be more maturely considered , and the inconvenience of hasty determinations as much as possible prevented, all bills of public nature shall be printed for the consideration of the people, before they are read in the general assembly the last time for debate and amendment; and, except on occasion of sudden necessity, shall not be passed into laws until the next session of assembly; and for the more satisfaction of the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles.”*

One of those provisions is that “all laws” must bear on their face a specific enacting style and is stated as follows:

“*Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania in General Assemble met, and by the authority of the same and the general assemble shall shall affix their seal to every bill, as soon as it is enacted into law, which seal shall be kept by the assembly, and shall be called,the seal of the lawsof Pennsylvania, and shall not be used for any other* purpose.” (Penna. Const., Art. 2 Sec. 16).

All laws must be published with this clause in order to be valid laws, and since the “statutes” in the

“Pennsylvania Statutes” are not so published, they do not contain an enactment clause, and they are not valid laws of this Commonwealth.

1. The Referenced to in the Complaints Contain no Titles.

The laws listed in the complaints in question, as cited from the “Pennsylvania Statutes”,

contain no titles. All laws are to have titles indicating the subject matter of the law,

as required by the Constitution of Pennsylvania:

Article 1, Sec. 16 No law shall embrace more that one subject, which shall be expressed

it its title.

By this provision a title is required to be on all laws. The title is another one of

the forms of a law required by the Constitution. This type of constitutional provision

“makes the title an essential part of every law,” thus the title “is as much a part of the

act as the body itself.” *Leininger v. Alger,* 26 N.W.2d 348, 351, 316 Mich. 644 (1947).

The title to a legislative act is a part thereof, and must clearly express the subject of

legislation. *State v. Burlington & M. R.R. Co.,* 60 Neb. 741, 84 N.W. 254 (1900).

Nearly all legal authorities have held that the title is part of the act, especially when

a constitutional provision for a title exists. 37 A.L.R. Annotated, pp. 948, 949. What

then can be said of a law in which an essential part of it is missing, except that it is not

a law under the State Constitution.

This provision of the State Constitution, providing that every law is to have a title

expressing one subject, is mandatory and is to be followed in all laws, as stated by the

Supreme Court of Minnesota.

We pointed out that our constitutional debates indicated that the constitutional requirements

relating to enactment of statutes were intended to be remedial and mandatory,---renedial,

as guarding against recognized evils arising from loose and dangerous methods of

conducting legislation, and mandatory, as requiring compliance by the legislature without

discretion on its part to protect the public interest against such recognized evils, and that

the validity of statutes should depend on compliance with such requirements \*\*\*

*Bull v. King,* 286 N.W. 311, 313 (Minn. 1939).

The constitutional provisions for a title have been held in many other states to be

mandatory in the highest sense. *State v. Beckman,* 185 S.W.2d 810, 816 (M0. 1945):

*Leninger v. Alger,* 26 N.W. 2D 384, 316 Mich. 644; 82 C.J.S. “Statutes” Sect. 64

p. 102. The provision for a title in the constitution “renders a title indispensable”

73 Am. Jur. 2d. “Statutes,” Sect. 99, p. 325, citing *People v. Monroe,* 349 Ill. 270,

182 N.E. 439. Since such provisions regarding a title are mandatory and indispensable,

the existence of a title is necessary to the validity of the act. If a title does not exist,

then it is not a law pursuant to Art. 1, Sec. 16 of the Constitution of Pennsylvania (1776).

In speaking of the constitutional provision requiring one subject to be embraced in the

title of each law, the Supreme Court of Tennessee stated:

That requirement of the organic law is mandatory, and, unless obeyed in every instance,

the legislation attempted is invalid and of no effect whatever. *State v. Yardley,* 32 S.W.

481,482, 95 Tenn. 546 (1895).

To further determine the validity of citing laws in a complaint which have no titles,

we must also look at the purpose for this constitutional provision, and the evils and

problems which it was intended to prevent or defeat.

One of the aims and purposes for a title or caption to an act is to convey to the

people who are to obey it the legislative intent behind the law.

The constitution has made the title the conclusive index to the legislative intent as to what

shall have operation. *Megins v. City of* Duluth, 106 N.W. 89, 90, 97 *Minn..* 23 (1906) ;

*Hyman v. State,* 9 S.W. 372, 373, 87 Tenn. 109 (1888).

In ruling as to the precise meaning of the language employed in a statue, nothing, as

we have said before, is more pertinent towards ascertaining the true intention of the

legislative mind in the passage of the enactment than the legislature's own interpretation

of the scope and purpose of the act, as contained in the caption. *Wimberly v. Georgia*

*S. & F.R.* Co., 63 S.E. 29, 5 Ga. App. 263 (1908).

Under a constitutional provision \*\*\* requiring the subject of the legislation to be expressed

in the title, that portion of an act is often the very window through which the legislative

intent may be seen. *State v. Clinton County,* 120 . 1. 221 Mo. 180 (1906)

The title of an act is necessarily a part of it, and in construing the act the title should be

taken into consideration. *Glaser v. Rothschild,*  120 S.W. 1, 221 Mo. 180 (1909).

Without the title the intent of the legislature is concealed or cloaked from public

view. Yet a specific purpose or function of a title to a law is to “protect the people

against covert legislation “ *Brown v. Clower,* 166 S.E.2d 363, 365, 225 Ga. 165 (1969).

A title will reveal or give notice to the public of the general character of the legislation.

However, the nature and intent of the “laws” in the “Pennsylvania Statutes” have been

concealed and made uncertain by its nonuse of titles. The true nature of the subject

matter of the laws therein is not made clear without titles. Thus another purpose of the title

is to apprise the people of the nature of legislation, thereby preventing fraud

or deception in regard to the laws they are to follow. The U.S. Supreme Court, in

determining the purpose ofe Supreme Court such a provision in state constitutions, said:

The purpose of the constitutional provision is to prevent the inclusion of incongruous and

unrelated matters in the same measure and to guard against inadvertence, stealth and

fraud in legislation.\*\*\*Courts strictly enforce such provisions in cases that fall within

the reasons on which they rest,\*\*\*and hold that, in order to warrant the setting aside

of enactments for failure to comply with the rule, the violation must be substantial and

plain. *Posados v. Warner, B. & Co.,* 279 U.S. 429, 434 (1928).

The complete omission of a title is about as substantial and plain a violation of this

constitutional provision as can exist. The laws cited in the complaints against the

Accused are that nature. They have no titles at all, and thus are not laws under

our State Constitution.

The Supreme Court of Idaho, in construing the purpose for its constitutional

provision requiring a one-subject title on all laws, stated:

The object of the title is to give a general statement of the subject-matter, and such a

general statement will be sufficient to include all provisions of the act having a reasonable

connection with the subject-matter mentioned,\*\*\*The object or purpose of the clause

in the Constitution \*\*\* is to prevent the perpetration of fraud upon the members of the

Legislature or the citizens of the state in the enactment of laws. *Ex parte Crane,* 151

Pac. 1006, 1010,1011, 27 Idaho 671 (1915).

The Supreme Court of North Dakota, in speaking on its constitutional provision

requiring titles on laws, stated that, “This provision is intended\*\*\*to prevent all

surprises or misapprehensions on the part of the public,” *State v. McEnroe,* 283

N.W. 57, 61 (N.D. 1938). The Supreme Court of Minnesota, in speaking on Article

4, Sect. 27 of the State Constitution, said:

This section of the constitution is designed to prevent deception as to the nature or subject

of legislative enactments, *State v. Rigg,* 109 N.W. 2D 310, 314, 260 Minn. 141 (1961);

The purposes of the constitutional provision requiring a one-subject title, and the

mischiefs which it was designed to prevent, are defeated by the lack of such a title on

the face of a law which a citizen is charged with violating. Upon looking at the laws

charged in the complaint from the “Pennsylvania Statutes,” I am left asking, what is the

subject and nature of the laws used in the complaints against me? What interests or

rights are these laws intended to affect? Since the particular objects of the provision

requiring a one-subject title are defeated by the publication of laws which are completely

absent of a title, the use of such a publication to indict or charge citizens with violating

such laws is fraudulent and obnoxious to the Constitution.

It is to prevent surreptitious, inconsiderate, and misapprehended legislation, carelessly,

inadvertently, or unintentionally enacted through stealth and fraud, and similar abuses,

that the subject of a law is required to be stated in the title. 73 Am. Jur. 2D, “Statutes,”

Sect. 100 p. 325, cases cited.

Judge Cooley says that the object of requiring a title is to “fairly apprise the people,

through such publication of legislative proceedings as is usually made, of the subjects

of legislation that are being considered.”  *Cooley, Const. Lim.,* 144. The State

Constitution requires one-subject titles. The particular ends to be accomplished by

requiring the title of a law are not fulfilled in the statutes referred to in the “Minnesota

Statutes.” Thus the laws charged in the complaints against me are not valid laws.

1. The Pennsylvania Statutes are of an Unknown and Uncertain Authority.

The so called “statutes” in the Pennsylvania Statutes” are not only absent enacting

clauses, but are surrounded by other issues and facts which make their authority

unknown or uncertain or questionable.

The title page of the “Pennsylvania Statutes” states that the statutes therein were,

“Compiled, edited, and published by the Reviser of Statutes of Pennsylvania.” It does

not say that they are the official laws of the Legislature of Pennsylvania, The official

laws of this state has always been listed in the “Session Laws” of Pennsylvania. The

title page to the Session Laws makes it clear as to the nature of the laws therein, to

wit--*-”Session Laws of the State of Minnesota passed during the Forty-Fourth*

*session of the State Legislature,”* The Minnesota Statutes states that: “Minnesota

Revised Statutes must not be cited, enumerated, or otherwise treated as a session

law: (M.S. 3C.07, Subd. 1).

The “Session Laws” were also published by the Secretary of the State, who

historically and constitutionally is in possession of the enrolled bills of the Legislature

which become State Law. The Constitution Of Minnesota, Art. IV, Sec. 11 (1857)

requires that every bill which passes both he Senate and House, and is signed by the

Govenor, is to be deposited “in the office of Secretary of State for preservation.” Thus

in this state, as in nearly all other states, all official laws, records, and documents are

usually recognized by their being issued or published by the Secretary of State.

The “Minnesota Statutes” are published by the Reviser of Statutes, and are also

copyrighted by him or his office. The “Session Laws” were never copyrighted

as they are true public documents. In fact no true public document of the state or

any state or of the United States has been or can be under a copyright. Public

documents are in the public domain. A copyright infers a private right over the contents

of a book, suggesting that the laws in the “Minnesota Statutes” are derived from a

private source, and thus are not true public laws.

The Reviser of Statutes, in the preface to his statue book called “Minnesota

Statutes”, points our the difference in the various types of arrangements of laws,

and states the following:

In order to understand and use statutory law, it is necessary to know the meaning of the

terms used and the inclusiveness and authority of the laws found in the various

arrangements. The terms *laws, acts, statutes, revisions, compilations,* and *codes* are

often used indiscriminately, but in the following discussion each has a specific meaning.

“Minnesota Statutes,” vol. I, p. x.

The Reviser then proceeds to point out the difference that exists between the

“Session Laws” are of a different authority than that of compilations, revision or

code. He makes it apparent that the “Session Laws” are of a different authority

than that of compilations, revisions and codes. The “Minnesota Statutes” are

apparently a 'revision,' which was first published in 1945 (p. ix). The “Minnesota

Statutes,” appear to be nothing more than a reference book, like “Dunnell Minnesota

Digest,” or “West's Minnesota Statutes Annotated,” which are also copyrighted. The

contents of such reference books cannot be used as law in charging citizens with

crimes on criminal complaints.

The Reviser does not say that the statutes in his book are the official laws of the

State of Minnesota. He indicates that these statutes are only in “theory” laws of

the State (p. xxi). There thus are many confusing and ambiguous statements made

by the Reviser as to the nature and authority of the statutes in the “Minnesota

Statutes.” It is not at all made certain that they are laws pursuant to Article IV

of the Constitution of Minnesota. That which is uncertain cannot be accepted

as true or valid in Uncertain things are held for nothing. *Maxim of Law.*

The law requires, not conjecture, but certainty. *Coffin v. Ogden,* 85 U. S. 120, 124.

Where the law is uncertain, there is no law. *Bouvier's Law Dictionary,* vol. 2, “Maxims,”

1880 edition.

The purported statutes in the “Minnesota Statutes” do not make it clear by what

authority they exist. The statutes therein have no enacting authority on their face.

In fact, there is not a hint that the Legislature of Minnesota had anything at all to do

wih these so-called statute books. Thus the statutes used against the Accused are just

idle words which carry no authority of nay kind on their face.

1. Established Rules of Constitutional Construction.

The issue of subject matter jurisdiction for this case thus squarely rests upon certain

provisions of the Constitution of Minnesota (1857), to wit:

Article IV, Sec. 13. The style of all laws of this State shall be: “Be it enacted by the

Legislature of the State of Minnesota.”

Article IV, Sec. 27. No law shall embrace more than one subject, which shall be expressed

in its title.

These provisions are not in the least ambiguous or susceptible to any other

interpretation than their plain and apparent meaning. The Supreme Court of Montana,

in construing such provisions, said that they were “so plainly and clearly expressed and

are so entirely free from ambiguity,” that “there is nothing for the court to construe”

*Vaughn & Ragsdale Co. v. State Bd. Of Eq.,* 96P.2d 420, 423, 424. The Supreme Court

of Minnesota stated how these provisions are to be construed, when it was considering

the meaning of a another provision under the legislative department (Art. 4, Sec. 9):

In treating of constitutional provisions, we believe it is the general rule among courts to

regard them as mandatory, and not to leave it to the will or pleasure of a legislature to

obey or disregard them. Where the language of the constitution is plain, we are

not permitted to indulge in speculation concerning its meaning, nor whether

it is the embodiment of great wisdom.\*\*\* The rule with reference to constitutional

construction is also well stated by Johnson, J., in the case of Newell v. People, 7 N.Y.

9, 97, as follows: “If the words embody a definite meaning, which involves no absurdity,

and no contradiction between different parts of the same writing, then that meaning

apparent upon the face of the instrument is the one which alone we are at liberty to say

was intended to be conveyed. In such a case there is no room for construction. That which

the words declare is the meaning of the instrument; and neither courts nor legislatures

have the right to add to or take away from that meaning. \*\*\* It must be very plain,--nay,

absolutely certain—that the people did not intend what the language they have employed

in its natural signification imports, before a court will feel itself at liberty to depart from

the plain reading of a constitutional provision.” *State ex rel. v. Sutton,* 63 Minn. 147,

149, 150, 65 N.W. 262 (1895): affirmed, *State v. Holm,* 62 N.W. 2D 52, 55, 56 (Minn.

1954); *Butler Taconite v. Roemer,* 282N.W. 2D 867, 870, 871 (Minn. 1979).

It is, that the plain and apparent language of these Constitutional provisions

are not followed in the publication know as the “Minnesota Statutes” which contain

no titles and no enacting clauses, and thus it is not and cannot be used as the law of

this State under our Constitution. No language could be plainer or clearer than that

used in Art. 4, Sec. 13 and Sec. 27 of our Constitution. There is no room for construction!

The contents of these provisions were written in ordinary language, making their

meaning self-evident, as said by the Supreme Court of Minnesota:

In construing a provision of our Constitution, we are governed by certain well

established rules. Foremost among these is the rule that, where the language

used is clear, explicit, and unambiguous, the language of the provision itself

is the best evidence of the intention of the framers of the constitution. If the

language is clear from obscurity, the courts must give it the ordinary meaning

of the words used. *State v. Holm,* 62 N.W.2d 52, 55, (Minn. 1954)

No matter how much the courts of this State have relied upon and used the publication entitled “Pennsylvania Statutes” as being Law, that use can never be regarded as an exception to the Constitution.

To support this publication as law, it must be said that it is “absolutely certain” that the framers of the Constitution did not intend for titles and enacting clauses to be printed and published with all laws, but that they did intend for them to be all stripped away and concealed from public view when a compilation of statutes is made. Such an absurdity will gain the support and respect of no one. Nor can it be speculated that a revised statute publication which dispenses with all titles and enacting clauses must be allowed under the Constitution as it is more practical and convenient than the “Session Law” publication. The use of such speculation or desired exceptions can never be used in construing such plain and unambiguous provisions.

[T]he general rule of law is, when a statute or Constitution is plain and unambiguous,

the court is not permitted to indulge in speculation concerning its meaning, nor

whether it is the embodiment of great wisdom. A Constitution is intended to be framed

in brief and precise language.\*\*\* It is not within province of the court to read an

exception in the Constitution which the framers thereof did not see fit to enact therein.

*Baskin v. State,* 232, Pac. 388, 389, 107 Okla. 272 (1925)

There is of course no need for construction or interpretation of these provisions as they have been adjudicated upon, especially those dealing with the use of an enacting clause. The Supreme Court of Minnesota has made it clear that Article 4Section 13 of the Constitution “is mandatory, and that a Statute without any enacting clause is void.” *Sjoberg v. Savings and Loan Assoc.,* 73 Minn. 203, 212. Being that the Statutes used against me are without enacting clauses and titles they are void, which means there is no offense, no valid complaints, and thus no subject matter jurisdiction.

The provisions requiring an enacting clause and one subject titles were adhered to with the publications known as the “Session Law” and “General Laws” for the State of Pennsylvania. But because certain people in the government thought that they could devise a more convenient way of doing things without regard for the provisions of the State Constitution, they devised the contrivance known as the “Pennsylvania Statutes,” and then held it out to the public as being “law.” This of course was fraud, subversion, and a great deception upon the people of this Commonwealth which is now revealed and exposed.

There is no justification for deviating from or violating a written Constitution. The “Pennsylvania Statutes” cannot be used as law, like the “Session Laws” were once used, solely because the circumstances have changed and we now have more laws to deal with. It cannot be said the use and need of revised statutes without titles and enacting clauses must be justified due to expediency. New circumstances or needs do not change the meaning of constitutions, as Judge Cooly expressed.

A Constitution is not to be made to mean one thing at one time, and another at

some subsequent time when the circumstances may have changed as perhaps to

make a different rule in the case seem desirable. A principal share of the benefit

expected from written constitutions would be lost if the rules they established

were so flexible as to bend to circumstances or be modified by public opinion.

\*\*\* [A] court or legislature which would allow a change in public sentiment to

influence in giving to a written constitution a construction not warranted by the

intention of its founders, would be justly chargeable with reckless disregard

of official oath and public duty; and if its course could become a precedent,

these instruments would be of little avail. \*\*\* What a court is to do, therefore,

is to *declare the law as written*. T.M. Cooley, *a Treatise on the Constitutional*

*Limitations,* 5th Edition, pp 54, 55.

There is great danger in looking beyond the Constitution itself to ascertain its meaning and the rule for government. Looking at the Constitution alone, it is not at all possible to find support for the idea that the publication called the “Pennsylvania Statutes” is valid law of this Sate. The original intent of the of Article 1, Section 1, through 25 of the Pennsylvania Constitution cannot be stretched to cover their use as such. These provisions cannot be regarded as antiquated, unnecessary, or of little importance, since “no section of a constitution should be considered as superfluous.” *Butler Taconite v. Roemer,* 282 N.W.2d 867, 870, (Minn. 1979) The Constitution was written for all times and circumstances, because it embodies Fundamental Principles which do not change from time to time.

Judges are not to consider the political or economic impact that might ensue from upholding the Constitution as written. They are to uphold it no matter what may result, as that ancient maxim of law states: “*Though the heavens may fall, let justice be done.”*

Based upon the above memorandum, the Accused moves that this Action and cause be dismissed for **lack of subject matter jurisdiction**.

A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking. *United States v. Siviglia* 686 Fed.2d 832, 835 (1981), cases cited

Nothing can be regarded as a law in this Commonwealth which fails to conform to the Constitutional Prerequisites which call for an enacting clause and title. There is nothing in the complaints which can constitutionally be regarded as laws, and thus there is nothing in them which I am answerable for or which can be charged against me. Since there are no valid or constitutional laws charged against me there are no crimes that exist, consequently there is no subject matter jurisdiction by which I can be tried in the above named court.

**Caveat**

I regard it as just and necessary to give fair warning to this court of the consequences of its failure to follow the Constitution of Pennsylvania and uphold its oath and duty in this matter, being that it can result in this court committing acts of treason, usurpation and tyranny. Such trespasses would be clearly evident to the public, especially in light of the clear and unambiguous provisions of the Constitution that are involved here which have no room for construction, and in light of the numerous adjudications upon them as herein stated. The possible breaches of law that may result by denying this motion are enumerated as follows.

1. The failure to uphold the clear and plain provisions of our Constitution cannot be regarded as mere error in judgment, but deliberate USURPATION. “Usurpation is defined as unauthorized arbitrary assumption and exercise of power.” *State ex rel. Danielson v. village of mound,* 234 Minn. 531, 543, 48 N.W.2d 855, 863 (1951) While error is only is only voidable, such usurpation is void.

The boundary between an error in judgment and the usurpation of judicial power is this:

The former is reversible by an appellate court and is, therefore, only voidable, which the latter is a nullity. *State v. Mandehr,* 209 N.W. 750, 752 (Minn. 1926)

To take jurisdiction where it clearly does not exist is usurpation, and no one is bound to follow acts of usurpation, and in fact it is a duty of citizens to disregard and disobey them since they are void and unenforceable.

No authority need be cited for the proposition that, when a court lacks jurisdiction, any judgment rendered by it is void and unenforceable. *Hooker v. Boles,*346 Fed.2d 285, 286 (1965)

The fact that the “Pennsylvania Statutes” has been in use for over 200 years cannot be held as a justification to continue to usurp power and set aside the constitutional provisions which are contrary to such usurpation, as judge Cooley stated:

Acquiescence for no length of time can legalize a clear usurpation of power, where the people have plainly expressed their will in the Constitution. Cooley, *Constitutional Limitations,* p. 71.

**2.** To assume jurisdiction in this case would result in TREASON. Chief Justice John Marshall once stated:

We [judges] have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. *Cohens v. Virginia,* 6 Wheat. (19 U.S.) 264, 404 (1821)

The judge of this court took an oath to uphold and support the Constitution of Pennsylvania, and his blatant disregard of that obligation and allegiance can only result in an act of treason.

1. If this court departs from the clear meaning of the Constitution, it will be regarded as a blantent act of TYRANNY. Any exercise of power which is done without the support of law or beyond what the law allows is tyranny.

It has been said, with much truth, “Where the Law ends, tyranny begins.” *Merritt v. Welsh,* 104 U.S. 694, 702 (1881)

The Law, the Constitution, does not allow laws to exist without titles or enacting clauses. To go beyond that and allow the “Pennsylvania Statutes” to exist as “law” is nothing but tyranny. Tyranny and despotism exist where the will and pleasure of those in government is followed rather than established law. It has been repeatedly said and affirmed as a most basic Principle of our government that, “this is a government of laws and not of men; and that there is no arbitrary power located in any individual, or body of individuals.” *Cotting v. Kansas City Stock Yards Co.,* 183 U.S. 79, 84 (1901) The Constitution requires that all laws have enacting clauses and titles. If these clear and unambiguous provisions of the State Constitution can be disregarded, then we no longer have a Constitution in this Commonwealth, and we no longer live under a government of laws but a government of men, i.e., a system that is governed by the arbitrary will of those in office. The creation of the “Pennsylvania Statutes” is a typical example of the arbitrary acts of government which have become all to prevalent in this century. Its use as law is a nullity under our Constitution.

Submitted this\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Month 20\_\_\_\_

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Without Prejudice

U.C.C. 1-308

\_\_\_\_\_\_\_\_\_\_ \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_(signature)

(Type Your Name in upper and lower case here)

(your address here)

Oath of Office as is required at Article VI, Section 3 of the Pennsylvania Constitution, the

U.S. Constitution at article VI, Clause 2 and 3 and the County Code Article III, Section 403

and the U.S.C. 5 Section 3331.

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