

## **NO Law requires you to record / pledge your private automobile**

As will be made painfully evident herewithin, a Private automobile is **not required** by **any law, code or statute to be recorded**. Any recording (**pledge**) of Private automobile to any agency is strictly **voluntary**. Any recordation / contract you or a Dealership has done was a fraudulently conveyed act as the recording agency/automobile Dealer told you that you must record your Private Property. The voluntary pledge that was done without just compensation is usually done through fraud, deceit, coercion and withholding of facts, which can only be construed as fraud and unjust enrichment by agency as well as a willful malicious act to unjustly enrich the recording agency and its public servants.

*If men, through fear, fraud or mistake, should in terms renounce or give up any natural right, the eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being the gift of Almighty God, it is not in the power of man to alienate this gift and voluntarily become a slave. Samuel Adams, our great president.*

“Men are endowed by their Creator with certain unalienable rights, -‘life, liberty, and the pursuit of happiness;’ and to ‘secure,’ **not grant or create, these rights**, governments are instituted. That **property which a man has honestly acquired he retains full control of**, subject to these limitations: first, that he shall **not use it to his neighbor’s injury**, and that does not mean that he must use it for his neighbor’s benefit: second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, **the public may take it upon payment of due compensation.**” Budd v. People of State of New York, 143 U.S. 517 (1892).

There should be **no arbitrary deprivation of life or liberty, or arbitrary spoliation of property**. (Police power, Due Process) Barber v. Connolly, 113 U.S. 27, 31; Yick Yo v. Hopkins, 118 U.S. 356.

But whenever the **operation and effect of any general regulation is to extinguish or destroy** that which **by law of the land is the property** of any person, so far as it has that effect, it is unconstitutional and void. Thus, a **law is considered as being a deprivation of property** within the meaning of this constitutional guaranty **if it deprives an owner of one of its essential attributes, destroys its value, restricts or interrupts its common, necessary, or profitable use, hampers the owner in the application of it to the purposes of trade, or imposes conditions upon the right to hold or use it and thereby seriously impairs its value.** (Statute) 167 Am. Jur. 2d, Constitutional Law, Section 369.

**Justice Brandeis** eloquently **affirmed his condemnation of abuses practiced by Government officials**, who were defendants, acting as Government officials. In the case of Olmstead vs. U.S. 277 US 438, 48 S.Ct. 564, 575; 72 L ED 944 (1928) **he declared:**

"Decency, security, and liberty alike demand that Government officials shall be subjected to the same rules of conduct that are commands to the Citizen. In a Government of laws, existence of the Government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher.

For good or for ill, it teaches the whole people by its example. **Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law;** it invites every man to become a law unto himself. It invites anarchy. To declare that, in the administration of the law, the end justifies the means would bring a terrible retribution. Against that pernicious doctrine, this Court should resolutely set its face."

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### The Duty of the Licensor / DMV Commissioner

The information created and surrounding the **stricti juris** doctrine regarding a particular license which may, or may not, be represented by and revealed within the contents and control of a license agreement -- **"but must be revealed upon demand, and failure to do so is concealment, a withholding of material facts** (the enducing, contractual consideration) known by those who have a duty and are bound to reveal." Dolcater v. Manufacturers & Traders Trust Co., D.C.N.Y., 2F.Supp. 637, 641.

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**Is an automobile always a vehicle (or motor vehicle)?**

**ARGUMENT:**

**Federal;**

"**Motor vehicle**" means every description of carriage or other contrivance propelled or drawn by mechanical power and **used for commercial purposes** on the highways in transportation of passengers, passengers and property, or property and cargo; ... **"Used for commercial purposes"** means the carriage of persons or property for **any fare, fee, rate, charge or other consideration**, or directly or indirectly in connection with any business, or other **undertaking intended for profit[.]**" 18 U.S.C. 31.

"A **carriage is** peculiarly a family or **household** article. It contributes in a large degree to the health, convenience, comfort, and welfare of the householder or of the family." Arthur v Morgan, 113 U.S. 495, 500, 5 S.Ct. 241, 243 S.D. NY 1884).

"The **Supreme Court**, in **Arthur v. Morgan**, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825, held that **carriages were properly classified as household effects**, and we see no reason that automobiles should not be similarly disposed of." **Hillhouse v United States**, 152 F. 163, 164 (2nd Cir. 1907).

"A soldier's **personal automobile** is part of his ``**household goods**[.]'' **U.S. v Bomar**, C.A.5(Tex.), 8 F.3d 226, 235" 19A Words and Phrases - Permanent Edition (West) pocket part 94.  
"[I]t is a jury question whether ... an automobile ... is a motor vehicle[.]" **United States v Johnson**, 718 F.2d 1317, 1324 (5th Cir. 1983).

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## State:

### Use determines classification

"In determining whether or not a motor boat was included in the expression household effects, Matter of Winburn's Will, supra [139 Misc. 5, 247 N.Y.S. 592], stated the test to be ``whether the articles are or are not used in or by the household, or for the benefit or comfort of the family''." **In re Bloomingdale's Estate**, 142 N.Y.S.2d 781, 785 (1955).

"The use to which an item is put, rather than its physical characteristics, determine whether it should be classified as ``consumer goods'' under UCC 9-109(1) or ``equipment'' under UCC 9-109(2)." **Grimes v Massey Ferguson, Inc.**, 23 UCC Rep Serv 655; 355 So.2d 338 (Ala., 1978).

"Under UCC 9-109 there is a real distinction between goods purchased for personal use and those purchased for business use. The two are mutually exclusive and the **principal use to which the property is put should be considered as determinative.**" **James Talcott, Inc. v Gee**, 5 UCC Rep Serv 1028; 266 Cal.App.2d 384, 72 Cal.Rptr. 168 (1968).

"The **classification of goods** in UCC 9-109 **are mutually exclusive.**" **McFadden v Mercantile-Safe Deposit & Trust Co.**, 8 UCC Rep Serv 766; 260 Md 601, 273 A.2d 198 (1971).

"The classification of ``goods'' under [UCC] 9-109 **is a question of fact.**" **Morgan County Feeders, Inc. v McCormick**, 18 UCC Rep Serv 2d 632; 836 P.2d 1051 (Colo. App., 1992).

"The definition of ``goods'' **includes an automobile.**" **Henson v Government Employees Finance & Industrial Loan Corp.**, 15 UCC Rep Serv 1137; 257 Ark 273, 516 S.W.2d 1 (1974).

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### Household goods

"The term ``**household goods**'' ... **includes everything** about the house that is usually held and enjoyed therewith and that tends to the comfort and accommodation of the household. **Lawwill v. Lawwill**, 515 P.2d 900, 903, 21 Ariz.App. 75" 19A Words and Phrases - Permanent Edition (West) pocket part 94. Cites Mitchell's Will below.

"Bequest ... of such ``household goods and effects'' ... included not only household furniture, but everything else in the house that is usually held and used by the occupants of a house to lead to the comfort and accommodation of the household. State ex rel. Mueller v Probate Court of Ramsey County, 32 N.W.2d 863, 867, 226 Minn. 346." 19A Words and Phrases - Permanent Edition (West) 514.

"All household goods owned by the user thereof and used solely for noncommercial purposes shall be exempt from taxation, and such person entitled to such exemption shall not be required to take any affirmative action to receive the benefit from such exemption." Ariz. Const. Art. 9, 2.

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### Automobiles classified as vehicles

"``[H]ousehold goods''...did not [include] an automobile...used by the testator, who was a practicing physician, in going from his residence to his office and vice versa, and in making visits to his patients." Mathis v Causey, et al., 159 S.E. 240 (Ga. 1931).

"Debtors could not avoid lien on motor vehicle, as motor vehicles are not ``household goods'' within the meaning of Bankruptcy Code lien avoidance provision. In re Martinez, Bkrtcy.N.M., 22 B.R. 7, 8." 19A Words and Phrases - Permanent Edition (West) pocket part 94.

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### Automobiles NOT classified as vehicles

"Automobile purchased for the purpose of transporting buyer to and from his place of employment was ``consumer goods'' as defined in UCC 9-109." Mallicoat v Volunteer Finance & Loan Corp., 3 UCC Rep Serv 1035; 415 S.W.2d 347 (Tenn. App., 1966).

"The provisions of UCC 2-316 of the Maryland UCC do not apply to sales of consumer goods (a term which includes automobiles, whether new or used, that are bought primarily for personal, family, or household use)." Maryland Independent Automobile Dealers Assoc., Inc. v Administrator, Motor Vehicle Admin., 25 UCC Rep Serv 699; 394 A.2d 820, 41 Md App 7 (1978).

"An automobile was part of testatrix' ``household goods'' within codicil. In re Mitchell's Will, 38 N.Y.S.2d 673, 674, 675 [1942]." 19A Words and Phrases - Permanent Edition (West) 512. Cites Arthur v Morgan, supra.

"[T]he expression ``personal effects'' clearly includes an automobile[.]" In re Burnside's Will, 59 N.Y.S.2d 829, 831 (1945). Cites Hillhouse, Arthur, and Mitchell's Will, supra.

"[A] yacht and six automobiles were ``personal belongings'' and ``household effects[.]''" In re Bloomingdale's Estate, 142 N.Y.S.2d 781, 782 (1955).

## CONCLUSION

**Is an automobile always a vehicle (or motor vehicle)?    NO.**

This is a question of fact that **turns on the use to which the automobile in question is put** (i.e., either personal or commercial). While the presumption of an automobile being a vehicle (or motor vehicle) is created by the owner of said automobile registering same with the state as a vehicle, **this presumption may be overcome by an affirmative defense to the allegation of the automobile being a vehicle, baring any evidence to the contrary indicating commercial use.**

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Use defines Classification

Private Automobile is NOT required to be registered by Law  
The **California Motor Vehicle Code, section 260**: Private cars/vans etc. not in commerce / for profit, are immune to registration fees:

- (a) A “**commercial vehicle**” is a vehicle of a type **REQUIRED** to be **REGISTERED** under this code”.
- (b) “Passenger vehicles which are **not used** for the transportation of persons **for hire**, compensation or profit, and housecars, **are not commercial vehicles**”.
- (c) “a vanpool vehicle **is not a commercial vehicle.**”  
and;

“A vehicle not used for commercial activity is a “**consumer goods**”, ...it is **NOT** a type of vehicle **required to be registered** and “**use tax**” paid of which the tab is evidence of receipt of the tax.” **Bank of Boston vs Jones, 4 UCC Rep. Serv. 1021, 236 A2d 484, UCC PP 9-109.14.** And;

“It is held that a tax upon common carriers by motor vehicles is based upon a reasonable classification, and does not involve any unconstitutional discrimination, although **it does not apply to private vehicles**, or those used by the owner in his own business, and not for hire.” **Desser v. Wichita, (1915) 96 Kan. 820; Iowa Motor Vehicle Asso. v. Railroad Comrs., 75 A.L.R. 22.**

“Thus self-driven vehicles are **classified according to the use** to which they are put **rather than according to the means by which they are propelled.**” **Ex Parte Hoffert, 148 NW 20.** And;

“In view of this rule a statutory provision that the supervising officials “**may**” exempt such persons when the transportation is not on a commercial basis means that they “**must**” exempt them.” **State v. Johnson, 243 P. 1073; 60 C.J.S. section 94 page 581.**

See **New Jersey Motor Vehicle Code Chapter 3, Section 39:3-1. Certain vehicles excepted from chapter** which reads: “**Automobile, fire engines and such self propelling vehicles as are used neither for the conveyance of persons for hire, pleasure or business, nor for the transportation of freights, such as steam road rollers and traction engines are excepted from the provisions of this chapter.**”

See **Annual Report of the Attorney General of the State of New York issued on July 21, 1909, ALBANY NEW YORK, pages 322-323** which reads: “**There is NO requirement that the owner of a motor vehicle shall procure a license to run the same, nor is there any requirement that any other person shall do so, unless he proposes to become a chauffeur or a person conducting an automobile as an employee for hire or wages.** Yours very truly, EDWARD R. O’MALLEY Attorney General.

See **Laws of New York 1901, Chapter 53, page 1316, Section 169a.**

See also **Laws of Wyoming 2002, Motor Vehicle Code, page 142, Section 31-5-110. See RCW 5.24.010!**

**“Privately owned Buses not engaged in for hire Transportation are outside the jurisdiction of Division of Motor Vehicles enforcement of N.C. G.S. Article 17, Chapter 20\*\*\*\*” 58 N.C.A.G. 1 (It follows that those Citizens not engaged in extraordinary use of the highway for profit or gain are likewise outside the jurisdiction of the Division of Motor Vehicles.)**

**“Since a sale of personal property is not required to be evidenced by any written instrument in order to be valid, it has been held in North Carolina that there may be a transfer of title to an automobile without complying with the registration statute which requires a transfer and delivery of a certificate of title.” N.C. Law Review Vol. 32 page 545, Carolina Discount Corp. v. Landis Motor Co., 190 N.C. 157.**

**“The following shall be exempt from the requirements of registration and the certificate of title: 1.) Any such vehicle driven or moved upon the highway in conformance with the provisions of this Article relating to manufacturers, dealers, or nonresidents.” 2.) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another. \*\*\*\*20-51(1)(2) (comment: not driven or moved upon the highway for transporting persons or property for profit.) (Case note to North Carolina G.S. 12-3 “Statutory Construction”)**

The California Constitution in Article I, Section 8 (and similar statements made in all other state constitutions), mandates that no one **"be compelled to be a witness against himself,"** is in agreement with the Supreme Court ruling in **Haynes v. U.S.**, 390 U.S. 85, 88 S.Ct. 722, wherein the ruling was that **to force anyone to register anything is communicative,** and such communicative evidence is **precluded by the 5th Amendment.**

**"No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring, licensing, vehicle registration, or forced insurances." Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22.**

**The fundamental Right to travel is NOT a Privilege, it's a gift granted by your Maker, and restated by our founding fathers as Unalienable and cannot be taken by any Man / Government made Law or color of law known as a private Code (secret) or a Statute,**

**To Wit:**

"As general rule men have natural right to do anything which their inclinations may suggest, if it be not evil in itself, and **in no way impairs the rights of others.**" **In Re Newman** (1858), 9 C. 502.

"**Traveling** is passing from place to place--act of **performing journey;** and **traveler is person who travels.**" **In Re Archy** (1858), 9 C. 47.

"Right of transit through each state, with every species of property known to constitution of United States, and recognized by that paramount law, is secured by that instrument to each citizen, and does not depend upon uncertain and changeable ground of mere comity." **In Re Archy** (1858), 9 C. 47.

"Traffic infractions are not a crime." **People v. Battle**, 50 Cal. App. 3, step 1, Super, 123 Cal. Rptr. 636, 639.

"First, it is **well established law** that the **highways** of the state **are public property**, and **their primary and preferred use is for private purposes**, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit." **Stephenson vs. Rinford**, 287 US 251; **Pachard vs Banton**, 264 US 140, and cases cited; **Frost and F. Trucking Co. vs. Railroad Commission**, 271 US 592; **Railroad commission vs. Inter-City Forwarding Co.**, 57 SW.2d 290; **Parlett Cooperative vs. Tidewater Lines**, 164 A. 313.

Freedom to travel is, indeed, an important aspect of the citizen's "liberty". We are first concerned with the extent, if any, to which Congress has authorized its curtailment. (Road) **Kent v. Dulles**, 357 U.S. 116, 127.

The right to travel is a part of the "liberty" of which the citizen cannot be deprived without due process of law under the Fifth Amendment. So much is conceded by the solicitor general. In Anglo Saxon law that right was emerging at least as early as Magna Carta. **Kent v. Dulles**, 357 U.S. 116, 125.

"The use of the highway for the purpose of travel and transportation



is not a mere privilege but a common and fundamental right of which the public and individuals cannot rightfully be deprived." Chicago Motor Coach v. Chicago, 337 Ill. 200, 169 NE 22, 66 ALR 834. Ligare v. Chicago, 139 Ill. 46, 28 NE 934. Boone v. Clark, 214 SW 607; 25 AM JUR (1st) Highways, Sec. 163.

"The right of the citizen to travel upon the public highways and to transport his property thereon, either by a carriage or automobile, is not a mere privilege which a City may prohibit or permit at will, but a common right which he has under the right to Life, Liberty and the Pursuit of Happiness." Thompson v. Smith 154 SE 579.

"Even the legislature has no power to deny to a citizen the right to travel upon the highway and transport his property in the ordinary course of his business or pleasure, though this right may be regulated in accordance with public interest and convenience. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22, 206.

"... It is now universally recognized that the state does possess such power [to impose such burdens and limitations upon private carriers when using the public highways for the transaction of their business] with respect to common carriers using the public highways for the transaction of their business in the transportation of persons or property for hire. That rule is stated as follows by the **supreme court of the United States**: 'A citizen may have, under the fourteenth amendment, the right to travel and transport his property upon them (the public highways) by **auto vehicle**, but **he has no right to make the highways his place of business by using them as a common carrier for hire**. Such use is a privilege which may be granted or withheld by the state in its discretion, without violating either the due process clause or the equal protection clause.' (Buck v. Kuykendall, 267 U. S. 307 [38 A. L. R. 286, 69 L. Ed. 623, 45 Sup. Ct. Rep. 324].)

"The right of a citizen to travel upon the highway and transport his property thereon in the ordinary course of life and business **differs radically an obviously from that of one who makes the highway his place of business** and uses it for private gain, in the running of a stage coach or omnibus. The former is the usual and ordinary right of a citizen, a right common to all; while the latter is special, unusual and extraordinary. As to the former, the extent of legislative power is that of regulation; but as to the latter its power is broader; the right may be wholly denied, or it may be permitted to some and denied to others, because of its extraordinary nature. This distinction, elementary and fundamental in character, is recognized by all the authorities."

In **Thompson v. Smith**, Chief of Police. Supreme Court of Appeals of Virginia. 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604. Sept. 12, 1930 **it states:**

**Constitutional law:** Citizen's right to travel upon public highways and transport his property thereon in ordinary course of life and business is common right. The right of a citizen so to do is that which he has under his right to enjoy life and liberty, to acquire property, and to pursue happiness and safety.

**Automobiles, Highways:** Citizen's right to travel upon public highways includes right to use usual conveyances of time, including horse-drawn carriage, or automobile, for ordinary purposes of life and business.

**Injunction:** Injunction lies against enforcement of **void statute or ordinance**, where **legal remedy is not as complete or adequate as injunction**, or where **threatened or attempted enforcement will do irreparable injury to person in interfering with exercise of common fundamental personal right**. By "irreparable injury" is meant an injury of such a nature that fair and reasonable redress may not be had in a court of law and that to refuse the injunction would be a denial of justice.

**Constitutional Law § 101 - right to travel - 5.** The nature of the Federal Union and constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of the United States uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement. **6.** Although not explicitly mentioned in the Federal Constitution, the right freely to travel from one state to another is a basic right under the constitution.

**Constitutional Law § 101 - law chilling assertion of rights - 7.** If a law has no other purpose than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it is patently unconstitutional. **Shapiro v Thompson**, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322.

So with all of that in mind, cite/deliver the cases above and **you have given the agency, etc. knowledge!**

Under **USC Title 42 §1986**. Action for neglect to prevent ..., it states: **Every person** who, having **knowledge** that any wrongs conspired or to be done... and having power to prevent or aid in preventing ... Neglects or refuses so to do ... **shall be liable to the party injured...** and;

The means of "**knowledge**", especially where it consists of public record is deemed in law to be

**"knowledge of the facts"**. As the means of "knowledge" if it appears that the individual had notice or information of circumstances which would put him on inquiry, which, if followed, would lead to "knowledge", or that the facts were presumptively within his

knowledge, he will have deemed to have had actual knowledge of the facts and may be subsequently liable for any damage or injury. You, therefore, have been given "knowledge of the facts" as it pertains to this conspiracy to commit a fraud against me.

I state now that I will **NOT waive any fundamental Rights** as:

“waivers of **fundamental Rights** must be knowing, intentional, and voluntary acts, done with sufficient awareness of the relevant circumstances and likely consequences. **U.S. v. Brady**, 397 U.S. 742 at 748 (1970); **U.S.v. O’Dell**, 160 F.2d 304 (6<sup>th</sup> Cir. 1947)”.

And that the **agency committed fraud, deceit, coercion, willful intent to injure another, malicious acts, RICO activity and conspired by;**

Unconscionable “contract” - “*One which no sensible man not under delusion, or duress, or in distress would make, and such as no honest and fair man would accept.”;*

**Franklin Fire Ins. Co. v. Noll**, 115 Ind. App. 289, 58 N.E.2d 947, 949, 950. and;

"Party cannot be bound by contract that he has not made or authorized." **Alexander v. Bosworth** (1915), 26 C.A. 589, 599, 147 P.607.

**And therefore;**

“**Failure to reveal the material facts of a license or any agreement is immediate grounds for estoppel.” **Lo Bue v. Porazzo**, 48 Cal.App.2d 82, 119, p.2d 346, 348.**

The fraudulently “**presumed**” **quasi-contractus** that binds the Declarant with the CITY/STATE agency, is void for fraud ab initio, since the de facto CITY/STATE **cannot produce the material fact** (consideration inducement) or the jurisdictional clause (who is subject to said statute). (SEE: **Master / Servant [Employee] Relationship -- C.J.S.**) -- **“Personal, Private, Liberty”-**

Since the “consideration” is the “life blood” of any agreement or quasi-agreement, (contractus) “...**the absence of such from the record is a major manifestation of want of jurisdiction**, since without evidence of consideration there can be no presumption of even a quasi-contractus. Such is the importance of a “consideration.” **Reading R.R. Co. v. Johnson**, 7 W & S (Pa.) 317

**So without a Contract** (no recording of the M.C.O.) or consideration there is no DMV / government etc. jurisdiction as

the property does not "reside" in the colorable fictitious territory as evidenced in Supreme Court cite below:

In Wheeling Steel Corp v. Fox, 298 U.S. 193 (1936) it states: Property taxes can be on tangibles or intangibles. **In order to have a situs for taxation** (a basis for imposing the tax), tangible property (physical property) **must reside within the territorial jurisdiction of the taxing authority**, and intangibles...

Under USC Title 42 §1982. Property rights of citizens ..., further evidences the above position that the City or State cannot take land because they DO NOT have Jurisdiction. It states that federal or state governments / agencies **MUST have a monetary or proprietary interest** in your real private property in order to have jurisdiction over it (if your land has no government grant/funding or is not a subsidized government project, then agencies have neither). DEMAND any public servant/said agencies to provide the legal document that allows any federal or state agency to supercede and/or bypass Title 42 USC §1982 and/or §1441. Title 42 §1983. Civil action for deprivation of rights ..., further protects Declarant's private property.

The State cannot diminish rights of the people. Hurtado v. California, 110 U.S. 516.

"To say that one may not defend his own property is usurpation of power by legislature." O'Connell v. Judnich (1925), 71 C.A.386, 235 P. 664.

"A state MAY NOT impose a charge for the enjoyment of a right granted (sic) by the Federal Constitution." MURDOCK v PENNSYLVANIA, 319 US 105.

"... THE POWER TO TAX INVOLVES THE POWER TO DESTROY". McCULLOUGH v MARYLAND, 4 Wheat 316.

"All subjects over which the sovereign power of the state extends are objects of taxation, **but those over which it does not extend are exempt from taxation**. This proposition may almost be pronounced as self-evident. The sovereignty of the state extends to everything **which exists by its authority or its permission**." McCullough v Maryland, 17 U.S. [4 Wheat] 316 (1819).

U.S. adopted Common laws of England with the Constitution. Caldwell vs. Hill, 178 SE 383 (1934).

To be that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, **would not be the law of the land.** (Jury) Hoke v. Henderson, 15, N.C. 15 25 AM Dec 677.

"The phrase 'common law' found in this clause, is **used in contradistinction** to equity, and admiralty, and maritime jurisprudence." Parsons v. Bedford, et al, 3 Pet 433, 478-9.

"If the common law can try the cause, **and give full redress**, that alone **takes away** the admiralty jurisdiction." Ramsey v. Allegrie, supra, p. 411.

Inferior Courts - The term may denote any court subordinate to the chief tribunal in the particular judicial system; **but it is commonly used as the designation of a court** of special, limited, or statutory jurisdiction, whose record must show the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment. In re Heard's Guardianship, 174 Miss. 37, 163, So. 685.

The high Courts have further decreed, that Want of Jurisdiction makes **"...all acts of judges, magistrates, U.S. Marshals, sheriffs, local police, all void and not just voidable."** Nestor v. Hershey, 425 F2d 504.

Void Judgment - **"One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally.** Reynolds v. Volunteer State Life Ins. Co., Tex.Civ.App., 80 S.W.2d 1087, 1092.

Voidable Judgment - **"One apparently valid, but in truth wanting in some material respect."** City of Lufkin v. McVicker, Tex.Civ.App., 510 S.W. 2d 141, 144.

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**Property MUST be devoted / pledged to the public with your consent and being fully compensated for such**

"... In one of the so-called elevator cases, that of Munn v. Illinois, 94 U. S. 113, [24 L. Ed. 77], it is said: 'When, therefore, one devotes his property to a use in which the public have an interest, he in effect grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created.' **But so long as he uses his property for private use, and in the absence of devoting it to public use, the public has no interest therein which entitles it to a voice in its control.** Other case to the same effect are Budd v. New York, 143 U. S.

517, [36 L. Ed. 247, 12 Sup. Ct. Rep. 468]; Weems Steamboat Co. v. People's Co., 214 U. S. 345, [16 Ann. Cas. 1222, 53 L. Ed. 1024, 29 Sup. Ct. Rep. 661]; Monongahela Nav. Co. v. United States, 148 U. S. 336, [37 L. Ed. 463, 13 Sup. Ct. Rep. 622]; and Del Mar Water Co. v. Eshleman, 167 Cal. 666, [140 Pac. 591, 948]. Indeed, our attention is directed to no authority in this state or elsewhere holding otherwise." Associated etc. Co. v. Railroad Commission (1917) 176 Cal. 518, 526.

"... That subjecting petitioners' property to the use of the public as common carriers constitutes a taking of the same, admits of no controversy. 'Whenever a law deprives the owner of the beneficial use and free enjoyment of his property, or imposes restraints upon such use and enjoyment that materially affect its value, without legal process or compensation, it deprives him of his property within the meaning of the constitution. ... It is not necessary, in order to render the statute obnoxious to the restraints of the constitution, that it must in terms or effect authorize the actual physical taking of the property or the thing itself, so long as it affects its free use and enjoyment, or the power of disposition at the will of the owner.' (Forster v. Scott, 136 N. Y. 577, [18 L. R. A. 543, 32 N. E. 976]; Monongahela Nav. Co. v. United States, 148 U. S. 312, 336, [37 L. Ed. 463, 13 Sup. Ct. Rep. 622]. ... Mr. Lewis in his work on Eminent Domain, third edition, section 11, says: 'A law which authorizes the taking of private property without compensation, ... cannot be considered as due process of law in a free government.' (Chicago etc, R. R. Co. v. Chicago, 166 U. S. 226, [41 L. Ed. 979, 17 Sup. Ct. Rep. 581]." Associated etc. Co. v. Railroad Commission (1917) 176 Cal. 518, 528-530.

It is beyond the power of a State by legislation fiat to convert property used exclusively in the business of a private carrier, into a public utility, or to make the owner a public carrier, for that would be taking private property for public use without just compensation which no State can do consistently with the due process of law clause of the 14th Amendment. (See police power) Producers Transportation Co. v. RR Commission, 251 U.S. 228, 230; Wolf Co. v. Duke, 266 U.S. 570, 578.

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**The binding shackles of Government is the Constitution, to wit:**

The laws of nature are the laws of God, whose authority can be superseded by no power on earth. A legislature must not obstruct our obedience to him from whose punishments they cannot protect us. All human constitutions which contradict his cannot protect us. All human constitutions which contradict his (God's) laws, we are in conscience bound to disobey. 1772, Robin v. Hardaway, 1 Jefferson 109.

If the state were to be given the power to destroy rights through

taxation, then the framers of our constitutions wrote said documents in vain.

A **republic** is not an easy form of government to live under, and when the responsibility of citizenship is evaded, democracy decays and authoritarianism takes over. Earl Warren, "A Republic, If You Can Keep It", p 13.

It is a **fundamental principle** in our institutions, indispensable to the **preservation of public liberty**, that one of the **separate departments of government shall not usurp powers committed by the Constitution to another department.** Mugler v. Kansas, 123 U.S. 623, 662.

An unconstitutional law is not a law, it confers no rights, imposes no duties, and affords no protection. Norton vs. Shelby County, 118 US 425.

"Primacy of position in our state constitution is accorded the Declaration of Rights; thus emphasizing the importance of those basic and **inalienable rights of personal liberty and private property** which are thereby reserved and guaranteed to the people and **protected from arbitrary invasion** or impairment from any governmental quarter. The Declaration of Rights **constitutes a limitation upon the powers of every department of the state government.** State ex rel. Davis v. Stuart. 64 A.L.R. 1307, 97 Fla. 69, 120 So. 335.

"The rights of the individual are not derived from governmental agencies, either municipal, state, or federal, or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and are **merely reaffirmed in the Constitution**, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. The people's rights are not derived from the government, but **the government's authority comes from the people.** The Constitution but states again these *rights already existing*, and when legislative encroachment by the nation, state, or municipality invade these original and permanent rights, it is the **duty of the courts** to so declare, and to **afford the necessary relief.** City of Dallas, et al. v. Mitchell, 245 S. W. 944, 945-46 (1922).

A constitution is designated as a supreme enactment, a fundamental act of legislation by the people of the state. **A constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior authority.** Ellingham v. Dye, 178

Ind. 336; NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; Sage v. New York, 154 NY 61; 47 NE 1096.

"Owner has constitutional right to use and enjoyment of his property." Simpson v. Los Angeles (1935), 4 C.2d 60, 47 P.2d 474.

"We find it intolerable that one constitutional right should have to be surrendered in order to assert another". SIMMONS v US, supra.

"When rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda vs. Arizona, 384 US 436 p. 491.

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

History is clear that the first ten amendments to the Constitution were adopted to secure certain common law rights of the people, against invasion by the Federal Government." Bell v. Hood, 71 F.Supp., 813, 816 (1947) U.S.D.C. -- So. Dist. CA.

Economic necessity cannot justify a disregard of cardinal constitutional guarantee. Riley v. Certer, 165 Okal. 262; 25 P.2d 666; 79 ALR 1018.

When any court violates the clean and unambiguous language of the Constitution, a fraud is perpetrated and no one is bound to obey it. (See 16 Ma. Jur. 2d 177, 178) State v. Sutton, 63 Minn. 147, 65 NW 262, 30 L.R.A. 630 Am. 459.

"The 'liberty' guaranteed by the constitution must be interpreted in the light of the common law, the principles and history of which were familiar and known to the framers of the constitution. This liberty denotes the right of the individual to engage in any of the common occupations of life, to locomote, and generally enjoy those rights long recognized at common law as essential to the orderly pursuit of happiness by free men." Myer v. Nebraska, 262 U .S. 390, 399; United States v. Kim Ark, 169 U.S. 649, 654.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." Norton vs. Shelby County, 118 US 425 p. 442.



"The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.

"No one is bound to obey an unconstitutional law and no courts are bound to enforce it." 16 Am Jur 2nd, Sec 177 late 2d, Sec 256.

All laws which are repugnant to the Constitution are null and void. Chief Justice Marshall, Marbury vs Madison, 5, U.S. (Cranch) 137, 174, 176 (1803).

It cannot be assumed that the framers of the constitution and the people who adopted it, did not intend that which is the plain import of the language used. When the language of the constitution is positive and free of all ambiguity, all courts are not at liberty, by a resort to the refinements of legal learning, to restrict its obvious meaning to avoid the hardships of particular cases. We must accept the constitution as it reads when its language is unambiguous, for it is the mandate of the sovereign power. Cook vs Iverson, 122, N.M. 251.

"**Right of protecting property**, declared inalienable by constitution, is **not mere right to protect it by individual force, but right to protect it by law of land**, and force of body politic." Billings v. Hall (1857), 7 C. 1.

"Constitution of this state declares, **among inalienable rights** of each citizen, that of **acquiring, possessing and protecting property**. This is one of primary objects of government, is guaranteed by constitution, and cannot be impaired by legislation." Billings v. Hall (1857), 7 C. 1.

State Constitution - "The state constitution is the mandate of a sovereign people to its servants and representatives. Not one of them has a right to ignore or disregard these mandates..." John F. Jelko Co. vs. Emery, 193 Wisc. 311; 214 N.W. 369, 53 A.L.R., 463; Lemon vs. Langlin, 45 Wash. 2d 82, 273 P.2d 464.

## **The People are the Sovereign!**

**People are supreme, not the state.** Waring vs. the Mayor of Savannah, 60 Georgia at 93.

The people of the State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (Added Stats. 1953, c. 1588, p.3270, sec. 1.)

The people are the recognized source of all authority, state or municipal, and to this authority it must come at last, whether immediately or by circuitous route. Barnes v. District of Columbia, 91 U.S. 540, 545 [23: 440, 441]. p 234.

"the government is but an agency to the state," -- the state being the sovereign people. State v. Chase, 175 Minn, 259, 220 N.W. 951, 953.

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.

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

"The Doctrine of Sovereign Immunity is one of the Common-Law immunities and defenses that are available to the Sovereign..." Citizen of Minnesota. Will v. Michigan Dept. of State Police, (1988) 491 U.S. 58, 105 L.Ed. 2d. 45, 109 S.Ct. 2304.

"The people of the state, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the king by his own prerogative." Lansing v. Smith, (1829) 4 Wendell 9, (NY).

**Private Corporate State / Municipality Policy Enforcement  
Officer a.k.a Police Officer Duties and limitations of power**

"Nothing is gained in the argument by calling it 'police power.'" **Henderson v. City of New York**, 92 U.S. 259, 2771 (1875); **Nebbia v. New York**, 291 U.S. 501 (1934).

"An officer who acts in violation of the Constitution ceases to represent the government." **Brookfield Const. Co. v. Stewart**, 284 F.Supp. 94.

**Failure to obey the command of a police officer** constitutes a traditional form of breach of the peace. Obviously, however, **one cannot be punished for failing to obey the command of an officer if that command is itself violative of the constitution.** **Wright v. Georgia**, 373 U.S. 284, 291-2.

That an officer or employee of a state or one of its subdivisions is deemed to be acting under "color of law" as to those deprivations of right committed in the fulfillment of the tasks and obligations assigned to him. **Monroe v. Page**, 1961, 365 U.S. 167. (Civil law)

Actions by state officers and employees, even if unauthorized or in excess of authority, can be actions under "color of law." **Stringer v. Dilger**, 1963, Ca. 10 Colo., 313 F.2d 536. (Civil law)

"The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." **Bacahanan vs. Wanley**, 245 US 60; **Panhandle Eastern Pipeline Co. vs. State Highway Commission**, 294 US 613.

"With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document **cannot be overthrown or impaired by any state police authority.**" **Donnolly vs. Union Sewer Pipe Co.**, 184 US 540; **Lafarier vs. Grand Trunk R.R. Co.**, 24 A. 848; **O'Neil vs. Providence Amusement Co.**, 108 A. 887.

When **officers detained** appellant for the **purpose of requiring him to identify himself**, they performed a **seizure of his person** subject to the requirements of the **Fourth Amendment**... The Fourth Amendment, of course, applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest... **Whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person**, and the Fourth Amendment requires that the seizure be 'reasonable'.

\* "But even **assuming** that **purpose** (prevention of crime) is served to some degree by stopping and demanding identification from an individual without any specific basis for believing he is involved in **criminal activity**, the guarantees of the Fourth Amendment do not allow it."

\* "The application of...(a code)...to detain appellant and require him to identify himself violated the Fourth Amendment because the officers lacked any reasonable suspicion to believe appellant was engaged, or had engaged, in **criminal conduct**. Accordingly, appellant **may not be punished for refusing to identify himself**, and the conviction is reversed." (Probable cause) Brown v. Texas, 443 U.S. 47, (1979)

\* "Traffic infractions are not a crime." People v. Battle  
"To this end, the Fourth Amendment requires that a **seizure must be based on specific objective facts indicating that society's legitimate interests require the seizure of the particular individual**, or that the seizure must be carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers.

"The officers of the law, in the execution of process, are required to know the requirements of the law, and if they mistake them, whether through ignorance or design, and anyone is harmed by their error, they must respond in damages." Roger v. Marshall (United States use of Rogers v. Conklin), 1 Wall. (US) 644, 17 Led 714.

"It is a general rule that an officer, executive, administrative, quasi-judicial, ministerial, or otherwise, who acts outside the scope of his jurisdiction, and without authorization of law may thereby render himself amenable to personal liability in a civil suit." Cooper v. O`Conner, 69 App DC 100, 99 F (2d)

"Public officials are not immune from suit when they transcend their lawful authority by invading constitutional rights. "AFLCIO v. Woodard, 406 F 2d 137 t.

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## **Government / Public Servants / Officers / Judges Not Immune from suit!**

"Immunity fosters neglect and breeds irresponsibility while liability promotes care and caution, which caution and care is owed by the government to its people." (Civil Rights) Rabon vs Rowen Memorial Hospital, Inc. 269 N.S. 1, 13, 152 SE 1 d 485, 493.

**Government Immunity** - "In Land v. Dollar, 338 US 731 (1947), the court noted, "that when the government entered into a commercial field of activity, it left immunity behind." Brady v. Roosevelt, 317 US 575 (1943); FHA v. Burr, 309 US 242 (1940); Kiefer v. RFC, 306 US 381 (1939).

The high Courts, through their citations of authority, have frequently declared, that "...where any state proceeds against a private individual in a judicial forum it is well settled that the state, county, municipality, etc. waives any immunity to counters, cross claims and complaints, by direct or collateral means regarding the matters involved." Luckenback v. The Thekla, 295 F 1020, 226 Us 328; Lyders v. Lund, 32 F2d 308;

"When enforcing mere statutes, judges of all courts do not act judicially (and thus are not protected by "qualified" or "limited immunity," - SEE: Owen v. City, 445 U.S. 662; Bothke v. Terry, 713 F2d 1404) - - "but merely act as an extension as an agent for the involved agency -- but only in a "ministerial" and not a "discretionary capacity..." Thompson v. Smith, 154 S.E. 579, 583; Keller v. P.E., 261 US 428; F.R.C. v. G.E., 281, U.S. 464. Immunity for judges does not extend to acts which are clearly outside of their jurisdiction. Bauers v. Heisel, C.A. N.J. 1966, 361 F.2d 581, Cert. Den. 87 S.Ct. 1367, 386 U.S. 1021, 18 L.Ed. 2d 457 (see also Muller v. Wachtel, D.C.N.Y. 1972, 345 F.Supp. 160; Rhodes v. Houston, D.C. Nebr. 1962, 202 F.Supp. 624 affirmed 309 F.2d 959, Cert. den 83 St. 724, 372 U.S. 909, 9 L.Ed. 719, Cert. Den 83 S.Ct. 1282, 383 U.S. 971, 16 L.Ed. 2nd 311, Motion denied 285 F.Supp. 546).

"Judges not only can be sued over their official acts, but could be held liable for injunctive and declaratory relief and attorney's fees." Lezama v. Justice Court, A025829.

"The immunity of judges for acts within their judicial role is beyond cavil." Pierson v. Ray, 386 U.S. 547 (1957).

"There is no common law judicial immunity." Pulliam v. Allen, 104S.Ct.

1970; cited in Lezama v. Justice Court, A025829.

"Judges, members of city council, and police officers as well as other public officials, may utilize good faith defense of action for damages under 42-1983, but **no public official has absolute immunity from suit** under the 1871 civil rights statute." (Samuel vs University of Pittsburg, 375 F.Supp. 1119, 'see also, White vs Fleming 374 Supp. 267.)

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**TAKE DUE NOTICE ALL GOVERNMENT OFFICIALS, SERVANTS, JUDGES,  
LAYERS, CLERKS, EMPLOYEES:**

"Ignorance of the law does not excuse misconduct in anyone, least of all in a sworn officer of the law." In re McCowan (1917), 177 C. 93, 170 P. 1100.

"All are presumed to know the law." San Francisco Gas Co. v. Brickwedel (1882), 62 C. 641; Dore v. Southern Pacific Co. (1912), 163 C. 182, 124 P. 817; People v. Flanagan (1924), 65 C.A. 268, 223 P. 1014; Lincoln v. Superior Court (1928), 95 C.A. 35, 271 P. 1107; San Francisco Realty Co. v. Linnard (1929), 98 C.A. 33, 276 P. 368.

"It is one of the fundamental maxims of the common law that ignorance of the law excuses no one." Daniels v. Dean (1905), 2 C.A. 421, 84 P. 332.

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**Jurisdiction challenged to all, at any and all times**

"Judge acted in the face of clearly valid statutes or case law expressly depriving him of (personal) jurisdiction would be liable." Dykes v. Hosemann, 743 F.2d 1488 (1984).

"In such case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for damages resulting from his unauthorized acts."

"Where there is no jurisdiction there is no judge; the proceeding is as nothing. Such has been the law from the days of the Marshalsea, 10 Coke 68; also Bradley v. Fisher, 13 Wall 335,351." Manning v. Ketcham, 58 F.2d 948.

"A distinction must be here observed between excess of jurisdiction and the clear absence of all jurisdiction over the subject-matter any authority exercised is a usurped authority and for the exercise of

such authority, when the **want of jurisdiction is known** to the judge, **no excuse** is permissible." Bradley v. Fisher, 13 Wall 335, 351, 352.

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### AT LAST

"But, in fact and in law, such **statutes** are intended **to be applied** to those who are **here as "residents" in this State** under the Interstate Commerce Clause of the Federal Constitution and the so-called Fourteenth Amendment." United States v United Mine Workers of America, (1947) 67 S.Ct. 677, 686, 330 U.S. 258.

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### Notice to all whom these presents may come:

"If I am here at all I am so as a man; I am NOT here as a resident of any State (Nation), nor am I of or "in this state", nor am I a [statutory] "citizen of the United States" (in Congress assembled) as ALL are fictions/creations of government and therefore and as such no statutes apply to Me as evidenced in above cases. I am a Creature of Nature (the Creator) and therefore I am a transient foreigner by Nature while traveling through Life I am here as a *in itinere*, as a neutral, for a short time, on my way to the greater beyond, a steward of my father's land and wishes. My documents of "*in itinere*" standing are recorded for all to see." See: Dred Scott v. Sanford, 60 US (19 How.) 393, 595 (1857) Justice Curtis, S.Ct.

### Notice of Full Faith and Credit

(I, Me, Myself am a "state", with standing, standing in "original jurisdiction" know as the common law, Gods Law, a neutral traveling *in itinere*, demanding all of my rights under God's Natural Law, recorded in part in the Bible, which law is recognized in US Public Law 97-280 as "the word of God and all men are admonished to learn and apply it" so I demand anyone and everyone to notice God's Laws, which are My Makers Laws and therefore My Laws!)

- Article 1 of the Bill of Rights - guarantees freedom of religion-

Constitution for the United States of America ARTICLE IV, sect. 1, Full faith and credit among states. (Self-executing constitutional provisions) Section 1. Full faith and Credit shall be given in each state to the public Acts, Records, and judicial Proceedings of every other state.

And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

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Note: Emphasis added to cites, mine!