Supreme court cases from digging around

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

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

U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977)
Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately.

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

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

US v Will, 449 US 200,216, 101 S Ct, 471, 66 LEd2nd 392, 406 (1980) Cohens V Virginia, 19 US (6 Wheat) 264, 404, 5LEd 257 (1821)
"When a judge acts where he or she does not have

jurisdiction to act, the judge is engaged in an act or acts of treason."

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

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

"The state citizen is immune from any and all government attacks and procedure, absent contract."
see, Dred Scott vs. Sanford, 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, "…every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent."
CRUDEN vs. NEALE, 2 N.C. 338 2 S.E. 70

FRAUD BY GOVERNMENT

McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v. Holzer, 816 F.2d. 304, 307: "Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material

information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud.

BURDEN OF PROOF

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

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

Clearfield Doctrine
"Governments descend to the Level of a mere private corporation,
and take on the characteristics of a mere private citizen...where
private corporate commercial paper [Federal Reserve Notes] and
securities [checks] is concerned. ... For purposes of suit,
such corporations and individuals are regarded as entities
entirely separate from government." -

Clearfield Trust Co. v. United States 318 U.S. 363-371 (1942)

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

TREZEVANT CASE DAMAGE AWARD STANDARD

"Evidence that motorist cited for traffic violation was incarcerated for 23 minutes during booking process, even though he had never been arrested and at all times had sufficient cash on hand to post bond pending court disposition of citation, was sufficient to support finding that municipality employing officer who cited motorist and county board of criminal justice, which operated facility in which motorist was incarcerated, had unconstitutionally deprived motorist of his right to liberty. 42 U.S.C.A. Sec. 1983." Trezevant v. City of Tampa (1984) 741 F.2d 336, hn. 1

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

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

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

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

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

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

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

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

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

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

Brady v. U.S., 397 U.S. 742, 748,(1970) "Waivers of Constitutional Rights, not only must they be voluntary,

they must be knowingly intelligent acts done with sufficient awareness."

Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958). "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents."

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

HAGAR v. RECLAMATION DIST. NO. 108, 111 U.S. 701 1884). "Acts of Congress making the notes (paper) of the United States a legal tender do not apply to EXACTIONs (taxes) made under state law"

NO IMMUNITY

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

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

---

[a] "Party in interest may become liable for fraud by mere silent acquiescence and partaking of benefits of

fraud."
Bransom v. Standard Hardware, Inc., 874 S.W.2d 919, 1994

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

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

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

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

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

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

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

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

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

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

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

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

State citizenship

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

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

"...he was not a citizen of the United States, he was a citizen and voter of the State,..." "One may be a citizen of a State an yet not a citizen of the United States".
McDonel v. The State, 90 Ind. 320 (1883)

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

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

Before we place the stigma of a criminal conviction upon any such citizen the legislative mandate must be clear and unambiguous. Accordingly that which Chief Justice Marshall has called 'the tenderness of the law

for the rights of individuals' [FN1] entitles each person, regardless of economic or social status, to an unequivocal warning from the legislature as to whether he is within the class of persons subject to vicarious liability. Congress cannot be deemed to have intended to punish anyone who is not 'plainly and unmistakably' within the confines of the statute. United States v. Lacher, 134 U.S. 624, 628, 10

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

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

... It is scarcely necessary to say that the power given to Congress to regulate interstate commerce does not carry with it any power to destroy or impair those guarantees. This court has already spoken fully on that general subject in Counselman v. Hitchock, 142 U. S. 547 [35: 1110], 3 Inters. Com. Rep. 816.... Suffice it hi the present case to say that as the Interstate Commerce Commission, by petition in a circuit court of the United States seeks, upon grounds distinctly set

forth, an order to compel appellees to answer particular questions and to produce certain books, papers, etc., in their possession, it was open to each of them to contend before that court that he was protected by the Constitution from making answer to the questions propounded to him; or that he was not legally bound to produce the books, papers, etc., ordered to be produced; or that neither the questions propounded nor the books, papers, etc., called for relate to the particular matter under investigation, nor to any matter which the Commission is entitled under the Constitution or laws to investigate. These issues being determined in their favor by the court, the petition of the Commission could have been dismissed upon its merits. Interstate Commerce Comm'n v. Brimson (1894), 154 U.S. 447, 38 L.Ed 1047, 1058,14 S.Ct. 1125.

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

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

Alexander v.Bothsworth, 1915. "Party cannot be bound by contract that he has not made or authorized. Free

consent is an indispensable element in making valid contracts."

Hale v. Henkel 201 U.S. 43 at 89 (1906)

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

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

"The "individual" may stand upon "his Constitutional Rights" as a CITIZEN. He is entitled to carry on his "private" business in his own way. "His power to contract is unlimited." He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no duty to the State, since he receives nothing there from, beyond the protection of his life and property. "His rights" are such as "existed" by the Law of the Land (Common Law) "long antecedent" to the organization of the State", and can only be taken from him by "due process of law", and "in accordance with the Constitution." "He owes nothing" to the public so long as he does not trespass upon their rights."

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

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

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

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

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

Basso v. UPL, 495 F. 2d 906

Brook v. Yawkey, 200 F. 2d 633

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

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

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

Hagans v. Lavine, 415 U.S. 528

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

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

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

Maine v. Thiboutot, 448 U.S. 1

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

"The term 'District Courts of the United States' as used in the rules without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under Article 3 of the Constitution. Courts of the Territories are Legislative Courts, properly speaking, and are not district courts of the United States. We have often held that vesting a territorial court with jurisdiction similar to that vested in the district courts of the United States (98 U.S. 145) does not make it a 'District Court of the United States'.

"Not only did the promulgating order use the term District Courts of the United States in its historic and proper sense, but the omission of provision for the application of the rules the territorial court and

other courts mentioned in the authorizing act clearly shows the limitation that was intended."

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

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

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

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

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

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

"The constitution was ordained ^nd established by the people of the United States for themselves, for their own government, and not for the government of the individual states. Each state established a constitution for itself, and in that constitution, provided such limitations and restrictions on the powers of its particular government, as its judgment dictated. The people of the United States framed such a government for the United States as they supposed best adapted to their situation and best calculated to promote their interests. The powers they conferred on this government were to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally, and, we think, necessarily, applicable to the government created by the instrument. They are limitations of power granted in the instrument itself; not of distinct governments, framed by different persons and for different purposes. If these propositions be correct, the fifth amendment must be understood as restraining the power of the general government, not as applicable to the states."

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another. seems to be intolerable on any country where freedom prevails, as being the essence of slavery itself. See: Yick Wo v. Hopkins ,118 U.S. 356 (1886).

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

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

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

"As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intent to convey; the enlightened patriots who framed our constitution and the people who adopted it must be understood to have employed the words in their natural sense, and to have intended what they have said." See: Gibbons v. Ogden, 27 U.S. 1

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

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

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

The theory of the American political system is that the ultimate sovereignty is in the people, from whom all legitimate authority springs, and the people collectively, acting through the medium of constitutions, create such governmental agencies, endow them with such powers, and subject them to such limitations as in their wisdom will best promote the common good. See: First Trust Co. v. Smith, 134 Neb.; 277 SW 762.

What is a constitution? It is the form of government, delineated by the mighty hand of the people, in which

certain first principles of fundamental laws are established." See: Vanhorne's Lessee v. Dorrance , 2 U.S. 304(1795).

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

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

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

But it cannot be assumed that the framers of the Constitution and the people who adopted it did not intent that which is the plain import of the language used. When the language of the Constitution is positive and free from all ambiguity, all courts are not at liberty, by a resort to the refinements of legal learning, to restrict its obvious meaning to avoid hardships of particular cases, we must accept the Constitution as it reads when its language is unambiguous, for it is the mandate of the sovereign

powers. See: State v. Sutton, 63 Minn. 147, 65 WX N.W., 262,101, N.W. 74; Cook v. Iverson, 122, N.M. 251.

In this state, as well as in all republics, it is not the legislation, however transcendent its powers, who are supreme— but the people— and to suppose that they may violate the fundamental law is, as has been most eloquently expressed, to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves: that the men acting by virtue of delegated powers may do. not only what then- powers do not authorize, but what they forbid. See: Warning v. the Mayor of Savannah, 60 Georgia, P. 93.

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

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

Sovereignty itself is. of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in

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

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

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

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

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

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

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

In Europe, the executive is synonymous with the sovereign power of a state…where it is too commonly acquired by force or fraud or both…In America, however the case is widely different. Our government is founded upon Compact. Sovereignty was, and is, in the People. Glass v. The Sloop Betsy, 3 Dall 6.(1794)

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

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

Ex parte - Frank Knowles, California Reports, Vol. 5, Page 302 (1855) "A citizen of any one of the States of the Union, is held to be, and called a citizen of the United States, although technically and abstractly

there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deduced from its various other provisions."

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

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

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

Allodial Land

Barker v Dayton 28 Wisconsin 367 (1871):

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

to the purposes of commerce, and alienable at the will of the owner; the most ample and perfect interest which can be owned in land."

[Bowers v. DeVito, U.S. Court of Appeals, Seventh Circuit, 686F.2d 616 (1882)"… there is no constitutional right to be protected by the state against being murdered by criminals or madmen. It is monstrous if the state fails to protect its residents against such predators but it does not violate the due process clause of the Fourteenth Amendment or, we suppose, any other provision of the Constitution. The Constitution is a charter of negative liberties: it tells the state to let people alone; it does not require the federal government or the state to provide services, even so elementary a service as maintaining law and order."

Income taxes

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

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

January 24, 1916: In Brushaber vs. Union Pacific Railroad, the Supreme Court ruled: that the 16th Amendment doesn't over-rule the Court's ruling in the Pollock case which declared general income taxes unconstitutional; The 16th Amendment applies only to gains and profits from commercial and investment activities: The 16th Amendment only applies to excises taxes; The 16th Amendment did not Amend the U.S.

Constitution; The 16th Amendment only clarified the federal governments existing authority to create excise taxes without apportionment.

…the [16th] Amendment contains nothing repudiating or challenging the ruling in the Pollock Case that the word direct had a broader significance since it embraced also taxes levied directly on personal property because of its ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the Constitution -- a condition which clearly demonstrates that the purpose was not to change the existing interpretation except to the extent necessary to accomplish the result intended, that is, the prevention of the resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself and thereby to take an income tax out of the class of excises, duties and imposts and place it in the class of direct taxes...

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

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

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

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

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

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

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

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

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

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

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

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

Kentucky Railroad Tax Cases, 115 U.S. 321, 337 (1885) "The rule of equality... requires the same means and

methods to be applied impartially to all the constitutents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances".

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

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

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

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

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

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

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

Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803) "... the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument."

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

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

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

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

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

Chandler v. Judicial Council of the 10th Circuit, 398 U.S. 74, 90 S. Ct. 1648, 26 L. Ed. 2d 100Justice Douglas, in his dissenting opinion at page 140 said,

"If (federal judges) break the law, they can be prosecuted." Justice Black, in his dissenting opinion at page 141) said, "Judges, like other people, can be tried, convicted and punished for crimes... The judicial power shall extend to all cases, in law and equity, arising under this Constitution".

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

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

U.S. v. Dixon, 113 S.Ct. 2849, 2856 (1993), the Court clarified the use of the 'same elements test' set forth in Blockburger when it over-ruled the 'same conduct' test announced in Grady v. Corbin, 495 U.S. 508 (1990), and held that the Double Jeopardy Clause bars successive prosecutions only when the previously concluded and subsequently charged offenses fail the 'same elements' test articulated in Blockburger. See also Gavieres v. U.S., 220 U.S. 338, 345 (1911) (early precedent establishing that in a subsequent prosecution '[w]hile it is true that the conduct of the accused was one and the same, two offenses resulted, each of which had an element not embraced in the other').

JUDICIAL IMMUNITY:

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

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

Note: [Copied verbiage; we are not lawyers.] Judges have given themselves judicial immunity for their judicial functions. Judges have no judicial immunity

for criminal acts, aiding, assisting, or conniving with others who perform a criminal act or for their administrative/ministerial duties, or for violating a citizen's constitutional rights. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act; he is performing a ministerial act.

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

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

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

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

ENGLISH TORT LAW
Ashby v. White, (1703) 92 Eng. Rep.

Facts

Mr Ashby was prevented from voting at an election by the misfeasance of a constable, Mr White, on the apparent pretext that he was not a settled inhabitant.

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

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

Judgment

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

And I am of the opinion that this action on the case is a proper action. My brother Powell indeed thinks that an action on the case is not maintainable, because

there is no hurt or damage to the plaintiff, but surely every injury imports a damage, though it does not cost the party one farthing, and it is impossible to prove the contrary; for a damage is not merely pecuniary but an injury imports a damage, when a man is thereby hindered of his rights.

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

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

by

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

We begin with one of the great masters of Constitution, Chief Justice John Marshall, writing in the year 1828. Here, Justice Marshall makes a very clear distinction between judicial courts, authorized by Article III, and legislative (territorial) courts,

authorized by Article IV. Marshall even utilizes some of the exact wording of Article IV to differentiate those courts from Article III "judicial power" courts, as follows:

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

territories. In legislating for them, Congress exercises the combined powers of the general and of the State government.

[American Insurance Co. v. 356 Bales of Cotton] [1 Pet. 511 (1828), emphasis added]

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

The United States District Court is not a true United States court established under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article IV, Section 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true

United States courts in offering an opportunity to
nonresidents of resorting to a tribunal not subject to local
influence, does not change its character as a mere
territorial court.

[Balzac v. Porto Rico, 258 U.S. 298 at 312]
[42 S.Ct. 343, 66 L.Ed. 627 (1921)]

Constitutional provision against diminution of compensation
of federal judges was designed to secure independence of
judiciary.

[O'Donoghue v. U.S., 289 U.S. 516 (1933)]
[headnote 2. Judges]

The term "District Courts of the United States," as used in
Criminal Appeals Rules, without an addition expressing a
wider connotation, had its historic significance and
described courts created under article 3 of Constitution,
and did not include territorial courts.

[Mookini et al. v. U.S., 303 U.S. 201]
[headnote 2. Courts, emphasis added]

Where statute authorized Supreme Court to prescribe Criminal Appeals Rules in District Courts of the United States including named territorial courts, omission in rules when drafted of reference to District Court of Hawaii, and certain other of the named courts, indicated that Criminal Appeals Rules were not to apply to those [latter] courts.

[Mookini et al. v. U.S., 303 U.S. 201]

[headnote 4. Courts, emphasis added]

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

Not only did the promulgating order use the term District Courts of the United States in its historic and proper

sense, but the omission of provisions for the application of the rules to the territorial courts and other courts mentioned in the authorizing act clearly shows the limitation that was intended.

[Mookini et al. v. U.S., 303 U.S. 201]

[emphasis added]

The words "district court of the United States" commonly describe constitutional courts created under Article III of the Constitution, not the legislative courts which have long been the courts of the Territories.

[Int'l Longshoremen's and Warehousemen's Union et al.] v. Juneau Spruce Corp., 342 U.S. 237 (1952)]

[emphasis added]

The phrase "court of the United States", without more, means solely courts created by Congress under Article III of the Constitution and not territorial courts.

[Int'l Longshoremen's and Warehousemen's Union et al.]

[v. Wirtz, 170 F.2d 183 (9th Cir. 1948), headnote 1]

[emphasis added]

United States District Courts have only such jurisdiction as is conferred by an Act of Congress under the Constitution. U.S.C.A. Const. art. 3, sec. 2; 28 U.S.C.A. 1344]

[Hubbard v. Ammerman, 465 F.2d 1169 (5th Cir., 1972)]

[headnote 2. Courts]

The United States district courts are not courts of general jurisdiction. They have no jurisdiction except as prescribed by Congress pursuant to Article III of the Constitution. [many cites omitted]

[Graves v. Snead, 541 F.2d 159 (6th Cir. 1976)]

The question of jurisdiction in the court either over the person, the subject-matter or the place where the crime was committed can be raised at any stage of a criminal proceeding; it is never presumed, but must always be proved; and it is never waived by a defendant.

[U.S. v. Rogers, 23 F. 658 (D.C.Ark. 1885)]

In a criminal proceeding lack of subject matter jurisdiction cannot be waived and may be asserted at any time by collateral attack.

[U.S. v. Gernie, 228 F.Supp. 329 (D.C.N.Y. 1964)]

Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus.

[U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

The United States District Court has only such jurisdiction as Congress confers.

[Eastern Metals Corp. v. Martin]

[191 F.Supp 245 (D.C.N.Y. 1960)]

U.S. v. Halper, 490 U.S. 435, 440 (1989). DOUBLE JEOPARDY - Being tried twice for the same offense; prohibited by the 5th Amendmen tto the U.S. Constitution. '[T]he Double Jeopardy Clause protects

against three distinct abuses: [1] a second prosecution for the same offense after acquittal; [2] a second prosecution for the same offense after conviction; and [3] multiple punishments for the same offense.'

2 Am Jur 2d, page 129 (1962)
Administrative Law
Section 301. -- Particular applications.
In application of the principles that the power of an administrative agency to make rules does not extend to the power to make legislation and that a regulation which is beyond the power of the agency to make is invalid, it has been held that an administrative agency may not create a criminal offense or any liability not sanctioned by the lawmaking authority, and specifically a liability for a tax [fn 2] or inspection fee. [bold emphasis added]
Footnote 2:
2. Commissioner of Internal Revenue v. Acker, 361 U.S. 87, 4 L.Ed.2d 127, 80 S.Ct. 144 (1959); Roberts v. Commissioner of Internal Revenue, 176 F.2d 221, 10 ALR.2d 186 (9th Cir. 1949) (... regulations "can add nothing to income as defined by Congress." citing M.E. Blatt Co. v. United States, 305 U.S. 267, 279, 59 S.Ct. 186, 190, 83 L.Ed. 167 (1938)); Independent Petroleum Corp. v. Fly, 141 F.2d 189, 152 ALR 928 (5th Cir. 1944) (... the power to make regulations does not extend to making taxpayers of those whom the Act, properly construed, does not tax); Indiana Dept. of State Revenue v. Colpaert Realty Corp., 231 Ind. 463, 109 NE.2d 415 (no power to render taxable a transaction which the statute did not make taxable); Morrison-Knudsen Co. v. State Tax Com., 242 Iowa 33, 44 NW.2d 449, 41 ALR.2d 523 (use tax).
Liability for the payment of the sales tax is controlled by statute; it cannot be controlled by rulings or regulations of the board. Acorn Iron Works v. State Board of Tax Administration, 295 Mich. 143, 294 NW 126, 139 ALR 368. Annotation: 139 ALR 380 ("retail sale").

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

train its officers adequately with respect to implementing the following

Department policies:

DECISIONS FOR RIGHT TO TRAVEL
Dear Law Enforcement Officer:

With all due respect,

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

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

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

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

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

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

Should you choose to ignore this request and to detain me or cause me

costly litigation knowing that no injured party exists as a result of my actions, be advised you are very likely acting outside the authority of your office and your Sovereign immunity.

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

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

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

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

I am party to NO contract (visible or invisible) with corporate body politics in the City of Clinton, County of Clinton, State of Iowa, or any other city, county, state in the Union or the Federal Government. In clarification, I pay for the few services supplied by this government that I use with MONEY (the legal tender of this land i.e. Income tax, fuel tax, cigarette tax, sales tax, property tax, real estate tax ,,,,,, etc. etc. etc.). I DO NOT PAY WITH MY RIGHTS, as do most other Americans. Beyond that payment I am not indebted to this or any other government entity. As such, there can be no valid contract, (visible or invisible) which binds me to the laws by contract you are heretofore attempting to enforce.

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

IN ADDITION

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

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

and/or

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

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

"Users of the highway for transportation of persons and property for hire may be subjected to special regulations not applicable to those using the highway for public purposes." Richmond Baking Co. v. Department of Treasury 18 N.E. 2d 788.

The use of the automobile as a necessary adjunct to the earning of a

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

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

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

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

"The right of a citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or automobile is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty, and the pursuit of happiness." Slusher v. Safety Coach Transit Co., 229 Ky 731, 17 SW2d 1012,

and affirmed by the Supreme Court in Thompson v. Smith 154 S.E. 579.

Also See:

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

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

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

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