CATALOG OF U.S. SUPREME COURT DOCTRINES

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DEDICATION

*"**What right have you to declare My [God's] statutes [write man's vain law], or take My covenant [the Bible] in your mouth, seeing you hate instruction and cast My words behind you?** When you saw a thief, you consented with him, and have been a partaker with adulterers. You give your mouth to evil, and your tongue frames deceit. You sit and speak against your brother; you slander your own mother's son. These things you have done, and I kept silent; you thought that I was altogether like you; but I will reprove you, and set them in order before your eyes. **Now consider this, you who forget God, lest I tear you in pieces, and there be none to deliver: Whoever offers praise glorifies Me; and to him who orders his conduct aright [and bases it on God's laws] I will show the salvation of God.**"*
[Psalm 50:16-23, Bible, NKJV]

"For they being ignorant of God's righteousness, and seeking to establish their [the Pharisees] own righteousness, have not submitted to the righteousness of God."
[Rom. 10:3, Bible, NKJV]

"Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof."
[First Amendment, United States Constitution]

". . . if you are led by the Spirit, you are not under the [civil statutory] law."
[Gal. 5:18, Bible, NKJV]

"But the fruit of the Spirit is love, joy, peace, longsuffering, kindness, goodness, faithfulness, gentleness, self-control. Against such there is no law."
[Gal. 5:22-23, Bible, NKJV]

"Do not walk in the [CIVIL] statutes of your fathers [the heathens], nor observe their [STATUTORY but not COMMON LAW] judgments, nor defile yourselves with their [pagan government] idols. I am the LORD your God: Walk in [obey] My statutes, keep My judgments, and do them; hallow My Sabbaths, and they will be a sign between Me and you, that you may know that I am the LORD your God."
[Ezekial 20:10-20, Bible, NKJV]

REVISION HISTORY

Date	*Version*	*Description*
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TABLE OF CONTENTS

DEDICATION **2**
REVISION HISTORY **3**
TABLE OF CONTENTS **4**
LIST OF TABLES **4**
TABLE OF AUTHORITIES **5**
1 Introduction **14**
2 Who Were the Pharisees and Sadducees? **14**
3 List of Important Doctrines **25**
4 Specific Constitutional Clauses **30**
4.1 Takings Clause, Fifth Amendment 30
4.2 First Amendment Establishment Clause 30
4.3 First Amendment Free Speech Clause 30
4.4 Commerce Clause, Article 1, Section 8, Clause 3 31
4.5 Federal Property Clause, Article 4, Section 3, Clause 2 31
4.6 Republican Government, Article 4, Section 4 32
4.7 Bill of Attainder Clause, Article 1, Section 9, Clause 3 32
5 Doctrines **32**
5.1 Strict Scrutiny Doctrine 33
5.2 Unconstitutional Conditions Doctrine 33
5.3 Public Rights Doctrine 34
5.4 Political Questions Doctrine 39
5.5 Full Payment Rule 40
5.6 Chevron Deference Rule 40
5.7 Incorporation Doctrine 40
5.8 State Action Doctrine 41
5.9 Collective Entity Doctrine 48
5.10 Doctrine of Apparent Authority 51
5.11 State Action Immunity 52
5.12 Major Questions Doctrine 53
5.13 Constitutional Avoidance Doctrine 54
5.14 Castle Doctrine 56
5.15 Consent Once Removed Doctrine 56
5.16 Void for vagueness doctrine 57
5.17 Minimum contacts doctrine 58
5.18 Fruit of a poisonous tree doctrine 58
5.19 Standing to sue doctrine 59
5.20 Friction not fiction doctrine 59
6 Specific Rights **59**
6.1 The Glucksberg Test: Unenumerated Constitutional Rights 59
6.2 Right to Travel Without a License 63
6.3 Freedom 64
6.4 Equality of Treatment 64
6.5 State Sovereignty 65
6.6 Application of the Bill of Rights to Federal Enclaves 65
7 Proofs **66**
7.1 How to prove you are acting as an agent of the state, according to the U.S. Supreme Court 66
7.2 State compulsion test 66
8 Further Reading and Research **67**

LIST OF TABLES

Table 1: List of Doctrines 26

TABLE OF AUTHORITIES

Constitutional Provisions

Art. III 37
Art. IV 45
Art. IV, §2, cl. 1 45
Article 4, Section 2, Clause 1 47
Article 4, Section 3, Clause 2 31
Article 4, Section 4 of the U.S. Constitution 32
Article IV 45, 46
Bill of Attainder Clause 32
Bill of Attainder Clause, Article 1, Section 9, Clause 3 32
Bill of Rights 26, 36, 48, 65, 66
Commerce Clause 31
Commerce Clause, Article 1, Section 8, Clause 3 31
Due Process Clause 61
Due Process Clause of the Fourteenth Amendment to the Constitution 59
Equal Protection Clause of the Fourteenth Amendment 64
Federal Property Clause, Article 4, Section 3, Clause 2 31
Fifth Amendment 26, 27, 30, 35, 41, 48, 49, 50, 66
First Amendment 26, 27
First Amendment Establishment Clause 30
First Amendment Free Speech Clause 30
First Amendment, United States Constitution 2
Fourteenth Amendment 27, 42, 43, 45, 46, 47, 60, 61, 65
Fourteenth Amendment Equal Protection Clause 42
Fourth Amendment 27, 48, 57, 65
Privileges and Immunities Clause 64
Privileges or Immunities Clause 45, 46
Privileges or Immunities Clause of the Fourteenth Amendment 66
Republican Government, Article 4, Section 4 32
Takings Clause, Fifth Amendment 30
U.S. Const., Amdt. 14, §1 45

Statutes

15 U.S. Code, Chatper 1: Monopolies and Combinations in Restraint of Trade 52
28 U.S.C. §1652 38
28 U.S.C. §2679(d)(3) 38
42 U.S.C. §1981 44
42 U.S.C. §1983 ..... 42, 43, 44, 45, 56
44 U.S.C. §1505(a)(1) 62
5 U.S.C. §553(a) 62
5 U.S.C. §553(a)(2) 37, 38
California Civil Code, §2224 39
Civil Rights Act 47
Clayton Act 53
Internal Revenue Code Subtitle A 45
Sherman Antitrust Act, 26 Stat. 209, 15 U.S.C. §§1-7 52
U.C.C. §2-103(1)(a) 62
U.C.C. §2-104(1) 62

No table of authorities entries found.

Rules

Federal Rule of Evidence 1005 48
Federal Rule of Evidence 803(9) 48

Cases

4 Co. 118 44
Abrams v. Van Schaick, 293 U.S. 188 (1934) 55
ACRA Turf Club, LLC v. Zanzuccki, 748 F.3d. 127, 138 (3d Cir. 2014) 28
Adickes v. Kress Company, 398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed.2d. 142 (1970) 43, 48
Agency for Int'l Dev. v. Alliance for Open Society Int'l, Inc., 570 U.S. 205 (2013) 33
Arizona v. California, 283 U.S. 423, 462–64 (1931) 55
Ashwander v. Tennessee Valley Authority, 297 U.S. 288 (1936) 54
Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936) 36
Ashwander, 297 U.S. at 346–48 55
Associated Gen. Contractors of Cal., Inc. v. Carpenters, 459 U.S. 519, 532-533, 74 L.Ed.2d. 723, 103 S.Ct. 897 (1983) ... 29
Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977) 36
Baender v. Barnett, 255 U.S. 224 (1921) 55
Baker v. Carr, 369 U.S. 186 (1962) 32, 39
Bantam Books v. Sullivan, 372 U.S. 58, 70 (1963) 26
Barron ex rel. Tiernon v. Mayor of Baltimore, 32 U.S. (7 Pet.) 243, 8 L. Ed. 672 27
Beard v. United States, 158 U.S. 550 (1895) 56
Bellis v. United States, 417 U.S. 85 (1974) 26, 49
Benton v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d. 707 (1969) 41
Berea Coll. v. Ky., 211 U.S. 45, 53 (1908) 55
Block v. Community Nutrition Institute, 467 U.S. 340, 345-348, [****20] 81 L.Ed.2d 270, 104 S.Ct. 2450 (1984) 29
Blodgett v. Holden, 275 U.S. 142, 148 (1928) 55
Blum v. Yaretsky (1982) 66
Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972) 33
Borax Consolidated, Ltd. v. Los Angeles, 296 U.S. 10 (1939) 31
Brandenburg v. Ohio, 394 U.S. 444 (1969) 30
Braswell v. United States, 487 U.S. 99 (1988) 26, 49
Brentwood Academy v. Tennessee Secondary School Athletic Association (2001) 66
Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973) 49
Brown v. Board of Education, 347 U.S. 483 (1954) 33, 64
Buck v. Kuykendall, 267 U.S. 307, 316 (1925) 55
Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683 36
Bull v. United States, 295 U.S. 247 (1935) 40
Bull v. United States, 295 U.S. 247, 55 S.Ct. 695, 79 L.Ed. 1421 (1935) 29
Burton v. United States, 196 U.S. 283, 295 (1905) 55
Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961) 66
Button's Estate v. Anderson, 112 Vt. 531, 28 A.2d. 404, 143 A.L.R. 195 38
California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc. (1980) 53
Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) 40
Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984) 26
Chez Sez III Corp. v. Twp. of Union, 945 F.2d. 628, 631 (3d Cir. 1991) 28
Chicago & Grand Trunk Ry. v. Wellman, 143 U.S. 339, 345 (1892) 55
Chicago, B. & Q. R. Co. v. Chicago, 166 U.S. 226 (1897) 30
Chicago, Burlington & Quincy Railroad Co. v. City of Chicago, 166 U.S. 226, 17 S.Ct. 581, 41 L.Ed. 979 (1897) 41
Chisholm v. Georgia, 2 U.S. 419 (1793) 65
Christian Legal Soc. Chapter v. Martinez, 561 U.S. 661 (2010) 27
Citizens United v. Federal Election Commission, 558 U.S. 310 (2010) 31
City of Arlington v. FCC, 569 U.S. 290 (2013) 40
Civil Rights Cases, 109 U.S. 3 (1883) 27
Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973) 49
Clark v. Martinez, 543 U.S. 371 (2005) 54
Clearfield Trust Co. v. United States, 318 U.S. 363 (1943) 26

Colegrove v. Green, 328 U.S. 549 (1946) 32
Collins v. Harker Heights, 503 U.S. 115, 125 (1992) 59
Colo. River Water Conservation Dist. v. United States, 424 U.S. 800, 96 S.Ct. 1236, 47 L.Ed.2d. 483 (1976) 29
Columbus & Greenville Railway v. Miller, 283 U.S. 96, 99–100 (1939) 55
Compassion in Dying, 850 F.Supp., at 1456-1457 60
Concordia Fire Institute Co. v. Illinois, 292 U.S. 535, 547 (1934) 55
Connick v. Myers, 461 U.S. 138, 147 (1983) 49
Corfield v. Coryell, 6 Fed. Cas. 546 (No. 3, 230) (CCED Pa. 1825) 45
Corp. Comm'n of Okla. v. Lowe, 281 U.S. 431, 438 (1930) 55
County of Wayne v. Hathcock, 684 NW.2d 765 (Mich. 2004), and Bailey v. Myers, 206 Ariz. 224, 76 P.3d 898 (2003) ... 26
Crowell v. Benson, 285 U.S. 22 (1932) 34
Crowell v. Benson, 285 U.S. 22, 62 (1932) 55
Crowell v. Benson, supra, 285 U.S., at 50-51, 52 S.Ct., at 292 36
Cruzan, 497 U.S. at 278-279 60
Cummings v. Missouri, 71 U.S. 277 (1867) 32, 65
Daniels v. Williams, 474 U.S. 327, 331 (1986) 59
DEK Energy Co. v. FERC, 248 F.3d. 1192, 1195, 346 U.S.App.D.C. 6 (D.C. Cir. 2001) 29
District of Columbia v. Heller, 554 U.S. 570 (2008) 56
Dolan v. City of Tigard 30
Dred Scott v. Sandford, 60 U.S. 393 (1857) 64
Dreier v. United States, 221 U.S. 394 (1911) 26, 49
Duncan v. Kahanamoku, Sheriff, (1946) 327 U.S. 304, 66 S. Ct. 606, 90 L. Ed. 688 29
Dunn v. Blumstein, 405 U.S. 330 (1972) 64
Edmonson v. Leesville Concrete Co. (1991) 66
Edward J. DeBartolo Corp. v. Florida Gulf Coast Building & Construction Trades Council, 485 U.S. 568 (1988) 54
Edwards v. Aguillard, 482 U.S. 578 (1987) 30
Edwards v. California, 314 U.S. 160 (1941) 63
Eisenstadt v. Baird, 405 U.S. 438 (1972) 60
Electric Co. v. Dow, 166 U.S. 489, 17 S.Ct. 645, 41 L.Ed. 1088 36
Elrod v. Burns, 427 U.S. 347 (1976) 26
Engel v. Vitale, 370 U.S. 421 (1962) 30
Evans v. Newton (1966) 66
Evans v. Newton, 382 U.S. 296 (1966) 66
Everson v. Board of Education, 330 U.S. 1 (1947) 30
Ex parte Bakelite Corp., 279 U.S. 438, 451 (1929) 26
Ex Parte Virginia, 100 U.S. 339 (1880) 27
Fahey v. Mallonee, 332 U.S. 245, 255 (1947) 55
Fairchild v. Hughes, 258 U.S. 126 (1922) 55
First National Bank of Boston v. Brink, 135 U.S. 392 (1890) 52
Flora v. United States, 357 U.S. 63 (1958) 29
Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525 (1885) 31
Freytag v. Commissioner, 501 U.S. 868 (1991) 38
Frost & Frost Trucking Co. v. Railroad Comm'n of California, 357 U.S. 513 (1926) 33
Frost v. Railroad Commission, 271 U.S. 583 (1925) 26
Gardner v. Broderick, 392 U.S. 273, 277 -278 (1968) 49
Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824) 31
Gill v. Whitford, 138 S.Ct. 1916, 201 L.Ed.2d. 313 (2018) 39
Gitlow v. New York, 268 U.S. 652, 45 S. Ct. 625, 69 L. Ed. 1138 (1925) 27
Gitlow v. New York, 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925) 41
Granfinanciera, S.A. v. Nordberg, 492 U.S. 33 (1989) 34
Great Falls Manufacturing Co. v. Garland, 124 U.S. 581 (1888) 55
Great Falls Mfg. Co. v. Attorney General, 124 U.S. 581, 8 S.Ct. 631, 31 L.Ed. 527 35
Griswold v. Connecticut, 381 U.S. 479 (1965) 60
Grutter v. Bollinger, Gratz v. Bollinger 33
Hale v. Henkel, 201 U.S. 43 (1906) 26, 48, 49
Hatch v. Reardon, 204 U.S. 152, 160–61 (1907) 55
Haw. Housing Auth. v. Midkiff, 467 U.S. 229, 236, 104 S.Ct. 2321, 81 L.Ed. 2d 186 (1984) 28

Hawaii v. Office of Hawaiian Affairs, 556 U.S. 163 (2009) 31
Heald v. District of Columbia, 259 U.S. 114, 123 (1922) 55
Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964) 31
Hendrick v. Maryland, 235 U.S. 610, 621 (1915) 55
Illinois v. Rodriguez, 497 U.S. 177 (1990) 57
In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 36 L.Ed. 219 17
Interstate Com. Comm'n v. Or.-Wash. R.R. & Navigation Co., 288 U.S. 14, 40 (1933) 55
J. W. Hampton, Jr. & Co. v. United States (1928) 26
Katz, Federal Legislative Courts, 43 Harv.L.Rev. 894, 917-918 (1930).FN24 36
Kelley v. Johnson, 425 U.S. 238, 247 (1976) 49
Kelo v. City of New London, 545 U.S. 469 (2005) 30
Keystone Driller Co. v. United States, 97 S.Ct. 2927 (1978) 40
King v. Burwell, 576 U.S. 473 (2015) 40, 53
Kisor v. Wilkie, 139 S.Ct. 2400 (2019) 54
Kleppe v. New Mexico, 426 U.S. 529 (1976) 31
Korematsu v. United States, 323 U.S. 214 (1944) 26, 33
Lawrence v. Texas, 539 U.S. 558 (2003) 64
Leftkowitz v. Cunningham, 431 U.S. 801 (1977) 26
Lemon v. Kurtzman, 403 U.S. 602 (1971) 26, 30
Leonard v. Vicksburg, etc., R. Co., 198 U.S. 416, 422, 25 S.Ct. 750, 49 L.Ed. 1108 36
License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) 63
Light v. United States, 220 U.S. 523, 538 (1911) 55
Linder v. United States, 268 U.S. 5, 17–18 (1922) 55
Liverpool, N.Y. & Phila. S.S. Co. v. Comm'rs of Emigration, 113 U.S. 33, 39 (1885) 55
Liverpool, N.Y. & Phila. S.S. Co. v. Emigration Comm'rs, 113 U.S. 33, 39 (1885) 55
Lochner v. New York, 198 U.S. 45 (1905) 64
Long v. Rasmussen, 281 F. 236 (1922) 38
Loving v. Virginia, 388 U.S. 1 (1967) 33, 60
Lucas v. Alexander, 279 U.S. 573, 577 (1929) 55
Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992) 30
Lucia v. SEC, 138 S.Ct. 2044 (2018) 53
Lugar v. Edmondson Oil Co. (1982) 66
Luther v. Borden, 48 U.S. (7 How.) 1 (1849) 32
Luther v. Borden, 48 U.S. 1, 7 How. 1 (1849) 39
Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408 ..... 35, 47
Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d. 653 (1964) 41
Manufactured Housing Communities of Washington v. Washington, 13 P.3d 183 (Wash. 2000) 26
Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803) 24
Marsh v. Alabama (1946) 66
Massachusetts v. Mellon, 262 U.S. 447 (1923) 55
McCulloch v. Maryland, 17 U.S. 316 (1819) 65
McDonald v. City of Chicago, 561 U.S. 742 (2010) 56
Meyer v. Nebraska, 262 U.S. 390 (1923) 60, 64
Minnesota v. Carter, 525 U.S. 83 (1998) 56
Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627 17
Miranda v. United States, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d 694 (1966) 29
Missouri Pac. R.R. Co. v. Nebraska, 164 U.S. 403 (1896) 26
Mo. Pac. R.R. v. Boone, 270 U.S. 466, 471–72 (1926) 55
Moore v. East Cleveland, 431 U.S. 494, 502 (1977) 46
Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972) 66
Morse v. Frederick 31
Murray's Lessee v. Hoboken Land & Improvement Co, 59 U.S. (18 How.) 272 (1856) 26
Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272 (1856) 34
National Cable & Telecommunications Ass'n v. Brand X Internet Services, 545 U.S. 967 (2005) 40
National Cable & Telecommunications Association v. Brand X Internet Services, 545 U.S. 967 (2005) 54
National Federation of Independent Business v. Sebelius, 567 U.S. 219 (2012) 31
National Labor Relations Board v. Catholic Bishop of Chicago, 440 U.S. 490 (1979) 54

National League of Cities v. Usery, 426 U.S. 833 (1976) 65
Nat'l City Mortg. Co. v. Stephen, 647 F.3d. 78, 83 (3d Cir. 2011) 29
Near v. Minnesota ex re. Olson, 283 U.S. 697, 716 (1931) 26
Near v. Minnesota, 283 U.S. 697, 51 S. Ct. 625, 75 L. Ed. 1357 (1931) 27
Near v. Minnesota, 286 U.S. 697, 51 S.Ct. 625, 75 L.Ed. 1367 (1931) 41
New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 373, 109 S.Ct. 2506, 105 L.Ed.2d. 298 (1989) 28
New York Times Co. v. Sullivan, 374 U.S. 254 (1964) 30
Nikulnikoff v. Archbishop, etc., of Russian Orthodox Greek Catholic Church, 142 Misc. 894, 255 N.Y.S. 653, 663 17
Nixon v. Administrator of General Services, 433 U.S. 425 (1977) 32
Nixon v. United States, 506 U.S. 224 (1993) 39
Nollan v. California Coastal Commission 30
Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983) 37
Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982) 34
O'Connor v. Ortega, 480 U.S. 709, 723 (1987) 49
Obergefell v. Hodges 33
Obergefell v. Hodges, 576 U.S. 44 (2015) 64
Old Colony Trust Co. v. Commissioner, 279 U.S. 716 (1929) 26
Pacific States Tel. & Tel. Co. v. Oregon, 223 U.S. 118 (1912) 32
Palko v. Connecticut, 302 U.S. 319, 325, 326 (1937) 60, 61
Palko v. Connecticut, 302 U.S. 319, 58 S. Ct. 149, 82 L. Ed. 288 27
Panama R.R. v. Johnson, 264 U.S. 375, 390 (1924) 55
Parker v. Brown (1943) 53
Pearson v. Callahan, 555 U.S. 223 (2009) 56, 57
Pearson v. Callahan, 555 U.S. 223, 232 (2009) 57
Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978) 30
Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922) 30
Perry v. Sindermann, 408 U.S. 593 (1972) 26, 33
Peterson v. City of Greenville, 373 U.S. 244, 248, 83 S.Ct. 1119, 1121 (1963) 43
Pierce v. Society of Sisters, 268 U.S. 510 (1925) 60
Pierce v. Somerset Ry., 171 U.S. 641, 648, 19 S.Ct. 64, 43 L.Ed. 316 36
Pierson v. Ray, 386 U.S. 547 (1967) 26
Plessy v. Ferguson, 163 U.S. 537 (1896) 64
Powell v. Alabama, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed. 158 (1932) 41
Presser v. Illinois, 116 U.S. 252 (1886) 65
Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. (11 Pet.) 420, 553 (1837) 55
Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837) 49
Public Workers v. Mitchell, 330 U.S. 75, 101 (1947) 49
Railroad Commission of Texas v. Pullman Company, 312 U.S. 496, 61 S.Ct. 643, 85 L.Ed. 971 (1941) 28
Reed v. Reed, 404 U.S. 71 (1971) 64
Regents of the University of California v. Bakke, 438 U.S. 265 (1978) 33
Reno v. Flores, 507 U.S. 292, 301-302 (1993) 60
Richmond Screw Anchor Co. v. United States, 275 U.S. 331, 346 (1928) 55
Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995) 27
Rothensies v. Electric Storage Battery Co.,329 U.S. 296, 299-300, 67 S.Ct. 271, 272-273, 91 L.Ed. 296 (1946) 29
Rust v. Sullivan, 500 U.S. 173 (1991) 33
Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990) 49
Saenz v Roe, 526 U.S. 473, 119 S.Ct. 1430, 143 L.Ed.2d. 635 (1999) 47
Saenz v. Roe, 526 U.S. 489 (1999) 64, 66
Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000) 30
Schenck v. United States, 249 U.S. 47 (1919) 30
Seminole Tribe v. Florida, 517 U.S. 44 (1996) 65
Shapiro v. Thompson, 394 U.S. 618 (1969) 26, 63
Shelby County v. Holder, 570 U.S. 529 (2013) 32
Shelley v. Kraemer, 334 U.S. 1 (1948) 27
Shelley v. Kraemer, 334 U.S. 1, 13, 68 S.Ct. 836, 842, 92 L.Ed. 1161 (1948) 43
Siler v. Louisville & Nashville R.R., 213 U.S. 175, 191 (1909) 55

Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942) 60
Slaughter-House Cases, 16 Wall. 36 (1873) 45
Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L. Ed. 394 (1873) 27
Snyder v. Massachusetts, 291 U.S. 97, 105 (1934) 60, 61
Snyder v. Phelps 31
Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546 (1975) 27
Southwestern Illinois Development Authority v. National City Environmental, L.L.C., 768 N.E.2d 1 (Ill. 2002) 26
Southworth v. Grebe, 530 U.S. 141 (2000) 33
Speiser v. Randall, 357 U.S. 513 (1958) 26, 33
Sprout v. South Bend, 277 U.S. 163, 167 (1928) 55
St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469 (1923) 55
St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351 36
State of California, 332 U.S. 46, 67 S. Ct. 1672, 91 L. Ed. 2d 1903 (1947) 27
Stone v. White, 301 U.S. 532, 57 S.Ct. 851, 81 L.Ed. 1265 (1937); 29
Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency 30
Tandon v. Newson, 141 S.Ct. 1294 (2021) 27
Tennessee v. Garner, 471 U.S. 1 (1985) 56
Texas v. E. Tex. R.R., 258 U.S. 204, 217 (1922) 55
Texas v. Johnson 31
Thompson v. Consolidated Gas Utilities Corp., 300 U.S. 55, 57 S.Ct. 364 (1937) 26
Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969) 31
Trademark Cases, 100 U.S. 82, 96 (1879) 55
Trent v. Dial Med. of Fla., Inc., 33 F.3d. 217, 223 (3d Cir. 1994) 29
Tyler v. The Judges, 179 U.S. 405 (1900) 55
U.S. v Verdugo-Urquidez, 494 U.S. 259 (1990) 66
United States v. Bank of New England, N.A., 821 F.2d. 844 (1st Cir. 1987) 52
United States v. Bramble, 103 F.3d. 1475 (9th Cir. 1996) 57
United States v. Brown 32
United States v. Brown & Williamson Tobacco Corp 32
United States v. Brown, 381 U.S. 437 (1965) 32
United States v. Carolene Products Co., 304 U.S. 144 (1938) 26
United States v. Clintwood Elkhorn Mining Co., 553 U.S. 1 (1980) 40
United States v. Del. & Hudson Co., 213 U.S. 366, 407–08 (1909) 55
United States v. Edmonson, 6 Wheat 481 (1829) 40
United States v. Felt & Tarrant Mfg. Co., 283 U.S. 269 (1932) 40
United States v. Guest, 383 U.S. 745 (1966) 63
United States v. Jin Fuey Moy, 241 U.S. 394, 401 (1916) 55
United States v. Lanza, 260 U.S. 377 (1932) 65
United States v. Lopez, 514 U.S. 549 (1995) 31
United States v. Lovett (1946), 328 U.S. 303; 66 S. Ct. 1073; 90 L.Ed. 1252 29
United States v. Lovett, 328 U.S. 303 (1946) 32
United States v. Mead Corp., 633 U.S. 218 (2001) 40
United States v. Salerno, 481 U.S. 739, 745 (1987) 60
United States v. Standard Oil Co. of California, 332 U.S. 301 (1947) 52
United States v. Unzeuta, 281 U.S. 138 (1897) 31
United States v. Virginia, 518 U.S. 515 (1996) 33, 64
United States v. White, 322 U.S. 694 (1944) 26, 49, 50
United States v. White, 322 U.S. 694, 701 (1944) 49
Utility Air Regulatory Group v. EPA, 573 U.S. 302 (2014) 53
VanHorne's Lessee v. Dorrance, 2 U.S. 304 (1795) 50
Wall v. Parrot Silver & Copper Co. 244 U.S. 407, 411–12 (1917) 55
Wall v. Parrot Silver & Copper Co., 244 U.S. 407, 411, 412, 37 S.Ct. 609, 61 L.Ed. 1229 36
Warner-Jenkinson Co. v. Hilton Davis Chemical Co., 520 U.S. 17 (1997) 29
Washington v. Glucksberg, 521 U.S. 702, 719-22, 117 S.Ct. 2258, 117 S. Ct. 2302, 138 L.Ed.2d. 772 (1997) 59, 60
Washington v. Glucksberg, 521 U.S. 720, 719-722, 117 S.Ct. 2258, 117 S.Ct. 2302, 138 L.2Ed.2d. 722 (1997) 26
Wellness International Network, Ltd. v. Sharif, 575 U.S. 665 (2015) 34
West v. Atkins (1988) 66

West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943) 64
West Virginia v. EPA, 577 U.S. 1126 (2016) 53
Wickard v. Filburn, 317 U.S. 111 (1942) 31
Wilshire Oil Co. v. United States, 295 U.S. 100 (1935) 55
Wilson v. Shaw, 204 U.S. 24, 51 L.Ed. 351, 27 S.Ct. 233 38
Wilson v. United States, 221 U.S. 361 (1911) 26, 49
Worcester v. Georgia, 31 U.S. 515 (1832) 65
Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d. 669 (1971) 28
Zivotofsky v. Kerry, 576 U.S. 1 (2015) 39

Other Authorities

"The Public Rights Doctrine" 37
1620 Charter of New England, in 3 Thorpe, at 1839 47
1629 Charter of the Massachusetts Bay Colony 47
1632 Charter of Maryland, in 3 id., at 1682 47
1663 Charter of Carolina, in 5 id., at 2747 47
1774 Statement of Violation of Rights, 1 Journals of the Continental Congress 68 (1904) 47
2 Inst. 46-7 49
2 W. Crosskey, Politics and the Constitution in the History of the United States 1089 1095 (1953) 46
6 Words and Phrases, 5583, 5584 ..... 35, 47
A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31 ..... 35, 47
Ackerman, Constitutional Politics/Constitutional Law, 99 Yale L. J. 453, 521 536 (1989) 46
Application of the Bill of Rights to Federal Enclaves 65
Are You "Playing the Harlot" with the Government?, SEDM 36
ArtIII.S2.C1.10.4 Ashwander and Rules of Constitutional Avoidance 55
ArtIII.S2.C1.5.1 Overview of Adversity Requirement 55
ArtIII.S2.C1.6.1 Overview of Standing 55
ArtIII.S2.C1.7.1 Overview of Ripeness Doctrine 55
ArtIII.S2.C1.8.1 Overview of Mootness Doctrine 55
B. Siegan, Supreme Court's Constitution 46 71 (1987) 46
Black's Law Dictionary Sixth Edition, p. 695 17
Black's Law Dictionary, Fourth Edition, p. 1235 63
Black's Law Dictionary, Fourth Edition, p. 1397 34
Bouvier's Maxims of Law, 1856 17
Chevron Deference Rule 40
Christians for a Test Oath, Family Guardian Fellowship 22
Close Nexus Test 66
Collective Entity Doctrine 48
Collective Entity Doctrine of the U.S. Supreme Court 48
Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (p. 1732). Peabody: Hendrickson 15
Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (p. 1733-1734). Peabody: Hendrickson 24
Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (p. 1734). Peabody: Hendrickson 22
Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (pp. 1732–1733). Peabody: Hendrickson 20
Cong. Globe, 39th Cong., 1st Sess., 2765 (1866) 47
Cong. Globe, supra, at 476 47
Constitutional Avoidance Doctrine 54
Corfield.5 Cong. Globe, 39th Cong., 1st Sess., 2765 (1866) 46
Courts Cannot Make Law 37
D. Currie, The Constitution in the Supreme Court 341 351 (1985) 46
Delegation Doctrine 66
Department of Justice 38

Department of Justice (DOJ) 52
Entwinement Doctrine 66
Enumeration of Inalienable Rights, Form #10.002 67
Enumeration of Inalienable Rights, Form #10.002, Section 4 59
Equal Protection Clause of the 14th Amendment 33
Equality of Treatment 64
Federal and State Constitutions, Colonial Charters and Other Organic Laws 3788 (F. Thorpe ed. 1909) 45
Federal Trade Commission (FTC) 52
Form #05.014 ..... 35, 38
Form #05.023 37
Form #05.030 35
Form #05.030, Section 2 26
Form #05.037 35
Form #05.042 35
Form #10.002 35
Form #12.025 36
Foundations of Freedom Course, Form #12.021, Video 1: Introduction 17
Full Payment Rule 40
Glucksberg Test 59, 61
Government Establishment of Religion, Form #05.038 17
Government Identity Theft, Form #05.046 ..... 25, 38
Government Instituted Slavery Using Franchises, Form #05.030 ..... 17, 48
Great IRS Hoax, Form #11.302, Section 3.17.3, Family Guardian Fellowship 51
Harrison, Reconstructing the Privileges or Immunities Clause, 101 Yale L. J. 1385, 1418 (1992) 46
Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship 62
Hot Issues: Common Law and Equity Litigation**, SEDM 67
How Judges Unconstitutionally "Make Law", Litigation Tool #01.009 37
How to Enrage Hypocrites and Pharisees, Pastor John Weaver 22
Incorporation Doctrine 40
J. Ely, Democracy and Distrust 28 (1980) 46
Josepheus. The Antiquities of the Jews. pp. 13.5.9 23
Josephus 23
Justice Bushrod Washington 45
Justice Clarence Thomas 45
Know Your Rights and Citizenship Status, Form #10.009 67
Laws of the Bible, Form #13.001, Section 5 22
Legal Deception, Propaganda, and Fraud, Form #05.014, Section 3 14
Legal Expert Identifies a 'fatal flaw' in Alito's Leaked Draft, Bob Brigham, Raw Story; 5/11/22 62
Legal Requirement to File Federal Income Tax Returns, Form #05.009 50
M. Curtis, No State Shall Abridge 100 (1986) 46
Martin Luther 23
Mishnah 23
Montesquieu 37
Neusner, Jacob Invitation to the Talmud: a Teaching Book (1998): 8 23
Pastor John Weaver 22
Peterson, E. H. (2005). The Message: the Bible in contemporary language (Mt 23:13–39). Colorado Springs, CO: NavPress. 16
Political Question Doctrine 39
Political Questions Doctrine 39
Proof That There Is a "Straw Man", Form #05.042, Section 17.1 41
Proof That There Is a "Straw Man", Form #05.042, Section 17.2 48
Public Function Doctrine 66
Public Rights Doctrine 34
Public Rights Doctrine of the U.S. Supreme Court 34, 39
R. Berger, Government by Judiciary 30 (2d ed. 1997) 46
Saint Paul 23
SCALIA, J. 49

Section 1983 Litigation, Litigation Tool #08.008 42
SEDM Disclaimer, Section 4.28: "Grant" or "loan" 63
Separation Between Public and Private Course, Form #12.025 32
Socialism: The New American Civil Religion, Form #05.016 14
Sovereignty and Freedom Topic, Section 6: Private and Natural Rights and Natural Law, Family Guardian Fellowship 39
State Action and the Public/Private Distinction, Harvard Law Review, Volume 123, pp. 1248-1314, Exhibit #04.025 48
State Action Doctrine 41, 48, 66
State Action Doctrine of the U.S. Supreme Court 42
State Sovereignty 65
Strict Scrutiny Doctrine 33
Tax DVD: Collective Entity Rule, Family Guardian Fellowship 51
The "Brandeis Rules" of the U.S. Supreme Court 35
The Church of Latter-Day Saints (Mormons) 25
The Fourth Amendment, Once Removed: The Suipreme Court Examines a New Search and Seizure Loophole, Findlaw, Sherry F. Colb 56
The Increasingly Dangerous Variants of the "Most Favored Nation" Theory of Religious Liberty, Andrew Koppelman, Northwestern University Pritzker School of Law 27
The Massachusetts Resolves, in Prologue to Revolution: Sources and Documents on the Stamp Act Crisis 56 (E. Morgan ed. 1959) 47
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The Spirit of Laws, Charles de Montesquieu, 1758, Book XI, Section 6 37
The Virginia Resolves, id., at 47 48 47
Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890 50
U.S. Supreme Court 37
U.S. Supreme Court Doctrines**, SEDM 67
Unalienable Rights Course, Form #12.038 67
Unconstitutional Conditions Doctrine 33
Who Were the Pharisees and Sadducees?, Form #05.047 67
Why All Man-Made Law is Religious in Nature, Family Guardian Fellowship 16
Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037 35
Why the Federal Income Tax is a Privilege Tax Upon Government Property, Form #04.404, Section 2 34
Wikipedia topic: Pearson v. Callahan 56
Wikipedia: Pharisees; Downloaded on 9/30/2016 23
Wikipedia: Sherman Antitrust Act 52

1 Introduction

Court doctrines are very important to know and understand for those seeking judicial remedy. Different practice areas use a different subset of these doctrines. Attorneys within a specific specialty typically only know the doctrines that relate to their chosen practice areas but seldom look at doctrines that apply to other areas of law practice.

Court doctrines determine:

1. Who may seek remedy. In other words, the actions required to produce standing.
2. The burden of proof upon which remedy may be granted.
3. The critera for deciding cases.

This article provides a list of U.S. Supreme Court Doctrines organized by subject area, the cases which created it, and a background on how it works.

This is a work in progress, because we have never seen an all-inclusive catalog of this kind in all our years studying the law. Tremendous amounts of time is required reading case law in order to complile this list. If you identify a doctrine not listed here, please send us the details so that we may add it to this document.
Here are some of the most significant doctrines and their associated cases:

1. Judicial Review: Marbury v. Madison (1803)
2. Separate but Equal: Plessy v. Ferguson (1896)
3. Clear and Present Danger: Schenck v. United States (1919)
4. Due Process: Palko v. Connecticut (1937)
5. Stare Decisis: Burnet v. Coronado Oil & Gas Co. (1932)
6. Executive Privilege: United States v. Nixon (1974)
7. Strict Scrutiny: Korematsu v. United States (1944)
8. Equal Protection: Brown v. Board of Education (1954)
9. Miranda Rights: Miranda v. Arizona (1966)
10. Right to Privacy: Griswold v. Connecticut (1965)

These are just a few of the most notable U.S. Supreme Court doctrines. Other important doctrines include the Dormant Commerce Clause, the Takings Clause, the Commerce Clause, and the First Amendment Establishment Clause. Each of these doctrines has a long and complex history, with many cases contributing to their development and evolution.

2 Who Were the Pharisees and Sadducees?[1]

To the extent that the U.S. Supreme Court does not permit anyone to approach the U.S. government as a co-equal in equity or insists on enforcing only civil statutes to the exclusion of common law or equity actions, they behave in effect as biblical Pharisees promoting a state-sponsored religion in violation of the First Amendment. That religion is described below:

Socialism: The New American Civil Religion, Form #05.016 https://sedm.org/Forms/05-MemLaw/SocialismCivilReligion.pdf

This section will expound upon the circumstances of the Pharisees to show that they are still alive and well today not only in the U.S. Supreme Court, but in just about every court.

The abuse of language to undermine the intent of the law is not a new phenomenon. The most famous instance of it was described in the Bible, when Jesus criticized the Pharisees in the Bible. The Pharisees were the interpreters of law:

> *Christ allows their office as expositors of the law; The scribes and Pharisees (that is, the whole Sanhedrim, who sat at the helm of church government, who were all called scribes, and were some of them Pharisees), they sit in Moses' seat (v. 2), as public teachers and interpreters of the law; and, the law of Moses being the municipal law*

[1] Source: *Legal Deception, Propaganda, and Fraud*, Form #05.014, Section 3; http://sedm.org/Forms/FormIndex.htm.

> *of their state, they were as judges, or a bench of justices; teaching and judging seem to be equivalent, comparing 2 Chr. 17:7, 9, with 2 Chr. 19:5, 6, 8. They were not the itinerant judges that rode the circuit, but the standing bench, that determined on appeals, special verdicts, or writs of error by the law; they sat in Moses's seat, not as he was Mediator between God and Israel, but only as he was chief justice, Ex. 18:26. Or, we may apply it, not to the Sanhedrim, but to the other Pharisees and scribes, that expounded the law, and taught the people how to apply it to particular cases.*
>
> *[. . .]*
>
> *Hence he infers (v. 3), "Whatsoever they bid you observe, that observe and do As far as they sit in Moses's seat, that is, read and preach the law that was given by Moses" (which, as yet, continued in full force, power, and virtue), "and judge according to that law, so far you must hearken to them, as remembrances to you of the written word." The scribes and Pharisees made it their business to study the scripture, and were well acquainted with the language, history, and customs of it, and its style and phraseology. Now Christ would have the people to make use of the helps they gave them for the understanding of the scripture, and do accordingly. As long as their comments did illustrate the text and not pervert it; did make plain, and not make void, the commandment of God; so far they must be observed and obeyed, but with caution and a judgment of discretion.*
> *[Commentary on Matt. 23:1-12, Henry, M. (1994).* Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume *(p. 1732). Peabody: Hendrickson]*

Back then, the Jews had a theocracy and the Bible was their law book, so the term "religion scholars" meant the lawyers of that time who were the Pharisees and Sadducees, not the pastors of today's time. In effect, the Pharisees seemed to be the equivalent of our modern administrators in the Executive Branch, while the Sadducees seemed to be the elites in the Judicial Branch:

> *I've had it with you! You're hopeless, you religion scholars, you Pharisees! Frauds! Your lives are roadblocks to God's kingdom. You refuse to enter, and won't let anyone else in either.*
>
> *"You're hopeless, you religion scholars and Pharisees! Frauds! You go halfway around the world to make a convert, but once you get him you make him into a replica of yourselves, double-damned.*
>
> *"You're hopeless! What arrogant stupidity! You say, 'If someone makes a promise with his fingers crossed, that's nothing; but if he swears with his hand on the Bible, that's serious.' What ignorance! Does the leather on the Bible carry more weight than the skin on your hands? And what about this piece of trivia: 'If you shake hands on a promise, that's nothing; but if you raise your hand that God is your witness, that's serious'? What ridiculous hairsplitting! What difference does it make whether you shake hands or raise hands? A promise is a promise. What difference does it make if you make your promise inside or outside a house of worship? A promise is a promise. God is present, watching and holding you to account regardless.*
>
> *"You're hopeless, you religion scholars and Pharisees! Frauds! You keep meticulous account books, tithing on every nickel and dime you get, but on the meat of God's Law, things like fairness and compassion and commitment—the absolute basics!—you carelessly take it or leave it. Careful bookkeeping is commendable, but the basics are required. Do you have any idea how silly you look, writing a life story that's wrong from start to finish, nitpicking over commas and semicolons?*
>
> *"You're hopeless, you religion scholars and Pharisees! Frauds! You burnish the surface of your cups and bowls so they sparkle in the sun, while the insides are maggoty with your greed and gluttony. Stupid Pharisee! Scour the insides, and then the gleaming surface will mean something.*
>
> *"You're hopeless, you religion scholars and Pharisees! Frauds! You're like manicured grave plots, grass clipped and the flowers bright, but six feet down it's all rotting bones and worm-eaten flesh. People look at you and think you're saints, but beneath the skin you're total frauds.*
>
> *"You're hopeless, you religion scholars and Pharisees! Frauds! You build granite tombs for your prophets and marble monuments for your saints. And you say that if you had lived in the days of your ancestors, no blood would have been on your hands. You protest too much! You're cut from the same cloth as those murderers, and daily add to the death count.*
>
> *"Snakes! Reptilian sneaks! Do you think you can worm your way out of this? Never have to pay the piper? It's on account of people like you that I send prophets and wise guides and scholars generation after generation—and generation after generation you treat them like dirt, greeting them with lynch mobs, hounding them with abuse.*
>
> *"You can't squirm out of this: Every drop of righteous blood ever spilled on this earth, beginning with the blood of that good man Abel right down to the blood of Zechariah, Barachiah's son, whom you murdered at his prayers, is on your head. All this, I'm telling you, is coming down on you, on your generation.*

> *"Jerusalem! Jerusalem! Murderer of prophets! Killer of the ones who brought you God's news! How often I've ached to embrace your children, the way a hen gathers her chicks under her wings, and you wouldn't let me. And now you're so desolate, nothing but a ghost town. What is there left to say? Only this: I'm out of here soon. The next time you see me you'll say, 'Oh, God has blessed him! He's come, bringing God's rule!'"*
> *[Peterson, E. H. (2005).* The Message: the Bible in contemporary language *(Mt 23:13–39). Colorado Springs, CO: NavPress.]*

Why did Jesus get angry? The scriptures below give us a clue:

> *But to the wicked, God says:*
>
> *"**What right have you to declare My [God's] statutes [write man's vain law], or take My covenant [the Bible] in your mouth, seeing you hate instruction and cast My words behind you?** When you saw a thief, you consented with him, and have been a partaker with adulterers. You give your mouth to evil, and your tongue frames deceit. You sit and speak against your brother; you slander your own mother's son. These things you have done, and I kept silent; you thought that I was altogether like you; but I will reprove you, and set them in order before your eyes. **Now consider this, you who forget God, lest I tear you in pieces, and there be none to deliver: Whoever offers praise glorifies Me; and to him who orders his conduct aright [and bases it on God's laws] I will show the salvation of God.**"*
> *[Psalm 50:16-23, Bible, NKJV]*
>
> ---
>
> *"For they being ignorant of God's righteousness, and seeking to establish their [the Pharisees] own righteousness, have not submitted to the righteousness of God."*
> *[Rom. 10:3, Bible, NKJV]*

In effect, by establishing their own substitute or addition to God's law using "oral tradition", the Pharisees and Sadducees were establishing a man-made religion in which THEY, and not the true and living God, were being "worshipped", in violation of the First Commandment of the Ten Commandments. For proof, see the following:

Why All Man-Made Law is Religious in Nature, Family Guardian Fellowship http://famguardian.org/Subjects/LawAndGovt/ChurchVState/WhyAllManmadeLawRelig.htm

The First Commandment forbids "worshipping" (serving) other gods. Anyone who can "make" law is the god of the society that they make law FOR, and especially if that law applies to everyone BUT the law maker or law giver. God is the king of the earth, and to recognize any OTHER king or any other law is to engage in religious idolatry.

> *"**For God is the King of all the** earth. Sing praises with understanding."*
> *[Psalm 47:7, Bible, NKJV]*

> *"For the LORD is our Judge, the LORD is our Lawgiver, the LORD is our King; He will save [and protect] us."*
> *[Isaiah 33:22, Bible, NKJV]*

A god, after all, is anyone or anything that has SUPERIOR or SUPERNATURAL powers or exemptions GREATER than those who are "natural", meaning human. Governments and churches are what lawyers call "legal fictions" or "artificial entities" that can have no more rights than those who delegated them their power.

> *Nemo dat qui non habet. No one can give who does not possess. Jenk. Cent. 250.*

> *Nemo plus juris ad alienum transfere potest, quam ispe habent. One cannot transfer to another a right which he has not. Dig. 50, 17, 54; 10 Pet. 161, 175.*

> *Nemo potest facere per alium quod per se non potest. No one can do that by another which he cannot do by himself.*

> *Qui per alium facit per seipsum facere videtur. He who does anything through another, is considered as doing it himself. Co. Litt. 258.*

> *Quicpuid acquiritur servo, acquiritur domino. Whatever is acquired by the servant, is acquired for the master. 15 Bin. Ab. 327.*

> *Quod per me non possum, nec per alium. What I cannot do in person, I cannot do by proxy. 4 Co. 24.*

> *What a man cannot transfer, he cannot bind by articles.*

[Bouvier's Maxims of Law, 1856; SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

That's the basis for what a "republic" is legally defined as.

> *"Republican government.* ***One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated.*** *In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 36 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627."*
> *[Black's Law Dictionary Sixth Edition, p. 695]*

When the man-made law imputes more rights to governments or other artificial entities than ordinary humans, a man-made religion has been created. We cover this in *Government Establishment of Religion*, Form #05.038.

> *"**Religion**. Man's relation to Divinity, to reverence, **worship, obedience**, and **submission to mandates and precepts of supernatural or superior beings. In its broadest sense includes all forms of belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments**. **Bond uniting man to God**, and **a virtue** whose purpose is to **render God worship** due him as **source of all being** and **principle of all government of things**. Nikulnikoff v. Archbishop, etc., of Russian Orthodox Greek Catholic Church, 142 Misc. 894, 255 N.Y.S. 653, 663."*
> *[Black's Law Dictionary, Sixth Edition, p. 1292]*

Keep in mind that the term "hypocrite" used by Jesus in Matt. 23 is defined in the following passages as "trusting in privileges", meaning franchises: Jer 7:4; Mt 3:9. The focus of hypocrites is to apply DIFFERENT rules to themselves than to everyone else, and to elevate their own importance ABOVE everyone else. In essence, they seek to destroy equality of treatment under the law and replace it with privileges and franchises. We discuss this corrupting aspect of franchises in:

Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm

We prove in *Foundations of Freedom Course*, Form #12.021, Video 1: Introduction that absolute equality under the law is the foundation of all your freedom. Therefore, the Pharisees sought indirectly to make everyone into THEIR slave and to make themselves the object of idol worship not unlike the Golden Calf or like Pharaoh. Below is a popular commentary on Matt. 23:1-12 which proves this:

> *II. He condemns the men. He had ordered the multitude to do as they taught; but here he annexeth a caution not to do as they did, to beware of their leaven; Do not ye after their works. Their traditions were their works, were their idols, the works of their fancy. Or, "Do not according to their example." Doctrines and practices are spirits that must be tried, and where there is occasion, must be carefully separated and distinguished; and as we must not swallow corrupt doctrines for the sake of any laudable practices of those that teach them, so we must not imitate any bad examples for the sake of the plausible doctrines of those that set them. The scribes and Pharisees boasted as much of the goodness of their works as of the orthodoxy of their teaching, and hoped to be justified by them; it was the plea they put in (Lu. 18:11, 12); and yet these things, which they valued themselves so much upon, were an abomination in the sight of God.*
>
> *Our Saviour here, and in the following verses, specifies divers particulars of their works, wherein we must not imitate them. In general, they are charged with hypocrisy, dissimulation, or double-dealing in religion; a crime which cannot be enquired of at men's bar, because we can only judge according to outward appearance; but God, who searcheth the heart, can convict of hypocrisy; and nothing is more displeasing to him, for he desireth truth.*
>
> *Four things are in these verses charged upon them.*
>
> *1. Their saying and doing were two things.*
>
> *Their practice was no way agreeable either to their preaching or to their profession; for they say, and do not; they teach out of the law that which is good, but their conversation gives them the lie; and they seem to have found another way to heaven for themselves than what they show to others. See this illustrated and charged home upon them, Rom. 2:17–24. Those are of all sinners most inexcusable that allow themselves in the sins they condemn in others, or in worse. This doth especially touch wicked ministers, who will be sure to have their portion appointed them with hypocrites (ch. 24:51); for what greater hypocrisy can there be, than to press that upon others, to be believed and done, which they themselves disbelieve and disobey; pulling down in their practice what they build up in their preaching; when in the pulpit, preaching so well that it is a pity they should ever come out; but, when out of the pulpit, living so ill that it is a pity they should ever come in; like bells, that call others to church, but hang out of it themselves; or Mercurial posts, that point the way to others, but stand still themselves?*

Such will be judged out of their own mouths. It is applicable to all others that say, and do not; that make a plausible profession of religion, but do not live up to that profession; that make fair promises, but do not perform their promises; are full of good discourse, and can lay down the law to all about them, but are empty of good works; great talkers, but little doers; the voice is Jacob's voice, but the hands are the hands of Esau. Vox et praeterea nihil—mere sound. They speak fair, I go, sir; but there is no trusting them, for there are seven abominations in their heart.

2. They were very severe in imposing upon others those things which they were not themselves willing to submit to the burden of (v. 4); They bind heavy burdens, and grievous to be borne; not only insisting upon the minute circumstances of the law, which is called a yoke (Acts 15:10), and pressing the observation of them with more strictness and severity than God himself did (whereas the maxim of the lawyers, is Apices juris son sunt jura—Mere points of law are not law), but by adding to his words, and imposing their own inventions and traditions, under the highest penalties. They loved to show their authority and to exercise their domineering faculty, lording it over God's heritage, and saying to men's souls, Bow down, that we may go over; witness their many additions to the law of the fourth commandment, by which they made the sabbath a burden on men's shoulders, which was designed to be the joy of their hearts. Thus with force and cruelty did those shepherds rule the flock, as of old, Eze. 34:4.

But see their hypocrisy; They themselves will not move them with one of their fingers. (1.) They would not exercise themselves in those things which they imposed upon others; they pressed upon the people a strictness in religion which they themselves would not be bound by; but secretly transgressed their own traditions, which they publicly enforced. They indulged their pride in giving law to others; but consulted their ease in their own practice. Thus it has been said, to the reproach of the popish priests, that they fast with wine and sweetmeats, while they force the people to fast with bread and water; and decline the penances they enjoin the laity. (2.) They would not ease the people in these things, nor put a finger to lighten their burden, when they saw it pinched them. They could find out loose constructions to put upon God's law, and could dispense with that, but would not bate an ace of their own impositions, nor dispense with a failure in the least punctilio of them. They allowed no chancery to relieve the extremity of their common law. How contrary to this was the practice of Christ's apostles, who would allow to others that use of Christian liberty which, for the peace and edification of the church, they would deny themselves in! They would lay no other burden than necessary things, and those easy, Acts 15:28. How carefully doth Paul spare those to whom he writes! 1 Co. 7:28; 9:12.

3. They were all for show, and nothing for substance, in religion (v. 5); All their works they do, to be seen of men. We must do such good works, that they who see them may glorify God; but we must not proclaim our good works, with design that others may see them, and glorify us; which our Saviour here chargeth upon the Pharisees in general, as he had done before in the particular instances of prayer and giving of alms. All their end was to be praised of men, and therefore all their endeavour was to be seen of men, to make a fair show in the flesh. In those duties of religion which fall under the eye of men, none ere so constant and abundant as they; but in what lies between God and their souls, in the retirement of their closets, and the recesses of their hearts, they desire to be excused. The form of godliness will get them a name to live, which is all they aim at, and therefore they trouble not themselves with the power of it, which is essential to a life indeed. He that does all to be seen does nothing to the purpose.

He specifies two things which they did to be seen of men.

(1.) They made broad their phylacteries. Those were little scrolls of paper or parchment, wherein were written, with great niceness, these four paragraphs of the law, Ex. 13:2–11; 13:11–16; Deu. 6:4–9; 11:13–21. These were sewn up in leather, and worn upon their foreheads and left arms. It was a tradition of the elders, which had reference to Ex. 13:9, and Prov. 7:3, where the expressions seem to be figurative, intimating no more than that we should bear the things of God in our minds as carefully as if we had them bound between our eyes. Now the Pharisees made broad these phylacteries, that they might be thought more holy, and strict, and zealous for the law, than others. It is a gracious ambition to covet to be really more holy than others, but it is a proud ambition to covet to appear so. It is good to excel in real piety, but not to exceed in outward shows; for overdoing is justly suspected of design, Prov. 27:14. It is the guise of hypocrisy to make more ado than needs in external service, more than is needful either to prove, or to improve, the good affections and dispositions of the soul.

(2.) They enlarged the borders of their garments. God appointed the Jews to make borders or fringes upon their garments (Num. 15:38), to distinguish them from other nations, and to be a memorandum to them of their being a peculiar people; but the Pharisees were not content to have these borders like other people's, which might serve God's design in appointing them; but they must be larger than ordinary, to answer their design of making themselves to be taken notice of; as if they were more religious than others. But those who thus enlarge their phylacteries, and the borders of their garments, while their hearts are straitened, and destitute of the love of God and their neighbour, though they may now deceive others, will in the end deceive themselves.

4. They much affected pre-eminence and superiority, and prided themselves extremely in it. Pride was the darling reigning sin of the Pharisees, the sin that did most easily beset them and which our Lord Jesus takes all occasions to witness against.

(1.) He describes their pride, v. 6, 7. They courted, and coveted,

[1.] Places of honour and respect. In all public appearances, as at feasts, and in the synagogues, they expected, and had, to their hearts' delight, the uppermost rooms, and the chief seats. They took place of all others, and precedency was adjudged to them, as persons of the greatest note and merit; and it is easy to imagine what a complacency they took in it; they loved to have the preeminence, 3 Jn. 9. It is not possessing the uppermost rooms, nor sitting in the chief seats, that is condemned (somebody must sit uppermost), but loving them; for men to value such a little piece of ceremony as sitting highest, going first, taking the wall, or the better hand, and to value themselves upon it, to seek it, and to feel resentment if they have it not; what is that but making an idol of ourselves, and then falling down and worshipping it—the worst kind of idolatry! It is bad any where, but especially in the synagogues. There to seek honour to ourselves, where we appear in order to give glory to God, and to humble ourselves before him, is indeed to mock God instead of serving him. David would willingly lie at the threshold in God's house; so far was he from coveting the chief seat there, Ps. 84:10. It savours much of pride and hypocrisy, when people do not care for going to church, unless they can look fine and make a figure there.

[2.] Titles of honour and respect. They loved greetings in the markets, loved to have people put off their hats to them, and show them respect when they met them in the streets. O how it pleased them, and fed their vain humour, digito monstrari et dicier, Hic est—to be pointed out, and to have it said, This be he, to have way made for them in the crowd of market people; "Stand off, here is a Pharisee coming!" and to be complimented with the high and pompous title of Rabbi, Rabbi! This was meat and drink and dainties to them; and they took as great a satisfaction in it as Nebuchadnezzar did in his palace, when he said, Is not this great Babylon that I have built? The greetings would not have done them half so much good, if they had not been in the markets, where every body might see how much they were respected, and how high they stood in the opinion of the people. It was but a little before Christ's time, that the Jewish teachers, the masters of Israel, had assumed the title of Rabbi, Rab, or Rabban, which signifies great or much; and was construed as Doctor, or My lord. And they laid such a stress upon it, that they gave it for a maxim that "he who salutes his teacher, and does not call him Rabbi, provokes the divine Majesty to depart from Israel;" so much religion did they place in that which was but a piece of good manners! For him that is taught in the word to give respect to him that teaches is commendable enough in him that gives it; but for him that teaches to love it, and demand it, and affect it, to be puffed up with it, and to be displeased if it be omitted, is sinful and abominable; and, instead of teaching, he has need to learn the first lesson in the school of Christ, which is humility.

(2.) He cautions his disciples against being herein like them; herein they must not do after their works; "But be not ye called so, for ye shall not be of such a spirit," v. 8, etc.

Here is, [1.] A prohibition of pride. They are here forbidden,

First, To challenge titles of honour and dominion to themselves, v. 8–10. It is repeated twice; Be not called Rabbi, neither be ye called Master or Guide: not that it is unlawful to give civil respect to those that are over us in the Lord, nay, it is an instance of the honour and esteem which it is our duty to show them; but, 1. Christ's ministers must not affect the name of Rabbi or Master, by way of distinction from other people; it is not agreeable to the simplicity of the gospel, for them to covet or accept the honour which they have that are in kings' palaces. 2. They must not assume the authority and dominion implied in those names; they must not be magisterial, nor domineer over their brethren, or over God's heritage, as if they had dominion over the faith of Christians: what they received of the Lord, all must receive from them; but in other things they must not make their opinions and wills a rule and standard to all other people, to be admitted with an implicit obedience. The reasons for this prohibition are,

(1.) One is your Master, even Christ, v. 8, and again, v. 10. Note, [1.] Christ is our Master, our Teacher, our Guide. Mr. George Herbert, when he named the name of Christ, usually added, My Master. [2.] Christ only is our Master, ministers are but ushers in the school. Christ only is the Master, the great Prophet, whom we must hear, and be ruled and overruled by; whose word must be an oracle and a law to us; Verily I say unto you, must be enough to us. And if he only be our Master, then for his ministers to set up for dictators, and to pretend to a supremacy and an infallibility, is a daring usurpation of that honour of Christ which he will not give to another.

(2.) All ye are brethren. Ministers are brethren not only to one another, but to the people; and therefore it ill becomes them to be masters, when there are none for them to master it over but their brethren; yea, and we are all younger brethren, otherwise the eldest might claim an excellency of dignity and power, Gen. 49:3. But, to preclude that, Christ himself is the first-born among many brethren, Rom. 8:29. Ye are brethren, as ye are all disciples of the same Master. School-fellows are brethren, and, as such, should help one another in getting their lesson; but it will by no means be allowed that one of the scholars step into the master's seat, and give law to the school. If we are all brethren, we must not be many masters. Jam. 3:1.

Secondly, They are forbidden to ascribe such titles to others (v. 9); "Call no man your father upon the earth; constitute no man the father of your religion, that is, the founder, author, director, and governor, of it." The fathers of our flesh must be called fathers, and as such we must give them reverence; but God only must be allowed as the Father of our spirits, Heb. 12:9. Our religion must not be derived from, or made to depend upon, any man. We are born again to the spiritual and divine life, not of corruptible seed, but by the word of God; not of the will of the flesh, or the will of man, but of God. Now the will of man, not being the rise of our religion, must not be the rule of it. We must not jurare in verba magistri—swear to the dictates of any creature, not the wisest or best, nor pin our faith on any man's sleeve, because we know not whither he will carry it. St. Paul calls himself a Father to those whose conversion he had been an instrument of (1 Co. 4:15; Phil. 10); but he pretends to no

dominion over them, and uses that title to denote, not authority, but affection: therefore he calls them not his obliged, but his beloved, sons, 1 Co. 4:14.

The reason given is, One is your Father, who is in heaven. God is our Father, and is All in all in our religion. He is the Fountain of it, and its Founder; the Life of it, and its Lord; from whom alone, as the Original, our spiritual life is derived, and on whom it depends. He is the Father of all lights (Jam. 1:17), that one Father, from whom are all things, and we in him, Eph. 4:6. Christ having taught us to say, Our Father, who art in heaven; let us call no man Father upon earth; no man, because man is a worm, and the son of man is a worm, hewn out of the same rock with us; especially not upon earth, for man upon earth is a sinful worm; there is not a just man upon earth, that doeth good, and sinneth not, and therefore no one is fit to be called Father.

[2.] Here is a precept of humility and mutual subjection (v. 11); He that is greatest among you shall be your servant; not only call himself so (we know of one who styles himself Servus servorum Dei—Servant of the servants of God, but acts as Rabbi, and father, and master, and Dominus Deus noster—The Lord our God, and what not), but he shall be so. Take it as a promise; "He shall be accounted greatest, and stand highest in the favour of God, that is most submissive and serviceable;" or as a precept; "He that is advanced to any place of dignity, trust, and honour, in the church, let him be your servant" (some copies read estō for estai), "let him not think that his patent of honour is a writ of ease; no; he that is greatest is not a lord, but a minister." St. Paul, who knew his privilege as well as duty, though free from all, yet made himself servant unto all (1 Co. 9:19); and our Master frequently pressed it upon his disciples to be humble and self-denying, mild and condescending, and to abound in all offices of Christian love, though mean, and to the meanest; and of this he hath set us an example.

[3.] Here is a good reason for all this, v. 12. Consider,

First, The punishment intended for the proud; Whosoever shall exalt himself shall be abased. If God give them repentance, they will be abased in their own eyes, and will abhor themselves for it; if they repent not, sooner or later they will be abased before the world. Nebuchadnezzar, in the height of his pride, was turned to be a fellow-commoner with the beasts; Herod, to be a feast for the worms; and Babylon, that sat as a queen, to be the scorn of nations. God made the proud and aspiring priests contemptible and base (Mal. 2:9), and the lying prophet to be the tail, Isa. 9:15. But if proud men have not marks of humiliation set upon them in this world, there is a day coming, when they shall rise to everlasting shame and contempt (Dan. 12:2); so plentifully will he reward the proud doer! Ps. 31:23.

Secondly, The preferment intended for the humble; He that shall humble himself shall be exalted. Humility is that ornament which is in the sight of God of great price. In this world the humble have the honour of being accepted with the holy God, and respected by all wise and good men; of being qualified for, and often called out to, the most honourable services; for honour is like the shadow, which flees from those that pursue it, and grasp at it, but follows those that flee from it. However, in the other world, they that have humbled themselves in contrition for their sin, in compliance with their God, and in condescension to their brethren, shall be exalted to inherit the throne of glory; shall be not only owned, but crowned, before angels and men.

[Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (pp. 1732–1733). Peabody: Hendrickson]

Jesus also criticized what he called "the leaven" of the Pharisees:

The Leaven of the Pharisees and Sadducees

Now when His disciples had come to the other side, they had forgotten to take bread. [6] Then Jesus said to them, ***"Take heed and beware of the leaven of the Pharisees and the Sadducees."***

*And they reasoned among themselves, saying, "*It is *because we have taken no bread."*

But Jesus, being aware of it, *said to them, "O you of little faith, why do you reason among yourselves because you have brought no bread? Do you not yet understand, or remember the five loaves of the five thousand and how many baskets you took up? Nor the seven loaves of the four thousand and how many large baskets you took up? How is it you do not understand that I did not speak to you concerning bread?—*but *to beware of the leaven of the Pharisees and Sadducees."* ***Then they understood that He did not tell*** **them** ***to beware of the leaven of bread, but of the doctrine of the Pharisees and Sadducees.***
[Matt. 16:5-12, Bible, NKJV]

The "doctrine" Jesus is speaking of is the legal publications, rules, teachings, and beliefs of the lawyers at that time under a theocracy, who were abusing the law and legal process to:

1. Expand the power and influence of those interpreting or enforcing the law to elevate their own importance, rights, or privileges to be ABOVE everyone else. In other words, to destroy equality under the law.

2. Expand the definition or meaning of words in the law to ADD things not expressly included. Today this is done by abusing the word "includes".
3. Undermine or circumvent the INTENT of the law and replace it with something more "beneficial" to the lawmaker. Today this is done primarily by:
   3.1. "equivocation", meaning confusing the multiple contexts of usually geographic words to expand those in the area or group membership covered by the law.
   3.2. Abuse of judicial precedent to extend the reach of a law to an unmentioned group. Also called "judicial activism" or "legislating from the bench".

The effect of the above sinister legal treachery is to replace God's law with man's law, and to do what the Founding Fathers called "turn a society of law into a society of men".

> ***Defilement Comes from Within***
>
> *Then the Pharisees and some of the scribes came together to Him, having come from Jerusalem. Now when they saw some of His disciples eat bread with defiled, that is, with unwashed hands, they found fault. For the Pharisees and all the Jews do not eat unless they wash their hands in a special way, holding the tradition of the elders. When they come from the marketplace, they do not eat unless they wash. And there are many other things which they have received and hold, like the washing of cups, pitchers, copper vessels, and couches.*
>
> *Then the Pharisees and scribes asked Him, "Why do Your disciples not walk according to the tradition of the elders, but eat bread with unwashed hands?"*
>
> *He answered and said to them, "Well did Isaiah prophesy of you hypocrites, as it is written:*
>
> ***'This people honors Me with their lips,***
> ***But their heart is far from Me.***
> ***And in vain they worship Me,***
> ***Teaching as doctrines [LAW] the commandments of men.'***
>
> *For laying aside the commandment of God, you hold the tradition of men—the washing of pitchers and cups, and many other such things you do."*
>
> ***He said to them, "All too well you reject the commandment of God, that you may keep your tradition.*** *For Moses said, 'Honor your father and your mother'; and, 'He who curses father or mother, let him be put to death.' But you say, 'If a man says to his father or mother, "Whatever profit you might have received from me is Corban"—' (that is, a gift to God), then you no longer let him do anything for his father or his mother, making the word of God of no effect through your tradition which you have handed down. And many such things you do." [Mark 7:1-13, Bible, NKJV]*

The irony is that under the pretence of being law abiding, the Pharisees in fact were what Jesus called "lawless".

> *"Even so you also outwardly appear righteous to men, but inside you are full of hypocrisy and lawlessness." [Matt. 23:28, Bible, NKJV]*

Contemporary Christianity largely misses this important point. They portray as Pharisaical any attempt to quote or enforce ANY Biblical law and in so doing themselves acquire the same condemnation for "lawlessness" as the Pharisees.

> *"Not everyone who says to Me, 'Lord, Lord,' shall enter the kingdom of heaven, but he who does the will of My Father in heaven.*
>
> *Many will say to Me in that day, 'Lord, Lord, have we not prophesied in Your name, cast out demons in Your name, and done many wonders in Your name?'*
>
> *And then I will declare to them,* ***'I never knew you; depart from Me, you who practice lawlessness!'*** *[Matt. 7:21-23, Bible, NKJV*

In modern theology, the "lawlessness" of Christians who insist that the Old Testament has been repealed and that they don't have to obey it is called "dispensationalism", "antinomianism", "hyper-grace", and even "anarchism under God's law order". It is an attempt to justify and protect sin and to use "compartmentalization" or even "equivocation" to defend lawlessness. The "equivocation" happens because they identify the Bible not as a single law book, but two separate books, Old and New

Testament, only one of which is REAL "law" that they must follow. For an interesting discussion of this subject of lawless corrupted Christianity, refer to the following:

Laws of the Bible, Form #13.001, Section 5 http://sedm.org/Forms/FormIndex.htm

To put the above in a more contemporary context, Jesus is saying to lawyers that they are hypocrites and elitists if they try to expand or redefine or misapply any provision of the written law in such a way as to benefit themselves personally at others expense:

> *"**Their seeking their own worldly gain and honour more than God's glory put them upon coining false and unwarrantable distinction**, with which **they led the people into dangerous mistakes, particularly in the matter of oaths; which, as an evidence of a universal sense of religion, have been by all nations accounted sacred (v. 16);** Ye blind guides. Note, 1. It is sad to think how many are under the guidance of such as are themselves blind, who undertake to show others that way which they are themselves willingly ignorant of. His watchmen are blind (Isa. 56:10); and too often the people love to have it so, and say to the seers, See not. But the case is bad, when the leaders of the people cause them to err, Isa. 9:16. 2. Though the condition of those whose guides are blind is very sad, yet that of the blind guides themselves is yet more woeful. Christ denounces a woe to the blind guides that have the blood of so many souls to answer for."*
>
> *Now, to prove their blindness, he specifies the matter of swearing, and shows what corrupt casuists they were.*
>
> *(1.) He lays down the doctrine they taught.*
>
> *[1.] They allowed swearing by creatures, provided they were consecrated to the service of God, and stood in any special relation to him. They allowed swearing by the temple and the altar, though they were the work of men's hands, intended to be the servants of God's honour, not sharers in it. An oath is an appeal to God, to his omniscience and justice; and to make this appeal to any creature is to put that creature in the place of God. See Deu. 6:13.*
>
> *[2.] They distinguished between an oath by the temple and an oath by the gold of the temple; an oath by the altar and an oath by the gift upon the altar; making the latter binding, but not the former. Here was a double wickedness; First, That there were some oaths which they dispensed with, and made light of, and reckoned a man was not bound by to assert the truth, or perform a promise. They ought not to have sworn by the temple or the altar; but, when they had so sworn, they were taken in the words of their mouth. That doctrine cannot be of the God of truth which gives countenance to the breach of faith in any case whatsoever. Oaths are edge-tools and are not to be jested with. Secondly, That they preferred the gold before the temple, and the gift before the altar, to encourage people to bring gifts to the altar, and gold to the treasures of the temple, which they hoped to be gainers by. Those who had made gold their hope, and whose eyes were blinded by gifts in secret, were great friends to the Corban; and, gain being their godliness, by a thousand artifices they made religion truckle to their worldly interests. Corrupt church-guides make things to be sin or not sin as it serves their purposes, and lay a much greater stress on that which concerns their own gain than on that which is for God's glory and the good of souls.*
>
> *(2.) He shows the folly and absurdity of this distinction (v. 17–19); Ye fools, and blind. It was in the way of a necessary reproof, not an angry reproach, that Christ called them fools. Let it suffice us from the word of wisdom to show the folly of sinful opinions and practices: but, for the fastening of the character upon particular persons, leave that to Christ, who knows what is in man, and has forbidden us to say, Thou fool.*
> *[Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (p. 1734). Peabody: Hendrickson]*

Notice that the Pharisees maliciously led people into a pattern of dangerous oaths. In modern times, this refers to the perjury statements on government forms that you should NEVER sign. See:

Christians for a Test Oath, Family Guardian Fellowship http://famguardian.org/Subjects/LawAndGovt/ChurchVState/TestOath/contents.htm

Pastor John Weaver gave an almost whimsical sermon about the Pharisees and hypocrites criticized by Jesus as follows:

How to Enrage Hypocrites and Pharisees, Pastor John Weaver http://www.sermonaudio.com/sermoninfo.asp?SID=68151428130

From the above sermon, we can see that the Pharisees were replacing God's law with "the commandments of men", and the men who were making those "commandments of men" were the Pharisees themselves instead of God. The "oral traditions"

of the Pharisees and Sadducees is HOW they expanded upon God's law word to add their own leaven, as Jesus called it. That leaven was found in the early Mishnah. The Mishnah eventually morphed into what is now the Talmud. The oral tradition of the Jewish rabbis criticized by Jesus is therefore embodied in both the Talmud and its predecessor, the Mishnah:

> *As Jacob Neusner has explained, the schools of the Pharisees and rabbis were and are holy*
>
> > *"because **there men achieve sainthood through study of Torah and imitation of the conduct of the masters. In doing so, they conform to the heavenly paradigm**, the Torah believed to have been created by God "in his image," revealed at Sinai, and handed down to their own teachers ... If the masters and disciples obey the divine teaching of Moses, "our rabbi," then their society, the school, replicates on earth the heavenly academy, just as the disciple incarnates the heavenly model of Moses, "our rabbi." The rabbis believe that Moses was (and the Messiah will be) a rabbi, God dons phylacteries, and the heavenly court studies Torah precisely as does the earthly one, even arguing about the same questions. **These beliefs today may seem as projections of rabbinical values onto heaven, but the rabbis believe that they themselves are projections of heavenly values onto earth**. The rabbis thus conceive that on earth they study Torah just as God, the angels, and Moses, "our rabbi," do in heaven. The heavenly schoolmen are even aware of Babylonian scholastic discussions, so they require a rabbi's information about an aspect of purity taboos.*[2]
>
> *The commitment to relate religion to daily life through the law has led some (notably, Saint Paul and Martin Luther) to infer that the Pharisees were more legalistic than other sects in the Second Temple Era. The authors of the Gospels present Jesus as speaking harshly against some Pharisees (Josephus does claim that the Pharisees were the "strictest" observers of the law, but he likely meant "most accurate"*[3]*). It is more accurate to say they were legalistic in a different way.*
>
> ***In some cases Pharisaic values led to an extension of the law** — for example, the Torah requires priests to bathe themselves before entering the Temple. The Pharisees washed themselves before Sabbath and festival meals (in effect, making these holidays "temples in time"), and, eventually, before all meals. Although this seems burdensome compared to the practices of the Sadducees, in other cases, Pharisaic law was less strict. For example, Jewish law prohibits Jews from carrying objects from a private domain ("reshut ha-yachid") to a public domain ("reshut ha-rabim") on Sabbath. This law could have prevented Jews from carrying cooked dishes to the homes of friends for Sabbath meals. The Pharisees ruled that adjacent houses connected by lintels or fences could become connected by a legal procedure creating a partnership among homeowners; thereby, clarifying the status of those common areas as a private domain relative to the members of the partnership. In that manner people could carry objects from building to building.*
> *[Wikipedia: Pharisees; Downloaded on 9/30/2016; SOURCE: https://en.wikipedia.org/wiki/Pharisees]*

The "sainthood" spoken of above is how the Pharisees elevated themselves ABOVE all others, destroyed equality, and thereby became hypocrites and pagan idols. Such people want their way, not God's way and seek to INJECT their approach into the law through "divine revelation" where THEY and ONLY THEY are the only authorized source of "revelation". Weaver above concludes that Pharisees and hypocrites get angry with those who want God's laws followed.

> ***"They were sworn enemies to the gospel of Christ, and consequently to the salvation of the souls of men (v. 13); They shut up the kingdom of heaven against men, that is, they did all they could to keep people from believing in Christ, and so entering into his kingdom. Christ came to open the kingdom of heaven, that is, to lay open for us a new and living way into it, to bring men to be subjects of that kingdom.** Now the scribes and Pharisees, who sat in Moses's seat, and pretended to the key of knowledge, ought to have contributed their assistance herein, by opening those scriptures of the Old Testament which pointed at the Messiah and his kingdom, in their true and proper sense; they that undertook to expound Moses and the prophets should have showed the people how they testified of Christ; that Daniel's weeks were expiring, the sceptre was departed from Judah, and therefore now was the time for the Messiah's appearing. Thus they might have facilitated that great work, and have helped thousands to heaven; but, instead of this, they shut up the kingdom of heaven; they made it their business to press the ceremonial law, which was now in the vanishing, to suppress the prophecies, which were now in the accomplishing, and to beget and nourish up in the minds of the people prejudices against Christ and his doctrine.*
>
> *1. They would not go in themselves; Have any of the rulers, or of the Pharisees, believed on him? Jn. 7:48. No; they were too proud to stoop to his meanness, too formal to be reconciled to his plainness; **they did not like a religion which insisted so much on humility, self-denial, contempt of the world, and spiritual worship. Repentance was the door of admission into this kingdom, and nothing could be more disagreeable to the Pharisees, who justified and admired themselves, than to repent, that is, to accuse and abase and abhor themselves; therefore they went not in themselves; but that was not all**.*

[2] Neusner, Jacob Invitation to the Talmud: a Teaching Book (1998): 8.

[3] Josepheus. The Antiquities of the Jews. pp. 13.5.9.

> *2. **They would not suffer them that were entering to go in. It is bad to keep away from Christ ourselves, but it is worse to keep others from him; yet that is commonly the way of hypocrites; they do not love that any should go beyond them in religion, or be better than they. Their not going in themselves was a hindrance to many; for, they having so great an interest in the people, multitudes rejected the gospel only because their leaders did; but, besides that, they opposed both Christ's entertaining of sinners (Lu. 7:39), and sinners' entertaining of Christ; they perverted his doctrine, confronted his miracles, quarrelled with his disciples, and represented him, and his institutes and economy, to the people in the most disingenuous, disadvantageous manner imaginable; they thundered out their excommunications against those that confessed him, and used all their wit and power to serve their malice against him; and thus they shut up the kingdom of heaven, so that they who would enter into it must suffer violence (ch. 11:12), and press into it (Lu. 16:16), through a crowd of scribes and Pharisees, and all the obstructions and difficulties they could contrive to lay in their way**. How well is it for us that our salvation is not entrusted in the hands of any man or company of men in the world! If it were, we should be undone. They that shut out of the church would shut out of heaven if they could; but the malice of men cannot make the promise of God to his chosen of no effect; blessed be God, it cannot.*
>
> *II. They made religion and the form of godliness a cloak and stalking-horse to their covetous practices and desires, v. 14.*
> *[Commentary on Matt. 23:1-12, Henry, M. (1994). Matthew Henry's commentary on the whole Bible: complete and unabridged in one volume (p. 1733-1734). Peabody: Hendrickson]*

Today, the rulings of corrupt covetous judges are the equivalent of the "oral tradition" of the Pharisees. The only people who our Constitution allows to CREATE law under our system of government is the legislative branch. Judges are NOT supposed to make law, but judicial activism and "legislating from the bench" has, for all intents and purposes, resurrected the legal equivalent of the "oral traditions of the Pharisees".

> *"**The government of the United States has been emphatically termed a government of laws, and not of men**. It will certainly cease to deserve that high appellation, if the laws furnish no remedy for the violation of a vested legal right."*
> *[Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803)]*

A "government of judges" instead of "law" is also called a "kritarchy". This kritarchy (government of judges) approach is doomed to failure and our copy of the Bible explains why:

> The Book of Judges stands in stark contrast to Joshua. In Joshua an obedient people conquered the land through trust in the power of God. ***In Judges, however, a disobedient and idolatrous people are defeated time and time again because of their rebellion against God.***
>
> In seven distinct cycles of sin to salvation, Judges shows how Israel had set aside God's law and in its place substituted "what was right in his own eyes" (21:25). ***The recurring result of abandonment from God's law is corruption from within and oppression from without***. During the nearly four centuries spanned by this book, God raises up military champions to throw off the yoke of bondage and to restore the nation to pure worship. But all too soon the "sin cycle" begins again as the nation's spiritual temperance grows steadily colder.
>
> …
>
> The Book of Judges could also appropriately be titled "The Book of Failure."
>
> ***Deterioration*** (1:1-3:4). Judges begins with short-lived military successes after Joshua's death, but quickly turns to the repeated failure of all the tribes to drive out their enemies. The people feel the lack of a unified central leader, but the primary reasons for their failure are a lack of faith in God and lack of obedience to Him (2:1-2). Compromise leads to conflict and chaos. Israel does not drive out the inhabitants (1:21, 27, 29, 30); instead of removing the moral cancer [IRS, Federal Reserve?] spread by the inhabitants of Canaan, they contract the disease. The Canaanite gods [money, sex, covetousness] literally become a snare to them (2:3). Judges 2:11-23 is a microcosm of the pattern found in Judges 3-16.
>
> ***Deliverance*** (3:5-16:31). In verses 3:5 through 16:31 of the Book of Judges, seven apostasies (fallings away from God) are described, seven servitudes, and seven deliverances. ***Each of the seven cycles has five steps: sin, servitude, supplication, salvation, and silence. These also can be described by the words rebellion, retribution, repentance, restoration, and rest. The seven cycles connect together as a descending spiral of sin (2:19).*** Israel vacillates between obedience and apostasy as the people continually fail to learn from their mistakes. Apostasy grows, but the rebellion is not continual. The times of rest and peace are longer than the times of bondage. The monotony of Israel's sins can be contrasted with the creativity of God's methods of deliverance.
>
> ***Depravity*** (17:1-21:25). Judges 17:1 through 21:25 illustrate (1) religious apostasy (17 and 18) and (2) social and moral depravity (19-21) during the period of the judges. Chapters 19-21 contain one of the worst tales of degradation in the Bible. ***Judges closes with a key to understanding the period: "everyone did what was right***

in his own eyes" (21:25) [a.k.a. "what FEELS good"]. The people are not doing what is wrong in their own eyes, but what is "evil in the sight of the Lord" (2:11).
[The Open Bible, New King James Version, Thomas Nelson Publishers, Copyright 1997, pp. 340-341]

It is precisely the above type of corruption and "government by judges", or "government by saints" in the case of the Pharisees, that is the very reason why Jesus got angry at the Pharisees. The Bible further explains why Jesus got angry:

Unjust Judgments Rebuked.

A Psalm of Asaph.

God stands in the divine assembly;
He judges among the gods (divine beings).

How long will you judge unjustly
And show partiality to the wicked? Selah. [stop and think about it]

Vindicate the weak and fatherless;
Do justice and *maintain the rights of the afflicted and destitute.*

Rescue the weak and needy;
Rescue them from the hand of the wicked.

The rulers do not know nor do they understand;
They walk on in the darkness [of complacent satisfaction];
All the foundations of the earth [the fundamental principles of the administration of justice] are shaken.

I said, "You are gods;
Indeed, all of you are sons of the Most High.

"Nevertheless you will die like men
And fall like any one of the princes."

Arise, O God, judge the earth!
For to You belong all the nations.
[Psalm 82, Bible, Amplified Version]

Other religions also have this kind of stratification as well, such as The Church of Latter Day Saints (Mormons), who have THREE levels of reward depending on your works: Celestial, Telestial, and Terrestrial. This type of stratification and enfranchisement of any religion is just as dangerous and malicious as that of the Pharisees.

To put the character of the Pharisees in modern context, today's lawyers abuse word games to keep people from obeying the law as written, instead preferring that they obey laws from a foreign jurisdiction so that the largess produced can pad the pocket and enlarge the importance of lawyers. In short, they misinterpret, misrepresent, and misapply foreign law to people who aren't subject so as to commit identity theft, and then use the proceeds of the identity theft to pad their pockets. That identity theft is described below:

Government Identity Theft, Form #05.046 http://sedm.org/Forms/FormIndex.htm

3 List of Important Doctrines

Table 1: List of Doctrines

#	Title	Subject matter	Case(s)	Notes
1	**GOVERNMENT ORGANIZATION AND OPERATION**			
1.1	**Collective Entity Doctrine**	Government and corporate organization	Hale v. Henkel, 201 U.S. 43 (1906); Braswell v. United States, 487 U.S. 99 (1988); Wilson v. United States, 221 U.S. 361 (1911); Dreier v. United States, 221 U.S. 394 (1911); United States v. White, 322 U.S. 694 (1944); Bellis v. United States, 417 U.S. 85 (1974); Braswell v. United States, 487 U.S. 99 (1988)	Collective public entities such as governments, corporations created in the image of government do not have constitutional or private rights. The only rights they have are public and civil statutory privileges. Described in detail later in section 5.9.
1.2	**Major Questions Doctrine**	Separation of powers	Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984)	Lawmaking involving major public impacts cannot be vaguely delegated to an administrative agency. Delegation must be very specific and concrete. Click here
1.3	**Qualified Immunity Doctrine**	Government sovereignty	*Pierson v. Ray, 386 U.S. 547* (1967)	Under what circumstances may the public sue state actors personally who have injured their rights? Click here
1.4	**Non-Delegation Doctrine**	Separation of Powers	J. W. Hampton, Jr. & Co. v. United States (1928)	Under what circumstances may a major branch of government delegate its powers to another branch? Click here
1.5	**Clearfield Doctrine**	Government status in the commercial marketplace	Clearfield Trust Co. v. United States, 318 U.S. 363 (1943)	Under what circumstances may a government be treated as an ordinary commercial entity within the commercial marketplace? Click here
2	**BILL OF RIGHTS**			
2.1	**Strict Scrutiny Standard**	Bill of Rights, judicial review	United States v. Carolene Products Co., 304 U.S. 144 (1938) Korematsu v. United States, 323 U.S. 214 (1944)	Click here: https://legaldictionary.net/strict-scrutiny/#:~:text=Strict%20Scrutiny%201%20Definition%20of%20Strict%20Scrutiny.%20A,Classification.%20...%205%20The%20Infamous%20Footnote%20Four.%20
2.2	**Unconstitutional conditions**	Bill of Rights	Frost v. Railroad Commission, 271 U.S. 583 (1925) Speiser v. Randall, 357 U.S. 513 (1958) Shapiro v. Thompson, 394 U.S. 618 (1969) Perry v. Sindermann, 408 U.S. 593 (1972) Elrod v. Burns, 427 U.S. 347 (1976) Leftkowitz v. Cunningham, 431 U.S. 801 (1977)	Under what circumstances can the government compel surrender of constitutional rights in exchange for privileges? See Form #05.030, Section 2. Click here
2.3	**Glucksberg Test**	Bill of Rights	Washington v. Glucksberg, 521 U.S. 720, 719-722, 117 S.Ct. 2258, 117 S.Ct. 2302, 138 L.2Ed.2d. 722 (1997)	Supreme Court method to recognize rights not expressly in the constitution. See Form #10.002, Section 6.
2.4	**Public Rights Doctrine**	Fifth Amendment	Murray's Lessee v. Hoboken Land & Improvement Co, 59 U.S. (18 How.) 272 (1856) Ex parte Bakelite Corp., 279 U.S. 438, 451 (1929) Old Colony Trust Co. v. Commissioner, 279 U.S. 716 (1929)	Criteria for deciding whether a case is heard under statutes or the Constitution. Click here
2.5	**Establishment Doctrine**	First Amendment	Lemon v. Kurtzman, 403 U.S. 602 (1971)	Criteria for determining when government is violating the establishment clause of the First Amendment. Also called the Lemon Test. Click here.
2.6	**Prior Restraint Doctrine**	First Amendment	Near v. Minnesota ex re. Olson, 283 U.S. 697, 716 (1931) Bantam Books v. Sullivan, 372 U.S. 58, 70 (1963)	Under what circumstances government may make a prior restraint on speech. In other words, exactly what types of speech are protected by the First Amendment? Click here
2.7	**Public Purpose Doctrine**	Fifth Amendment, eminent domain	*Missouri Pac. R.R. Co. v. Nebraska*, 164 U.S. 403 (1896) *Thompson v. Consolidated Gas Utilities Corp.*, 300 U.S. 55, 57 S.Ct. 364 (1937) *Manufactured Housing Communities of Washington v. Washington*, 13 P.3d 183 (Wash. 2000) *Southwestern Illinois Development Authority v. National City Environmental, L.L.C.*, 768 N.E.2d 1 (Ill. 2002) *County of Wayne v. Hathcock*, 684 NW.2d 765 (Mich. 2004), and *Bailey v. Myers*, 206 Ariz. 224, 76 P.3d 898 (2003)	Under what circumstances may private land be taken for public use in accordance with the Fifth Amendment? Click here

#	Title	Subject matter	Case(s)	Notes
2.8	**Castle Doctrine**	Fourth Amendment		When may the government invade a person's home to violate the security of their papers and effects? Person may use force to repel invaders. Click here
2.9	**Public Forum Doctrine**	Fifth Amendment	Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546 (1975) Widmar v. Vincent, 454 U.S. 263 (1981) Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995) Christian Legal Soc. Chapter v. Martinez, 561 U.S. 661 (2010)	Click here
2.10	**Parental Rights Doctrine**	Family rights	*Troxel v. Granville*	What rights to parents have? Click here
2.11	**Most Favored Nation Theory**[4]	First Amendment	Tandon v. Newson, 141 S.Ct. 1294 (2021)	The denial of a religious exemption is presumptively unconstitutional if the state "treats some comparable secular activities more favorably."
3	**STATES RIGHTS**			
3.1	**State Action Doctrine**	Fourteenth Amendment	Civil Rights Cases, 109 U.S. 3 (1883) Shelley v. Kraemer, 334 U.S. 1 (1948) Ex Parte Virginia, 100 U.S. 339 (1880)	Criteria for deciding when someone is acting as an officer of the state. Invented to determine when Fourteenth Amendment equal protections cases can be brought against state but not federal actors. Click here
3.2	**Incorporation Doctrine**	Fourteenth Amendment	*Barron ex rel. Tiernon v. Mayor of Baltimore*, 32 U.S. (7 Pet.) 243, 8 L. Ed. 672 Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L. Ed. 394 (1873) Gitlow v. New York, 268 U.S. 652, 45 S. Ct. 625, 69 L. Ed. 1138 (1925) Near v. Minnesota, 283 U.S. 697, 51 S. Ct. 625, 75 L. Ed. 1357 (1931) Powell v. Alabama, 287 U.S. 45, 53 S. Ct. 55, 77 L. Ed. 158 (1931) *State of California*, 332 U.S. 46, 67 S. Ct. 1672, 91 L. Ed. 2d 1903 (1947) *Palko v. Connecticut*, 302 U.S. 319, 58 S. Ct. 149, 82 L. Ed. 288	Doctrine for deciding that the first eight amendments to the federal Bill of Rights can be enforced against states of the Union. Click here

[4] See: *The Increasingly Dangerous Variants of the "Most Favored Nation" Theory of Religious Liberty*, Andrew Koppelman, Northwestern University Pritzker School of Law, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4049209.

#	Title	Subject matter	Case(s)	Notes
3.3	**Abstention from federal jurisdiction over state matters**	**Younger Abstention**	Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d. 669 (1971)	A federal court may abstain from exercising jurisdiction when all of the following criteria are met: (1) pending state law criminal charges; (2) civil enforcement proceedings (i.e., "quasi-criminal proceedings"); and (3) "civil proceedings involving certain orders that are uniquely in furtherance of the state courts' ability to perform their judicial functions." Id. (quoting New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 373, 109 S.Ct. 2506, 105 L.Ed.2d. 298 (1989) ("NOPSI")). The threshold question in determining whether an action qualifies as a "civil enforcement proceeding" for Younger purposes is "that the state civil enforcement proceeding must be 'quasi-criminal' in nature." ACRA Turf Club, LLC v. Zanzuccki, 748 F.3d. 127, 138 (3d Cir. 2014) (quoting Sprint, 134 S.Ct. at 593). To determine whether a proceeding is "quasi-criminal" the Court must examine whether: "(1) the action was commenced by the State in its sovereign capacity, (2) the proceeding was initiated to sanction the federal plaintiff for some wrongful act, and (3) there are other similarities to criminal actions, such as a preliminary investigation that culminated with the filing of formal charges." Sprint, 134 S.Ct. at 592; see also ACRA Turf Club, 748 F.3d. at 138. Additionally, the fact that "the State could have alternatively sought to enforce a parallel criminal statute" rather than use a civil enforcement proceeding weighs in favor of finding the civil proceeding quasi-criminal in nature. Id. In assessing whether the pending Commonwealth proceeding is quasi-criminal in nature, this Court will rely on prior Supreme Court decisions regarding "quasi-criminal" civil proceedings.
3.4	**Abstention from federal jurisdiction over state matters**	**Pullman Abstention**	Railroad Commission of Texas v. Pullman Company, 312 U.S. 496, 61 S.Ct. 643, 85 L.Ed. 971 (1941)	Pullman abstention is warranted "when difficult and unsettled questions of law must be resolved before a substantial federal constitutional question can be decided." Haw. Housing Auth. v. Midkiff, 467 U.S. 229, 236, 104 S.Ct. 2321, 81 L.Ed. 2d 186 (1984). To abstain under Pullman, the Court must find the following three "special circumstances" [**26] exist in the case: "(1) [u]ncertain issues of state law underlying the federal constitutional claims brought in federal court; (2) [s]tate law issues amenable to a state court interpretation that would obviate the need for, or substantially narrow, the scope of adjudication of the constitutional claims; (3) [a] federal court's erroneous construction of state law would be disruptive of important state policies." Chez Sez III Corp. v. Twp. of Union, 945 F.2d. 628, 631 (3d Cir. 1991) (internal citations omitted). All three special circumstances must exist to warrant Pullman abstention. Id. If so, the Court [*568] "must then make a discretionary determination as to whether abstention is in fact appropriate under the circumstances of the particular case, based on the weight of these criteria and other relevant factors." Id.

#	Title	Subject matter	Case(s)	Notes
3.5	**Abstention from federal jurisdiction over state matters**	**Colorado River Abstention**	Colo. River Water Conservation Dist. v. United States, 424 U.S. 800, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976)	To determine whether Colorado River abstention is warranted, the Court first makes a threshold inquiry as to "whether there is a parallel state proceeding that raises substantially identical claims [and] nearly identical allegations and issues." Nationwide, 571 F.3d. at 307. Generally, when cases "involve the same parties and claims," they are considered parallel proceedings for Colorado River abstention purposes. Trent v. Dial Med. of Fla., Inc., 33 F.3d. 217, 223 (3d Cir. 1994), superseded by statute on other grounds as stated in Nat'l City Mortg. Co. v. Stephen, 647 F.3d. 78, 83 (3d Cir. 2011). If the initial inquiry is met, the Court then uses "a multi-factor test to determine whether 'extraordinary circumstances' meriting abstention are present." Nationwide, 571 F.3d. at 308. To determine whether such "extraordinary circumstances" exist, the Court applies the following six factors: (1) [in an in rem case,] which court first assumed jurisdiction over [the] property;(2) the inconvenience of the federal forum; (3) the desirability of avoiding piecemeal litigation; (4) the order in which jurisdiction was [**37] obtained; (5) whether federal or state law controls; and (6) whether the state court will adequately protect the interests of the parties. Nationwide, 571 F.3d. at 309.
4	**TAXATION**			
4.1	**Relation Back Doctrine**	Taxation	*Miranda v. United States*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d 694 (1966) *Duncan v. Kahanamoku, Sheriff*, (1946) 327 U.S. 304; 66 S. Ct. 606; 90 L. Ed. 688 *United States v. Lovett* (1946), 328 U.S. 303; 66 S. Ct. 1073; 90 L.Ed. 1252	Click here
4.2	**Full Payment Rule**	Taxation, Refund Claims	Flora v. United States, 357 U.S. 63 (1958)	"Taxpayers" must pay full amount due before judicially challenging it. Click here.
4.3	**Equitable Recoupment Doctrine**	Refunds for conflicting tax theories	Rothensies v. Electric Storage Battery Co.,329 U.S. 296, 299-300, 67 S.Ct. 271, 272-273, 91 L.Ed. 296 (1946) Bull v. United States, 295 U.S. 247, 55 S.Ct. 695, 79 L.Ed. 1421 (1935) Stone v. White, 301 U.S. 532, 57 S.Ct. 851, 81 L.Ed. 1265 (1937);	When a single transaction or taxable event has been subjected to two taxes on inconsistent legal theories, a taxpayer who meets certain requirements may recover a refund that would be barred otherwise by limitations.
5	**PATENTS**			
5.1	**Doctrine of Equivalents**	Patents	Warner-Jenkinson Co. v. Hilton Davis Chemical Co., 520 U.S. 17 (1997)	Allows a court to hold a party liable for patent infringement even though the infringing device or process does not fall within the literal scope of a patent claim, but nevertheless is equivalent to the claimed invention. Click here
6	**STANDING TO SUE**			
6.1	**Competitive Standing Doctrine**	Standing	DEK Energy Co. v. FERC, 248 F.3d. 1192, 1195, 346 U.S.App.D.C. 6 (D.C. Cir. 2001)	When a challenged agency action authorizes allegedly illegal transactions that will almost surely cause petitioner to lose business, there is no need to wait for injury from specific transactions.
6.2	**Prudential Standing Doctrine**	Standing	Block v. Community Nutrition Institute, 467 U.S. 340, 345-348, [****20] 81 L.Ed.2d 270, 104 S.Ct. 2450 (1984); Associated Gen. Contractors of Cal., Inc. v. Carpenters, 459 U.S. 519, 532-533, 74 L.Ed.2d. 723, 103 S.Ct. 897 (1983)	A plaintiff's grievance must arguably fall within the zone of interests protected or regulated by the statutory provision or constitutional guarantee invoked in the suit.

1

4 Specific Constitutional Clauses

4.1 Takings Clause, Fifth Amendment

Here are some of the most notable U.S. Supreme Court cases involving the Takings Clause:

1. Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922): This case established the doctrine of regulatory takings, which holds that government regulation can sometimes be so burdensome that it amounts to a taking of property.
2. Chicago, B. & Q. R. Co. v. Chicago, 166 U.S. 226 (1897): This case established the principle that government must pay just compensation when it takes private property for public use.
3. Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992): This case held that when a regulation deprives a property owner of all economically beneficial use of their land, it constitutes a taking under the Fifth Amendment.
4. Kelo v. City of New London, 545 U.S. 469 (2005): This case expanded the definition of "public use" to include economic development, holding that government may take private property and transfer it to another private entity if it is part of a comprehensive redevelopment plan.
5. Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978): This case established a three-part test to determine whether a regulation constitutes a taking. The factors are the economic impact of the regulation, the extent to which the regulation interferes with distinct investment-backed expectations, and the character of the government action.

These are just a few of the most notable U.S. Supreme Court cases involving the Takings Clause. Other important cases include Nollan v. California Coastal Commission, Dolan v. City of Tigard, and Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency.

4.2 First Amendment Establishment Clause

Here are some of the most notable U.S. Supreme Court cases involving the First Amendment Establishment Clause:

1. Everson v. Board of Education, 330 U.S. 1 (1947): This case held that the Establishment Clause applies to the states through the Due Process Clause of the Fourteenth Amendment and that state funding of transportation for students attending parochial schools did not violate the clause.
2. Engel v. Vitale, 370 U.S. 421 (1962): This case held that school-sponsored prayer in public schools violates the Establishment Clause.
3. Lemon v. Kurtzman, 403 U.S. 602 (1971): This case established the three-part Lemon test to determine whether a government action violates the Establishment Clause. The test requires that the action have a secular purpose, not have the primary effect of advancing or inhibiting religion, and not create excessive entanglement between government and religion.
4. Edwards v. Aguillard, 482 U.S. 578 (1987): This case held that Louisiana's Balanced Treatment for Creation-Science and Evolution-Science in Public School Instruction Act violated the Establishment Clause because it was intended to promote a particular religious viewpoint.
5. Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000): This case held that student-led prayer at high school football games violated the Establishment Clause because it was school-sponsored and coercive.

These are just a few of the most notable U.S. Supreme Court cases involving the First Amendment Establishment Clause. Other important cases include Wallace v. Jaffree, County of Allegheny v. ACLU, and Van Orden v. Perry.

4.3 First Amendment Free Speech Clause

Here are some of the most notable U.S. Supreme Court cases involving the First Amendment Free Speech Clause:

1. Schenck v. United States, 249 U.S. 47 (1919): This case established the "clear and present danger" test, which holds that government can restrict speech that presents a clear and present danger of bringing about a substantial evil that Congress has the power to prevent.
2. Brandenburg v. Ohio, 394 U.S. 444 (1969): This case established the "imminent lawless action" test, which holds that speech advocating illegal conduct is protected unless it is likely to incite imminent lawless action.
3. New York Times Co. v. Sullivan, 374 U.S. 254 (1964): This case held that public officials must prove actual malice (i.e. knowledge of falsity or reckless disregard for the truth) in order to recover for defamation.

4. Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969): This case held that students have the right to express their opinions in school, as long as the expression does not disrupt the educational process.
5. Citizens United v. Federal Election Commission, 558 U.S. 310 (2010): This case held that corporations and unions have the right to spend money on political speech under the First Amendment, striking down limits on independent campaign spending by these groups.

These are just a few of the most notable U.S. Supreme Court cases involving the First Amendment Free Speech Clause. Other important cases include Texas v. Johnson, Morse v. Frederick, and Snyder v. Phelps.

4.4 Commerce Clause, Article 1, Section 8, Clause 3

Here are some of the most notable U.S. Supreme Court cases involving the Commerce Clause:

1. Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824): This case established the broad interpretation of the Commerce Clause by holding that Congress has the power to regulate all aspects of interstate commerce.
2. Wickard v. Filburn, 317 U.S. 111 (1942): This case further expanded the interpretation of the Commerce Clause to include the regulation of activities that have a substantial economic effect on interstate commerce, even if the activities themselves do not involve interstate commerce.
3. Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964): This case upheld the constitutionality of the Civil Rights Act of 1964, which prohibited racial discrimination in public accommodations, under the Commerce Clause.
4. United States v. Lopez, 514 U.S. 549 (1995): This case limited the scope of the Commerce Clause by holding that Congress could not regulate guns in schools because the activity did not substantially affect interstate commerce.
5. National Federation of Independent Business v. Sebelius, 567 U.S. 219 (2012): This case upheld the constitutionality of the Affordable Care Act's individual mandate, which required individuals to purchase health insurance, under the Commerce Clause.

These are just a few of the most notable U.S. Supreme Court cases involving the Commerce Clause. Other important cases include United States v. Darby Lumber Co., and Gonzales v. Raich.

4.5 Federal Property Clause, Article 4, Section 3, Clause 2

Article 4, Section 3, Clause 2 of the U.S. Constitution grants Congress the power to "dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Here are some of the most notable U.S. Supreme Court cases relating to federal jurisdiction over federal property:

1. Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525 (1885): This case held that federal jurisdiction over federal property extended only to activities and persons that are "immediately connected with" the property and its use.
2. United States v. Unzeuta, 281 U.S. 138 (1897): This case held that a federal law that made it a crime to refuse to leave a military reservation upon request was constitutional, because Congress had authority over federal property and the regulation of access to it.
3. Borax Consolidated, Ltd. v. Los Angeles, 296 U.S. 10 (1939): This case held that states cannot impose a license tax on goods that are in transit across federal property, because such taxation would interfere with federal jurisdiction over federal property.
4. Kleppe v. New Mexico, 426 U.S. 529 (1976): This case held that the federal government has exclusive jurisdiction over federal lands, and that states cannot regulate or interfere with federal land management decisions.
5. Hawaii v. Office of Hawaiian Affairs, 556 U.S. 163 (2009): This case held that Congress has plenary power over federal property, but that it cannot violate its own fiduciary duty to Native Hawaiians by transferring federal lands without fulfilling its trust obligations to the indigenous people.

These cases demonstrate the Supreme Court's role in defining the extent of federal jurisdiction over federal property, and the limits of state and federal authority in regulating access to and use of federal property.

4.6 Republican Government, Article 4, Section 4

Article 4, Section 4 of the U.S. Constitution requires the federal government to guarantee to every state in the Union a republican form of government, and to protect each state from domestic violence upon the request of the state legislature or the governor. Here are some of the most notable U.S. Supreme Court cases relating to this constitutional provision:

1. Luther v. Borden, 48 U.S. (7 How.) 1 (1849): This case held that it is up to Congress and the President, not the courts, to determine whether a state government is operating as a republic, and whether to intervene to protect the state from domestic violence.
2. Pacific States Tel. & Tel. Co. v. Oregon, 223 U.S. 118 (1912): This case held that the federal government's guarantee of a republican form of government to the states does not preclude states from regulating certain aspects of commerce within their borders.
3. Colegrove v. Green, 328 U.S. 549 (1946): This case held that the federal courts do not have the authority to intervene in redistricting cases, because such matters are political questions best left to the political branches of government.
4. Baker v. Carr, 369 U.S. 186 (1962): This case overruled Colegrove and held that the federal courts do have the authority to intervene in redistricting cases, because the guarantee of a republican form of government requires that all citizens have an equal right to vote.
5. Shelby County v. Holder, 570 U.S. 529 (2013): This case struck down a key provision of the Voting Rights Act of 1965, which required certain states and localities with a history of racial discrimination in voting to obtain federal approval before changing their voting laws. The Court held that the provision exceeded Congress's power to enforce the guarantee of a republican form of government.

These cases demonstrate the Supreme Court's role in interpreting the federal government's obligation to guarantee a republican form of government to the states, and the limits of federal power in protecting states from domestic violence and regulating state governance.

4.7 Bill of Attainder Clause, Article 1, Section 9, Clause 3

Here are some of the most notable U.S. Supreme Court cases involving the Bill of Attainder Clause:

1. Cummings v. Missouri, 71 U.S. 277 (1867): This case held that a Missouri law that prohibited former Confederates from holding state office was not a bill of attainder because it did not impose punishment without a judicial trial.
2. United States v. Lovett, 328 U.S. 303 (1946): This case struck down a law that prohibited three federal employees from receiving their salaries because they were suspected of being Communist sympathizers, holding that the law was a bill of attainder.
3. United States v. Brown, 381 U.S. 437 (1965): This case held that a provision of the Community Mental Health Centers Act that prohibited certain persons who had been convicted of crimes from working in mental health centers was not a bill of attainder because it was based on present status, not past conduct.
4. Nixon v. Administrator of General Services, 433 U.S. 425 (1977): This case held that a law that required President Nixon to turn over his presidential papers to the government for screening was not a bill of attainder because it was a valid exercise of Congress's power to regulate public records.

These are just a few of the most notable U.S. Supreme Court cases involving the Bill of Attainder Clause. Other important cases include United States v. Brown & Williamson Tobacco Corp.

5 Doctrines

The following subsections discuss the implications of the most important doctrines which:

1. Directly affect our mission as a religious ministry OR
2. Form a method by which you surrender constitutional or private or natural rights OR
3. Destroy the separation between Public and Private rights documented below:

Separation Between Public and Private Course, Form #12.025 https://sedm.org/Forms/FormIndex.htm

5.1 Strict Scrutiny Doctrine

Here are some of the most notable U.S. Supreme Court cases involving the Strict Scrutiny Doctrine:

1. Korematsu v. United States, 323 U.S. 214 (1944): This case upheld the constitutionality of the internment of Japanese Americans during World War II, applying strict scrutiny but finding that the government's interest in national security justified the internment.
2. Brown v. Board of Education, 347 U.S. 483 (1954) : This case held that racial segregation in public schools violated the Equal Protection Clause of the 14th Amendment, applying strict scrutiny to the segregationist policies.
3. Loving v. Virginia, 388 U.S. 1 (1967): This case held that Virginia's law banning interracial marriage violated the Equal Protection and Due Process Clauses of the 14th Amendment, applying strict scrutiny to the state's classification of individuals based on race.
4. Regents of the University of California v. Bakke, 438 U.S. 265 (1978): This case struck down the use of strict racial quotas in admissions to the University of California, applying strict scrutiny to the use of race as a factor in admissions decisions.
5. United States v. Virginia, 518 U.S. 515 (1996): This case held that Virginia Military Institute's policy of excluding women from admission violated the Equal Protection Clause of the 14th Amendment, applying strict scrutiny to the gender-based classification.

These are just a few of the most notable U.S. Supreme Court cases involving the Strict Scrutiny Doctrine. Other important cases include Grutter v. Bollinger, Gratz v. Bollinger, and Obergefell v. Hodges.

5.2 Unconstitutional Conditions Doctrine

The Unconstitutional Conditions Doctrine is a principle of constitutional law that prohibits the government from conditioning a benefit or privilege on the waiver of a constitutional right. The doctrine has been applied in a number of cases by the U.S. Supreme Court, and here are some of the key cases:

1. Frost & Frost Trucking Co. v. Railroad Comm'n of California, 357 U.S. 513 (1926): In Frost & Frost, the Court held that the state could not condition the right to operate trucks on the acceptance of tariffs that violated the Commerce Clause of the Constitution.
2. Speiser v. Randall, 357 U.S. 513 (1958): In Speiser, the Court struck down a state law that required members of a veterans organization to swear that they were not members of the Communist Party before being eligible for a property tax exemption.
3. Perry v. Sindermann, 408 U.S. 593 (1972): In Perry, the Court held that a public college could not condition the renewal of a teacher's contract on the waiver of his First Amendment rights to free speech and association.
4. Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972): In Roth, the Court held that a public college could terminate a teacher's contract without violating the Unconstitutional Conditions Doctrine, since the teacher did not have a constitutionally protected property interest in his job.
5. Rust v. Sullivan, 500 U.S. 173 (1991): In Rust, the Court held that the federal government could impose certain conditions on the receipt of federal funds by family planning clinics, including a prohibition on counseling patients about abortion, without violating the Unconstitutional Conditions Doctrine.
6. Southworth v. Grebe, 530 U.S. 141 (2000): In Southworth, the Court held that a public university could condition the use of student activity fees on the payment of a fee to a student organization that engaged in political advocacy, without violating the Unconstitutional Conditions Doctrine.
7. Agency for Int'l Dev. v. Alliance for Open Society Int'l, Inc., 570 U.S. 205 (2013): In Agency for Int'l Dev., the Court held that a federal law requiring organizations that receive funding to combat HIV/AIDS to adopt policies opposing prostitution and sex trafficking did not violate the Unconstitutional Conditions Doctrine, since the requirement did not compel speech and the organizations were free to decline the funding.

Overall, the Unconstitutional Conditions Doctrine has been applied in a wide range of cases, and its scope and limits continue to be the subject of debate among legal scholars and practitioners.

More on the Unconstitutional Conditions Doctrine of the U.S. Supreme Court is available at:

Reference->Member Subscription Library DVDs**->Tax DVD** menu.
Then go to the Franchises\UnconstCondit folder.

5.3 Public Rights Doctrine[5]

The Public Rights Doctrine is a legal principle that holds that certain disputes are more appropriately resolved by administrative agencies rather than courts, because those disputes involve matters of public rights that are closely tied to the government's regulatory power. Here are some of the most notable U.S. Supreme Court cases relating to the Public Rights Doctrine:

1. Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272 (1856): This case established the "public rights" exception to the Seventh Amendment's guarantee of a jury trial, holding that Congress may vest exclusive jurisdiction over certain disputes in administrative agencies rather than courts.
2. Crowell v. Benson, 285 U.S. 22 (1932): This case upheld the constitutionality of an administrative compensation scheme for longshoremen, holding that the scheme was a valid exercise of Congress's power to regulate commerce and that administrative agencies were better equipped to resolve disputes involving public rights.
3. Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982): This case held that bankruptcy judges, who were not appointed under Article III of the Constitution, could not adjudicate state law claims arising from private disputes, because such claims were not matters of "public rights."
4. Granfinanciera, S.A. v. Nordberg, 492 U.S. 33 (1989): This case held that bankruptcy judges may not enter final judgments in cases involving state law claims, because such claims are not matters of "public rights."
5. Wellness International Network, Ltd. v. Sharif, 575 U.S. 665 (2015): This case held that bankruptcy judges may issue final judgments on certain state law claims, provided that the parties consent to such adjudication.

These cases illustrate the ongoing debate over the scope of the Public Rights Doctrine and the appropriate role of administrative agencies in resolving disputes involving matters of public rights.

The Public Rights Doctrine of the U.S. Supreme Court is the starting point for determining whether a right is PRIVATE or PUBLIC, and in what court disputes over the right may be heard. This section will discuss this doctrine and the foundation of it, which is "publici juris". We also discuss the dividing line between PUBLIC and PRIVATE and how to distinguish each in the following course on our site.

> *Private Right or Public Right? Course*, Form #12.044
> https://sedm.org/LibertyU/PrivateRightOrPublicRight.pdf

The term "publici juris", which is Latin for "public right" is defined as follows:

> *"PUBLIC1 JURIS. Lat. Of public right. The word "public" in this sense means pertaining to the people, or affecting the community at large; that which concerns a multitude of people; and the word "right," as so used, means a well-founded claim; an interest; concern; advantage; benefit. State v. Lyon, 63 Okl. 285, 165 P. 419, 420.*

> *This term, as applied to a thing or right, means that it is open to or exercisable by all [CIVIL STATUTORY] persons [but not CONSTITUTIONAL "persons"]. It designates things which are owned by "the public:" that is, the entire state or community, and not by any private person. When a thing is common property, so that any one can make use of it who likes, it is said to be publici juris; as in the case of light, air, and public water. Sweet. [Black's Law Dictionary, Fourth Edition, p. 1397]*

They use Latin in the definition to disguise the term "public right" because they are trying to pull a fast one on the mainstream populace. Whenever a court or a legal dictionary uses Latin, guaranteed they are trying to deceive or mislead you to disguise their LACK of lawful authority.

Notice the phrase in the above "owned by the public", and by that they mean PUBLIC property. The word "benefit" also betrays a privilege as well. "Common property" implies COLLECTIVE control and ownership, rather than PERSONAL ownership.

[5] Source: *Why the Federal Income Tax is a Privilege Tax Upon Government Property*, Form #04.404, Section 2; https://sedm.org/product/why-the-federal-income-tax-is-a-privilege-tax-on-government-property-form-04-404/

They use the phrase "*it is open to or exercisable by all persons*", but they can ONLY mean all human beings consensually domiciled in the forum and EXCLUDING those who are NOT. In other words, VOLUNTARY CLUB MEMBERS. Otherwise, involuntary servitude and a Fifth Amendment taking of property would be the result. See:

> *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002
> PDF: https://sedm.org/Forms/FormIndex.htm
> HTML: https://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm

STATUTORY persons always require a domicile within the CIVIL jurisdiction of a geographical region. That domicile must be CONSENSUAL (Form #05.003). If you don't consent to a domicile (Form #05.002) in the forum or venue, the only CIVIL protection you have is the CONSTITUTION and the COMMON LAW and STATUTORY CIVIL law (Form #05.037) DOES NOT and CANNOT APPLY. See:

> *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037
> https://sedm.org/Forms/FormIndex.htm

The definition of "PUBLIC RIGHT/PUBLICI JURIS" is therefore deceptive and equivocates (Form #05.014), because the TWO contexts for "persons" are not identified or qualified and are MUTUALLY exclusive:

1. CONSTITUTIONAL "persons": Human beings protected by the Bill of Rights and the common law and NOT statutory civil law.
2. STATUTORY "persons": Fictional creations of Congress ("Straw men", Form #05.042) which only have the limited subset of CONSTITUTIONAL rights entirely defined and controlled by Congress.

You CANNOT be a CONSTITUTIONAL "person" and a STATUTORY "person" at the SAME time:

1. Either you have CONSTITUTIONAL rights (Form #10.002) in a given context, or you have STATUTORY privileges (Form #05.030).
2. If you claim STATUTORY privileges, you SURRENDER CONSTITUTIONAL rights.

> *"The words "privileges" and "immunities," like the greater part of the legal phraseology of this country, have been carried over from the law of Great Britain, and recur constantly either as such or in equivalent expressions from the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified a peculiar right or private law conceded to particular persons or places* ***whereby a certain individual or class of individuals was exempted from the rigor of the common law****. Privilege or immunity is conferred upon any person when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some particular advantage or exemption. "*
>
> *[The Privileges and Immunities of State Citizenship, Roger Howell, PhD, 1918, pp. 9-10;*
> *SOURCE:*
> *http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The_privileges_and_immunities_of_state_c.pdf*
> *]*
> *See Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31.*

They are therefore DELIBERATELY deceiving you at the very entry point of asserting PUBLIC CIVIL jurisdiction. They want you to UNKNOWINGLY surrender CONSTITUTIONAL rights by FALSELY believing that CONSTITUTIONAL "persons" and STATUTORY "persons" are equivalent, even though they are MUTUALLY exclusive and non-overlapping.

The "Brandeis Rules" of the U.S. Supreme Court describe EXACTLY how you transition from a PRIVATE/CONSTITUTIONAL "person" to a PUBLIC/STATUTORY CIVIL "person":

> ***"The Court developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision. They are:***
>
> ***[. . .]***
>
> ***6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.FN7 Great Falls Mfg. Co. v. Attorney General, 124 U.S. 581, 8 S.Ct. 631, 31 L.Ed. 527; Wall v.***

Parrot Silver & Copper Co., 244 U.S. 407, 411, 412, 37 S.Ct. 609, 61 L.Ed. 1229; St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351.

_____

FOOTNOTES:

FN7 *Compare* ***Electric Co. v. Dow, 166 U.S. 489, 17 S.Ct. 645, 41 L.Ed. 1088; Pierce v. Somerset Ry., 171 U.S. 641, 648, 19 S.Ct. 64, 43 L.Ed. 316; Leonard v. Vicksburg, etc., R. Co., 198 U.S. 416, 422, 25 S.Ct. 750, 49 L.Ed. 1108.***
[Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936)]

NOTE: For the court to suggest in Ashwander that you can't raise a constitutional issue is to tell you that:

1. You are NO LONGER a CONSTITUTIONAL "person".
2. You have VOLUNTARILY exchanged PRIVATE/CONSTITUTIONAL rights for PUBLIC STATUTORY PRIVILEGES.
3. You are a GOVERNMENT WHORE of the kind described by the Bible in the following article:
   Are You "Playing the Harlot" with the Government?, SEDM
   https://sedm.org/are-you-playing-the-harlot/
4. You have SURRENDERED all constitutional remedies.

BEND OVER!

Notice in the Brandeis Rules THAT:

1. He was in effect MAKING LAW, because he cited NO AUTHORITY for the rules.
2. The judge was operating in a POLITICAL capacity, which real judges cannot do.
3. Because he was operating in a political capacity and "making law" that directly SURRENDERS all of your constitutional rights, then He was in effect REPEALING the entire Bill of Rights and thus violating his oath to "support and defend the constitution".
4. He admitted that the court has DELIBERATELY OBFUSCATED the Separation Between Public and Private (Form #12.025). Confusing these two is the MAIN method of tyranny, in fact, and they can't hand the prisoners the key to their prison cell!

Here's another example:

> ***"The distinction between public rights and private rights has not been definitively explained in our precedents. Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a minimum arise "between the government and others." Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413. In contrast, "the liability of one individual to another under the law as defined," Crowell v. Benson, supra, at 51, 52 S.Ct., at 292, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977); Crowell v. Benson, supra, 285 U.S., at 50-51, 52 S.Ct., at 292. See also Katz, Federal Legislative Courts, 43 Harv.L.Rev. 894, 917-918 (1930).FN24 Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power."***
>
> ***[. . .]***
>
> ***Although Crowell and Raddatz do not explicitly distinguish between rights created by Congress [PUBLIC RIGHTS] and other [PRIVATE] rights, such a distinction underlies in part Crowell's and Raddatz' recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of the other branches of government. Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory right [a "privilege" or "public right" in this case, such as a "trade or business"], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that right. FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power to define the right that it has***

> ***created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts.***
> ***[Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983)]***

More on judges unconstitutionally "making law" at:

1. *How Judges Unconstitutionally "Make Law"*, Litigation Tool #01.009
   https://sedm.org/Litigation/01-General/HowJudgesMakeLaw.pdf
2. *Courts Cannot Make Law*
   https://youtu.be/avXHXxeT-UU

On the subject of judges "making law", Montesquieu who designed our three-branch system of government with separation of powers (Form #05.023) in his famous book "The Spirit of Laws" STERNLY WARNED BEFORE the Constitution was even written(!) the following:

> ***"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.***
>
> ***Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression [sound familiar?].***
>
> ***There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."***
>
> ***[. . .]***
>
> ***In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions."***
>
> ***[The Spirit of Laws, Charles de Montesquieu, 1758, Book XI, Section 6;***
> ***SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm]***

What the U.S. Supreme Court has done, through "The Public Rights Doctrine", is to put in effect the following POLICY that is not LAW but which has the practical EFFECT and FORCE of law:

1. Government can do no wrong PROVIDED that it is operating within its statutory and constitutional limits, and therefore cannot be sued as a wrongdoer, unless the statute they are administering is or has been declared unconstitutional.
2. Disputes between TWO private parties protected by the Constitution must be heard in Constitutional, Article III courts.
3. Disputes between a PRIVATE party and the GOVERNMENT must be heard in:
   3.1. Legislative franchise courts in the LEGISLATIVE or EXECUTIVE Branch if no Constitutional wrong is implicated because you are seeking a privilege against Uncle.
   3.2. A constitutional Article III court if a Constitutional violation is implicated.
4. Any privilege or right originating from a civil statute that is not in the Constitution is, by definition a public right AGAINST the government. Thus, it is a PRIVILEGE that can be regulated by the government and heard in a franchise court. *Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983)*
5. Franchise courts, also called "legislative franchise courts":
   5.1. Are legislatively created creatures of Congress which can only hear disputes relating to federal property coming under 5 U.S.C. §553(a)(2).
   5.2. Cannot hear constitutional issues or rights violations.
   5.3. Cannot hear disputes of those not partaking of the civil statutory privileges or franchise they were created to administer.

5.4. Are part of what now-deceased Supreme Court Justice Antonin Scalia called "The FOURTH Branch of government", implying that they are unconstitutional. Freytag v. Commissioner, 501 U.S. 868 (1991).

6. If you wish to invoke your constitutional rights against a government actor who injured your constitutional rights:
   6.1. That dispute is against THE INDIVIDUAL ACTOR, not against the government.
   6.2. You must satisfy the burden of proof that the tortious actor was acting OUTSIDE of their delegated constitutional or statutory authority. Usually, this means that your status or your earnings did NOT fall within the STATUTORY definitions provided in the civil statute they were administering using the strict rules of statutory construction and interpretation documented in Form #05.014.
   6.3. The Department of Justice can overrule you by simply declaring, absent ANY proof, that they were operating WITHIN their authority, even if the definitions say they were NOT. See 28 U.S.C. §2679(d)(3).
   6.4. If the tortious actor was acting outside their delegated authority, they are NOT entitled to free representation by the Department of Justice.
7. If you file the action against the tortious actor in STATE court, then the action cannot be removed to FEDERAL court WITHOUT the defendant proving that federal property OF SOME KIND listed in 5 U.S.C. §553(a)(2) is involved, and thus, that a "federal question" is at issue.
8. The COURT which allows for removal from state to federal court itself is committing a tort WITHOUT enforcing the requirement of the defendant to prove "federal question" and FEDERAL PROPERTY is at issue. See 28 U.S.C. §1652, which is deliberately vague to protect UNLAWFUL removals and IDENTITY THEFT that they facilitate, as documented in:

   Government Identity Theft, Form #05.046
   https://sedm.org/Forms/05-MemLaw/GovernmentIdentityTheft.pdf

9. Lastly, there are cases where even though the offending party in the government who you are suing INDIVIDUALLY caused an unlawful taking of PRIVATE property, the property is still in the CUSTODY of the government.
   9.1. Suing the corrupt individual will not return the property and you have to sue the PROPERTY and indirectly the party possessing it at the time, which is usually the government.
   9.2. The action to return the property must be filed as an "in rem" action against the PROPERTY and NOT the government.
   9.3. In rem actions against the government for property unlawfully in their custody ARE permitted and are NOT privileges, but RIGHTS and NO STATUTE is necessary to reclaim the property WRONGFUILLY in government possession. Property taken from a "nontaxpayer" under the color but without the actual authority of law is not "taxes", but THEFT, and therefore would NOT come under the Internal Revenue Code, which only governs interactions with CONSENTING STATUTORY "taxpayers":

> *"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."*
> *[Long v. Rasmussen, 281 F. 236 (1922)]*

> *"Revenue Laws relate to taxpayers and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of the object of federal revenue laws."*
> *[Economy Plumbing & Heating v. U.S., 470 F2d. 585 (1972)]*

> *"A claim against the United States is a right to demand money from the United States.*[6] *Such claims are sometimes spoken of as gratuitous in that they cannot be enforced by suit without statutory consent.*[7] ***The general rule of non-liability of the United States does not mean that a citizen cannot be protected against the wrongful governmental acts that affect the citizen or his or her property.***[8] ***If, for example, money or property of an***

[6] United States ex rel. Angarica v. Bayard, 127 U.S. 251, 32 L.Ed. 159, 8 S.Ct. 1156, 4 AFTR 4628 (holding that a claim against the Secretary of State for money awarded under a treaty is a claim against the United States); Hobbs v. McLean, 117 U.S. 567, 29 L.Ed. 940, 6 S.Ct. 870; Manning v. Leighton, 65 Vt. 84, 26 A 258, motion dismd 66 Vt. 56, 28 A 630 and (disapproved on other grounds by Button's Estate v. Anderson, 112 Vt. 531, 28 A.2d. 404, 143 A.L.R. 195).

[7] Blagge v. Balch, 162 U.S. 439, 40 L.Ed. 1032, 16 S.Ct. 853.

[8] Wilson v. Shaw, 204 U.S. 24, 51 L.Ed. 351, 27 S.Ct. 233.

innocent person goes into the federal treasury by fraud to which a government agent was a party, the United States cannot [lawfully] hold the money or property against the claim of the injured party.[9]*"*
[American Jurisprudence 2d, United States, §45 (1999)]

"When the Government has illegally received money which is the property of an innocent citizen and when this money has gone into the Treasury of the United States, there arises an implied contract on the part of the Government to make restitution to the rightful owner under the Tucker Act and this court has jurisdiction to entertain the suit.
90 Ct.Cl. at 613, 31 F.Supp. at 769."
[Gordon v. U. S., 227 Ct.Cl. 328, 649 F.2d. 837 (Ct.Cl., 1981)]

California Civil Code
Section 2224

"One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he or she has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it."

"The United States, we have held, cannot, as against the claim of an innocent party, hold his money which has gone into its treasury by means of the fraud of its agent. *While here the money was taken through mistake without element of fraud, the unjust retention is immoral and amounts in law to a fraud of the taxpayer's rights.* ***What was said in the State Bank Case applies with equal force to this situation. 'An action will lie whenever the defendant has received money which is the property of the plaintiff, and which the defendant is obligated by natural justice and equity to refund. The form of the indebtedness or the mode in which it was incurred is immaterial.****"*
[Bull v. United States, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421]

More on the Public Rights Doctrine of the U.S. Supreme Court and the subject of "Publici juris" at:

Sovereignty and Freedom Topic, Section 6: Private and Natural Rights and Natural Law, Family Guardian Fellowship https://famguardian.org/Subjects/Freedom/Freedom.htm

5.4 Political Questions Doctrine

The Political Question Doctrine is a legal principle that holds that certain disputes are not justiciable in federal courts because they involve issues that are inherently political and are better left to other branches of government. Here are some of the most notable U.S. Supreme Court cases relating to the Political Question Doctrine:

1. Luther v. Borden, 48 U.S. 1, 7 How. 1 (1849): This case held that the question of whether Rhode Island's state government was constitutional was a political question that should be resolved by Congress rather than the courts.
2. Baker v. Carr, 369 U.S. 186 (1962): This case held that the question of whether Tennessee's legislative districts were apportioned in a way that violated the Equal Protection Clause of the 14th Amendment was justiciable in federal court, because it did not present a nonjusticiable political question.
3. Gill v. Whitford, 138 S.Ct. 1916, 201 L.Ed.2d. 313 (2018): This case involved a challenge to Wisconsin's state legislative district map on the grounds that it was an unconstitutional partisan gerrymander. The Court declined to rule on the merits of the case, holding that the plaintiffs had not shown they had standing to bring the case.
4. Zivotofsky v. Kerry, 576 U.S. 1 (2015): This case involved a challenge to a federal law that required the State Department to list the birthplace of U.S. citizens born in Jerusalem as "Jerusalem" rather than "Israel." The Court held that the case presented a political question because it involved the recognition of foreign sovereigns and their territorial claims.
5. Nixon v. United States, 506 U.S. 224 (1993): This case involved the impeachment of a federal judge. The Court held that the question of whether the Senate had properly tried the case was a political question that could not be reviewed by the courts.

[9] Bull v. United States, 295 U.S. 247, 79 L.Ed. 1421, 55 S.Ct. 695, 35-1 USTC ¶ 9346, 15 AFTR 1069; United States v. State Bank, 96 U.S. 30, 96 Otto 30, 24 L.Ed. 647.

These cases illustrate the ongoing debate over the scope of the Political Question Doctrine and the appropriate role of federal courts in resolving disputes that involve inherently political issues.

5.5 Full Payment Rule

The Full Payment Rule is a legal principle that holds that a debtor's payment of a disputed debt in full "under protest" does not discharge the debt and does not entitle the debtor to a refund. Here are some of the most notable U.S. Supreme Court cases relating to the Full Payment Rule:

1. United States v. Edmonson, 6 Wheat 481 (1829): This case established the Full Payment Rule, holding that a debtor who paid a disputed tax in full could not later recover the overpayment in court.
2. Bull v. United States, 295 U.S. 247 (1935): This case reaffirmed the Full Payment Rule, holding that a debtor who paid a disputed tax in full could not recover the overpayment even if the payment was made under duress.
3. United States v. Felt & Tarrant Mfg. Co., 283 U.S. 269 (1932): This case held that the Full Payment Rule applied to overpayments of customs duties, even if the payment was made under protest.
4. Keystone Driller Co. v. United States, 97 S.Ct. 2927 (1978): This case held that the Full Payment Rule did not apply to claims for refund of an overpayment of taxes that were not in dispute, because there was no controversy over the taxpayer's liability for those taxes.
5. United States v. Clintwood Elkhorn Mining Co., 553 U.S. 1 (1980): This case held that the Full Payment Rule did not apply to claims for refund of taxes that were paid pursuant to a contested IRS assessment, because the payment was not voluntary.

These cases illustrate the importance of the Full Payment Rule in determining whether a debtor may recover an overpayment of a disputed debt, and the limited circumstances under which the Rule may not apply.

5.6 Chevron Deference Rule

Chevron deference is a principle of administrative law that requires courts to defer to a federal agency's interpretation of a statute that the agency administers, unless the interpretation is unreasonable. Here are some of the most notable U.S. Supreme Court cases relating to the Chevron deference rule:

1. Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984): This case established the Chevron deference rule, holding that courts should defer to a federal agency's reasonable interpretation of a statute that the agency administers.
2. United States v. Mead Corp., 633 U.S. 218 (2001): This case held that Chevron deference applies only to agency interpretations that are made in the exercise of the agency's delegated authority, and not to interpretations made by lower-level agency officials.
3. King v. Burwell, 576 U.S. 473 (2015): This case held that the Internal Revenue Service's interpretation of the Affordable Care Act was entitled to Chevron deference, upholding the agency's interpretation that allowed for federal tax credits in states that did not set up their own health insurance exchanges.
4. City of Arlington v. FCC, 569 U.S. 290 (2013): This case held that courts should defer to an agency's interpretation of its own jurisdiction under the Chevron deference rule, unless the interpretation is unreasonable.
5. National Cable & Telecommunications Ass'n v. Brand X Internet Services, 545 U.S. 967 (2005): This case held that a federal agency's interpretation of a statute may supersede a previous court interpretation under the Chevron deference rule, even if the court's interpretation was made in a prior case.

These cases demonstrate the importance of the Chevron deference rule in determining the deference owed to an agency's interpretation of a statute, and the limits of that deference.

5.7 Incorporation Doctrine

The Bill of Rights is the first ten amendments to the United States Constitution. It guarantees certain basic rights and freedoms to all Americans, including the right to free speech, the right to bear arms, the right to a fair trial, and the right to be free from unreasonable searches and seizures.

The Bill of Rights was originally intended to apply only to the federal government. However, in a series of cases known as the "incorporation doctrine," the Supreme Court has held that most of the Bill of Rights also applies to state and local

governments. This means that people who live in federal enclaves, such as military bases and national parks, have the same constitutional rights as people who live in other parts of the United States.

There are a few exceptions to the incorporation doctrine. For example, the Second Amendment right to bear arms does not apply to the states. However, most of the other rights guaranteed by the Bill of Rights do apply to both the federal government and the states.

The incorporation doctrine is an important part of American constitutional law. It ensures that all Americans, regardless of where they live, have the same basic rights and freedoms.

There are many cases of the U.S. Supreme Court that recognize or define the "incorporation doctrine." Some of the most important cases include:

1. Chicago, Burlington & Quincy Railroad Co. v. City of Chicago, 166 U.S. 226, 17 S.Ct. 581, 41 L.Ed. 979 (1897): This case held that the Fourteenth Amendment's Due Process Clause incorporated the Fifth Amendment's Just Compensation Clause, which requires the government to pay just compensation when it takes private property for public use.
2. Gitlow v. New York, 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925): This case held that the Fourteenth Amendment's Due Process Clause incorporated the First Amendment's freedom of speech clause, which protects the right to express one's views without government interference.
3. Near v. Minnesota, 286 U.S. 697, 51 S.Ct. 625, 75 L.Ed. 1367 (1931): This case held that the Fourteenth Amendment's Due Process Clause incorporated the First Amendment's freedom of the press clause, which protects the right to publish information without government interference.
4. Powell v. Alabama, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed. 158 (1932): This case held that the Fourteenth Amendment's Due Process Clause incorporated the Sixth Amendment's right to counsel clause, which guarantees the right to have an attorney present during a criminal trial.
5. Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d. 653 (1964): This case held that the Fourteenth Amendment's Due Process Clause incorporated the Fifth Amendment's privilege against self-incrimination clause, which protects the right to not testify against oneself in a criminal case.
6. Benton v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d. 707 (1969): This case held that the Fourteenth Amendment's Due Process Clause incorporated the Fifth Amendment's double jeopardy clause, which prohibits the government from trying someone twice for the same crime.

These are just a few of the many cases that have defined the incorporation doctrine. The doctrine is still evolving, and the Supreme Court may continue to incorporate additional rights from the Bill of Rights into the Fourteenth Amendment.

5.8 State Action Doctrine[10]

The State Action Doctrine is a legal principle that governs when private actors can be held liable for violating someone's constitutional rights. Under this doctrine, private actors are generally not subject to the restrictions of the Constitution unless they are considered to be acting "under color of state law" or as agents of the government.

The Supreme Court has developed a number of criteria to determine whether a private actor is considered to be acting as a state actor:

1. Public Function Test: This test was first articulated by the Supreme Court in Jackson v. Metropolitan Edison Co. (1974), where the Court held that a privately-owned utility company that performed a function traditionally reserved for the state (providing electricity to the public) could be considered a state actor.
2. Entanglement Test: The entanglement test was first discussed by the Supreme Court in Burton v. Wilmington Parking Authority (1961), where the Court held that a private restaurant leasing space in a public parking garage was a state actor because of the significant entanglement between the restaurant and the government.
3. Nexus Test: The nexus test was first introduced by the Supreme Court in Moose Lodge No. 107 v. Irvis (1972), where the Court held that a private club that was selectively denying membership based on race was not a state actor. The

[10] SOURCE: *Proof That There Is a "Straw Man"*, Form #05.042, Section 17.1; https://sedm.org/Forms/FormIndex.htm.

Court reasoned that the club's actions were not so intertwined with the government that the actions could be attributed to the state.

4. State Compulsion Test: The state compulsion test was first discussed by the Supreme Court in Adickes v. S. H. Kress & Co. (1970), where the Court held that a private store could be considered a state actor if it was coerced by state officials to refuse service to a group of African American customers.

Overall, the determination of whether a private actor is a state actor is a fact-specific inquiry that depends on the particular circumstances of each case.

We will now prove in this section that the State Action Doctrine of the U.S. Supreme Court confirms that all civil statutory law is law for government and not the PRIVATE human.

The State Action Doctrine was developed by the U.S. Supreme Court as a means test to validate an action under 42 U.S.C. §1983 and the Fourteenth Amendment Equal Protection Clause.

> *Fourteenth Amendment - U.S. Constitution*
>
> *Section. 1.*
>
> *All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;* ***nor deny to any person within its jurisdiction the equal protection of the laws.***
>
> _____
>
> *42 U.S.C. §1983*
>
> ***Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress****, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.*

This type of suit is brought against officials of a CONSTITUTIONAL State RATHER than a STATUTORY State or territory. State actors may be sued for deprivations of rights caused by a denial of equal protection of law mandated by the Fourteenth Amendment. Such suits are described in:

Section 1983 Litigation, Litigation Tool #08.008 http://sedm.org/Litigation/LitIndex.htm

Congress passed 42 U.S.C. §1983 in 1871 as section 1 of the "Ku Klux Klan Act." The statute did not emerge as a tool for checking the abuse by state officials, however, until 1961, when the U.S. Supreme Court decided *Monroe v. Pape*.[11] In *Monroe*, the Court articulated three purposes for passage of the statute:

1. "to override certain kinds of state laws";
2. to provide "a remedy where state law was inadequate"; and
3. to provide "a federal remedy where the state remedy, though adequate in theory, was not available in practice."[12]

The *Monroe* Court resolved two important issues that allowed 42 U.S.C. §1983 to become a powerful statute for enforcing rights secured by the Fourteenth Amendment. First, it held that actions taken by state governmental officials, even if contrary to state law, were nevertheless actions taken "under color of law." Second, the Court held that injured individuals have a

[11] 365 U.S. 167 (1961).

[12] 365 U.S. 1173-157 (1961).

federal remedy under 42 U.S.C. §1983 even if the officials' actions also violated state law. In short, the statute was intended to provide a supplemental remedy. The federal forum was necessary to vindicate federal rights because, according to Congress in 1871, state courts could not protect Fourteenth Amendment rights because of their "prejudice, passion, neglect, [and] intolerance."[13]

So to bring such a suit, the petitioner has to prove that the party violating the statute is working for a government. The analysis below shows that when a respondent of the suit is acting "under the authority of a statute" or a "state custom", they are presumed to be officers of the state:

> *For petitioner to recover under the substantive count of her complaint, she must show a deprivation of a right guaranteed to her by the Equal Protection Clause of the Fourteenth Amendment.* ***Since the 'action inhibited by the first section of the Fourteenth Amendment is only such action as may fairly be said to be that of the States,'*** *Shelley v. Kraemer, 334 U.S. 1, 13, 68 S.Ct. 836, 842, 92 L.Ed. 1161 (1948),* ***we must decide, for purposes of this case, the following 'state action' issue: Is there sufficient state action to prove a violation of petitioner's Fourteenth Amendment rights*** *if she shows that Kress refused her service because of a state-enforced custom compelling segregation of the races in Hattiesburg restaurants?*
>
> *In analyzing this problem, it is useful to state two polar propositions, each of which is easily identified and resolved.* ***On the one hand, the Fourteenth Amendment plainly prohibits a State itself from discriminating because of race. On the other hand, § 1 of the Fourteenth Amendment does not forbid a private party, not acting against a backdrop of state compulsion or involvement, to discriminate on the basis of race in his personal affairs as an expression of his own personal predilections. As was said in Shelley v. Kraemer, supra, § 1 of '(t)hat Amendment erects no shield against merely private conduct, however discriminatory or wrongful.' 334 U.S., at 13, 68 S.Ct., at 842.***
>
> ***At what point between these two extremes a State's involvement in the refusal becomes sufficient to make the private refusal to serve a violation of the Fourteenth Amendment, is far from clear under our case law. If a State had a law requiring a private person to refuse service because of race, it is clear beyond dispute that the law would violate the Fourteenth Amendment and could be declared invalid and enjoined from enforcement. Nor can a State enforce such a law requiring discrimination through either convictions of proprietors who refuse to discriminate, or trespass prosecutions of patrons who, after being denied service pursuant to such a law, refuse to honor a request to leave the premises.40***
>
> ***The question most relevant for this case, however, is a slightly different one. It is whether the decision of an owner of a restaurant to discriminate on the basis of race under the compulsion of state law offends the Fourteenth Amendment****. Although this Court has not explicitly decided the Fourteenth Amendment state action issue implicit in this question, underlying the Court's decisions in the sit-in cases is the notion that* ***a State is responsible for the discriminatory act of a private party when the State, by its law, has compelled the act.*** *As the Court said in Peterson v. City of Greenville, 373 U.S. 244, 248, 83 S.Ct. 1119, 1121 (1963)****: 'When the State has commanded a particular result, it has saved to itself the power to determine that result and thereby 'to a significant extent' has 'become involved' in it.'*** *****Moreover, there is much support in lower court opinions for the conclusion that discriminatory acts by private parties done under the compulsion of state law offend the Fourteenth Amendment. In Baldwin v. Morgan, supra, the Fifth Circuit held that '(t)he very act of posting and maintaining separate (waiting room) facilities when done by the (railroad) Terminal as commanded by these state orders is action by the state.' The Court then went on to say: 'As we have pointed out above the State may not use race or color as the basis for distinction. It may not do so by direct action or through the medium of others who are under State compulsion to do so.' Id., 287 F.2d at 755—756 (emphasis added). We think the same principle governs here.*****
>
> ***For state action purposes it makes no difference of course whether the racially discriminatory act by the private party is compelled by a statutory provision or by a custom having the force of law—in either case it is the State that has commanded the result by its law. Without deciding whether less substantial involvement of a State might satisfy the state action requirement of the Fourteenth Amendment, we conclude that petitioner would show an abridgement of her equal protection right, if she proves that Kress refused her service because of a state-enforced custom of segregating the races in public restaurants.***
> *[Adickes v. Kress Company, 398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed.2d. 142 (1970)]*

We conclude from the above analysis that EVERYONE who either claims the "benefit" of a statute or acts under the alleged authority of any civil statute is a "state actor" and therefore "state officer", even if they have no legitimate authority to do so. The courts would say they are acting "under the color of law" and therefore are a "state actor".

There is also a severe defect in the above analysis, because they contradict themselves by alleging that those under the compulsion of a statute can be a "private person".

[13] 365 U.S. 180 (1961).

> *"If a State had a law requiring a private person to refuse service because of race, it is clear beyond dispute that the law would violate the Fourteenth Amendment and could be declared invalid and enjoined from enforcement."*
>
> ***[. . .]***
>
> ***Moreover, there is much support in lower court opinions for the conclusion that discriminatory acts by private parties done under the compulsion of state law offend the Fourteenth Amendment.***

This is clearly impossible. Either you are ACTING as a PUBLIC state officer and therefore under the compulsion of a civil statute, or you are PRIVATE and NOT under the compulsion. They are trying to confuse the PUBLIC you and the PRIVATE you and make them indistinguishable, even though maxims of law forbid this:

> *Quando duo juro concurrunt in und personâ, aequum est ac si essent in diversis.*
> *When two rights [public right v. private right] concur in one person, it is the same as if they were* ***two separate persons****. 4 Co. 118.*
> *[Bouvier's Maxims of Law, 1856;*
> *SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]*

This same forked tongue U.S. Supreme Court earlier held that "private persons" OWE NOTHING to the public so long as they don't trespass on the rights of others, and therefore cannot be regulated or subject to the control of any statute:

> *"The individual may stand upon his constitutional rights as a citizen.* ***He is entitled to carry on his private business in his own way [unregulated by the government]. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property.*** *His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law.* ***He owes nothing to the public [including so-called "taxes" under Subtitle A of the I.R.C.] so long as he does not trespass upon their rights.****"*
> *[Hale v. Henkel, 201 U.S. 43, 74 (1906)]*

Indirectly, the U.S. Supreme Court is admitting that the PUBLIC you that they can regulate with statutes is called a statutory "citizen" and the PRIVATE you has no name and cannot be regulated. Therefore if you do not consent to BECOME a privileged statutory "citizen", then the very definition of justice implies that they have to leave you alone and NOT enforce the statutes against you.

Throughout this website, we refer to those who are "private persons" or simply "humans" as NOT subject to civil statutes unless and until they VOLUNTEER to act as an officer of the state and thereby CEASE to be "private persons". Every time any government seeks to enforce a civil statute against us, we must DEMAND that they prove ON THE RECORD the following facts with evidence or have their enforcement action nullified:

1. That you expressly consented to BECOME a statutory "citizen" and therefore a public officer and state actor.
2. That at the time you consented, you were physically located in a place not protected by the Constitution and therefore could lawfully alienate an otherwise INALIENABLE Constitutional right.
3. That they recognized your absolute right to NOT consent and even protected it. Otherwise, they are not a "government" as the Declaration of Independence itself defines it.
4. That you took an oath and therefore are lawfully serving in a public office as a state actor.
5. That you were being paid for your time served as a public officer when you were acting under the alleged authority of the statute.
6. That you knew you were a public officer or state actor at the time the offending act was committed. You can't serve as a public officer WITHOUT even knowing it. That would be RIDICULOUS.

Unfortunately, the statutes enacted with 42 U.S.C. §1983 can be wrongfully applied, because they ALSO protect PUBLIC rights of public officers on official business. How do we know this? Because they use the term "equal benefit" and "privilege and immunity", neither of which you want because they connect you to a public statutory franchise "benefit":

> *42 U.S.C. §1981*
>
> *(a) Statement of Equal Rights*

> *All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the **full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens**, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.*

The ONLY "law" a PRIVATE human beyond the protection of civil statutory law should seek to enforce in a 42 U.S.C. §1983 suit is CONSTITUTIONAL right and common law, not as STATUTORY franchise "benefit", which includes all public benefits, the Internal Revenue Code Subtitle A "trade or business"/public officer franchise tax, license programs, etc.

Note also the term "privileges and immunities" found in the Fourteenth Amendment DOES NOT include any statutory franchise of Congress, but merely your CONSTITUTIONAL rights and nothing more, according to Justice Clarence Thomas:

> *Thomas, J., dissenting*
>
> *Justice Thomas, with whom the Chief Justice joins, dissenting.*
>
> *I join The Chief Justice's dissent. I write separately to address the majority's conclusion that California has violated "the right of the newly arrived citizen to the same privileges and immunities enjoyed by other citizens of the same State." Ante, at 12. In my view, the majority attributes a meaning to the Privileges or Immunities Clause that likely was unintended when the Fourteenth Amendment was enacted and ratified.*
>
> *The Privileges or Immunities Clause of the Fourteenth Amendment provides that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." U.S. Const., Amdt. 14, §1. Unlike the Equal Protection and Due Process Clauses, which have assumed near-talismanic status in modern constitutional law, the Court all but read the Privileges or Immunities Clause out of the Constitution in the Slaughter-House Cases, 16 Wall. 36 (1873). There, the Court held that the State of Louisiana had not abridged the Privileges or Immunities Clause by granting a partial monopoly of the slaughtering business to one company. Id., at 59 63, 66. The Court reasoned that the Privileges or Immunities Clause was not intended "as a protection to the citizen of a State against the legislative power of his own State." Id., at 74. Rather the "privileges or immunities of citizens" guaranteed by the Fourteenth Amendment were limited to those "belonging to a citizen of the United States as such." Id., at 75. The Court declined to specify the privileges or immunities that fell into this latter category, but it made clear that few did. See id., at 76 (stating that "nearly every civil right for the establishment and protection of which organized government is instituted," including "those rights which are fundamental," are not protected by the Clause).*
>
> *Unlike the majority, I would look to history to ascertain the original meaning of the Clause.1 **At least in American law, the phrase (or its close approximation) appears to stem from the 1606 Charter of Virginia, which provided that "all and every the Persons being our Subjects, which shall dwell and inhabit within every or any of the said several Colonies shall HAVE and enjoy all Liberties, Franchises, and Immunities as if they had been abiding and born, within this our Realme of England."***
>
> *7 Federal and State Constitutions, Colonial Charters and Other Organic Laws 3788 (F. Thorpe ed. 1909). Other colonial charters contained similar guarantees.2 Years later, as tensions between England and the American Colonies increased, the colonists adopted resolutions reasserting their entitlement to the privileges or immunities of English citizenship.3*
>
> ***The colonists' repeated assertions that they maintained the rights, privileges and immunities of persons "born within the realm of England" and "natural born" persons suggests that, at the time of the founding, the terms "privileges" and "immunities" (and their counterparts) were understood to refer to those fundamental rights and liberties specifically enjoyed by English citizens, and more broadly, by all persons. Presumably members of the Second Continental Congress so understood these terms when they employed them in the Articles of Confederation, which guaranteed that "the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States." Art. IV. The Constitution, which superceded the Articles of Confederation, similarly guarantees that "[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Art. IV, §2, cl. 1.***
>
> *Justice Bushrod Washington's landmark opinion in Corfield v. Coryell, 6 Fed. Cas. 546 (No. 3, 230) (CCED Pa. 1825), reflects this historical understanding. In Corfield, a citizen of Pennsylvania challenged a New Jersey law that prohibited any person who was not an "actual inhabitant and resident" of New Jersey from harvesting oysters from New Jersey waters. Id., at 550. Justice Washington, sitting as Circuit Justice, rejected the argument that the New Jersey law violated Article IV's Privileges and Immunities Clause. He reasoned, "we cannot accede to the proposition that, under this provision of the constitution, the citizens of the several states are permitted to participate in all the rights which belong exclusively to the citizens of any other particular state, merely upon the ground that they are enjoyed by those citizens." Id., at 552. Instead, Washington concluded:*

We feel no hesitation in confining these expressions to those privileges and immunities which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are, it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; subject nevertheless to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one state to pass through, or to reside in any other state, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the state; and an exemption from higher taxes or impositions than are paid by the other citizens of the state; the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised. These, and many others which might be mentioned, are, strictly speaking, privileges and immunities." Id. at 551 552.

Washington rejected the proposition that the Privileges and Immunities Clause guaranteed equal access to all public benefits (such as the right to harvest oysters in public waters) that a State chooses to make available. Instead, he endorsed the colonial-era conception of the terms "privileges" and "immunities," concluding that Article IV encompassed only fundamental rights that belong to all citizens of the United States.4 Id., at 552.

Justice Washington's opinion in Corfield indisputably influenced the Members of Congress who enacted the Fourteenth Amendment. When Congress gathered to debate the Fourteenth Amendment, members frequently, if not as a matter of course, appealed to Corfield, arguing that the Amendment was necessary to guarantee the fundamental rights that Justice Washington identified in his opinion. See Harrison, Reconstructing the Privileges or Immunities Clause, 101 Yale L. J. 1385, 1418 (1992) (referring to a Member's "obligatory quotation from Corfield"). For just one example, in a speech introducing the Amendment to the Senate, Senator Howard explained the Privileges or Immunities Clause by quoting at length from Corfield.5 Cong. Globe, 39th Cong., 1st Sess., 2765 (1866). Furthermore, it appears that no Member of Congress refuted the notion that Washington's analysis in Corfield undergirded the meaning of the Privileges or Immunities Clause.6

That Members of the 39th Congress appear to have endorsed the wisdom of Justice Washington's opinion does not, standing alone, provide dispositive insight into their understanding of the Fourteenth Amendment's Privileges or Immunities Clause. Nevertheless, their repeated references to the Corfield decision, combined with what appears to be the historical understanding of the Clause's operative terms, supports the inference that, at the time the Fourteenth Amendment was adopted, people understood that "privileges or immunities of citizens" were fundamental rights, rather than every public benefit established by positive law. Accordingly, the majority's conclusion that a State violates the Privileges or Immunities Clause when it "discriminates" against citizens who have been domiciled in the State for less than a year in the distribution of welfare benefit appears contrary to the original understanding and is dubious at best.

As The Chief Justice points out, ante at 1, it comes as quite a surprise that the majority relies on the Privileges or Immunities Clause at all in this case. That is because, as I have explained supra, at 1 2, The Slaughter-House Cases sapped the Clause of any meaning. Although the majority appears to breathe new life into the Clause today, it fails to address its historical underpinnings or its place in our constitutional jurisprudence. Because I believe that the demise of the Privileges or Immunities Clause has contributed in no small part to the current disarray of our Fourteenth Amendment jurisprudence, I would be open to reevaluating its meaning in an appropriate case. Before invoking the Clause, however, we should endeavor to understand what the framers of the Fourteenth Amendment thought that it meant. We should also consider whether the Clause should displace, rather than augment, portions of our equal protection and substantive due process jurisprudence. The majority's failure to consider these important questions raises the specter that the Privileges or Immunities Clause will become yet another convenient tool for inventing new rights, limited solely by the "predilections of those who happen at the time to be Members of this Court." Moore v. East Cleveland, 431 U.S. 494, 502 (1977).

I respectfully dissent.

Notes

1. Legal scholars agree on little beyond the conclusion that the Clause does not mean what the Court said it meant in 1873. See, e.g., Harrison, Reconstructing the Privileges or Immunities Clause, 101 Yale L. J. 1385, 1418 (1992) (Clause is an antidiscrimination provision); D. Currie, The Constitution in the Supreme Court 341 351 (1985) (same); 2 W. Crosskey, Politics and the Constitution in the History of the United States 1089 1095 (1953) (Clause incorporates first eight Amendments of the Bill of Rights); M. Curtis, No State Shall Abridge 100 (1986) (Clause protects the rights included in the Bill of Rights as well as other fundamental rights); B. Siegan, Supreme Court's Constitution 46 71 (1987) (Clause guarantees Lockean conception of natural rights); Ackerman, Constitutional Politics/Constitutional Law, 99 Yale L. J. 453, 521 536 (1989) (same); J. Ely, Democracy and Distrust 28 (1980) (Clause "was a delegation to future constitutional decision-makers to protect certain rights that the document neither lists or in any specific way gives directions for finding"); R. Berger, Government by Judiciary 30 (2d ed. 1997) (Clause forbids race discrimination with respect to rights listed in the Civil Rights Act of 1866); R. Bork, The Tempting of America 166 (1990) (Clause is inscrutable and should be treated as if it had been obliterated by an ink blot).

2. See 1620 Charter of New England, in 3 Thorpe, at 1839 (guaranteeing "[l]iberties, and franchizes, and Immunities of free Denizens and naturall Subjects"); 1622 Charter of Connecticut, reprinted in 1 id., at 553 (guaranteeing "[l]iberties and Immunities of free and natural Subjects"); 1629 Charter of the Massachusetts Bay Colony, in 3 id., at 1857 (guaranteeing the "liberties and Immunities of free and naturall subjects"); 1632 Charter of Maine, in 3 id., at 1635 (guaranteeing "[l]iberties[,] Francheses and Immunityes of or belonging to any of the naturall borne subjects"); 1632 Charter of Maryland, in 3 id., at 1682 (guaranteeing "Privileges, Franchises and Liberties"); 1663 Charter of Carolina, in 5 id., at 2747 (holding "liberties, franchises, and privileges" inviolate); 1663 Charter of the Rhode Island and Providence Plantations, in 6 id., at 3220 (guaranteeing "libertyes and immunityes of ffree and naturall subjects"); 1732 Charter of Georgia, in 2 id., at 773 (guaranteeing "liberties, franchises and immunities of free denizens and natural born subjects").

3. See, e.g., The Massachusetts Resolves, in Prologue to Revolution: Sources and Documents on the Stamp Act Crisis 56 (E. Morgan ed. 1959) ("Resolved, That there are certain essential Rights of the British Constitution of Government, which are founded in the Law of God and Nature, and are the common Rights of Mankind Therefore, Resolved that no Man can justly take the Property of another without his Consent . . . this inherent Right, together with all other essential Rights, Liberties, Privileges and Immunities of the People of Great Britain have been fully confirmed to them by Magna Charta"); The Virginia Resolves, id., at 47 48 ("[T]he Colonists aforesaid are declared entitled to all Liberties, Privileges, and Immunities of Denizens and natural Subjects, to all Intents and Purposes, as if they had been abiding and born within the Realm of England"); 1774 Statement of Violation of Rights, 1 Journals of the Continental Congress 68 (1904) ("[O]ur ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England Resolved [t]hat by such emigration they by no means forfeited, surrendered or lost any of those rights").

4. During the first half of the 19th century, a number of legal scholars and state courts endorsed Washington's conclusion that the Clause protected only fundamental rights. See, e.g., Campbell v. Morris, 3 Harr. & M. 535, 554 (Md. 1797) (Chase, J.) (Clause protects property and personal rights); Douglass v. Stephens, 1 Del. Ch. 465, 470 (1821) (Clause protects the "absolute rights" that "all men by nature have"); 2 J. Kent, Commentaries on American Law 71 72 (1836) (Clause "confined to those [rights] which were, in their nature, fundamental"). See generally Antieau, Paul's Perverted Privileges or the True Meaning of the Privileges and Immunities Clause of Article Four, 9 Wm. & Mary L. Rev. 1, 18 21 (1967) (collecting sources).

5. He also observed that, while, Supreme Court had not "undertaken to define either the nature or extent of the privileges and immunities," Washington's opinion gave "some intimation of what probably will be the opinion of the judiciary." Cong. Globe, 39th Cong., 1st Sess., 2765 (1866).

6. During debates on the Civil Rights Act of 1866, Members of Congress also repeatedly invoked Corfield to support the legislation. See generally, Siegan, Supreme Court's Constitution, at 46 56. The Act's sponsor, Senator Trumble, quoting from Corfield, explained that the legislation protected the "fundamental rights belonging to every man as a free man, and which under the Constitution as it now exists we have a right to protect every man in." Cong. Globe, supra, at 476. The Civil Rights Act is widely regarded as the precursor to the Fourteenth Amendment. See, e.g., J. tenBroek, Equal Under Law 201 (rev. ed. 1965) ("The one point upon which historians of the Fourteenth Amendment agree, and, indeed, which the evidence places beyond cavil, is that the Fourteenth Amendment was designed to place the constitutionality of the Freedmen's Bureau and civil rights bills, particularly the latter, beyond doubt").
[Saenz v Roe, 526 U.S. 473, 119 S.Ct. 1430, 143 L.Ed.2d. 635 (1999)]

However, in a STATUTORY context, the word "privileges and immunities" as well as "benefit" implies Congressionally created and granted statutory franchise privileges that jeopardize and nullify your constitutional rights and surrender the protections of the common law for those rights. Such statutory privileges are the main means to get you to surrender your CONSTITUTIONAL PRIVATE rights in exchange for STATUTORY PUBLIC PRIVILEGES, and also to surrender the protections of the common law for those PRIVATE rights.

*The words "privileges" and "immunities," [within the Article 4, Section 2, Clause 1] like the greater part of the legal phraseology of this country, have been carried over from the law of Great Britain, and recur constantly either as such or in equivalent expressions from the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified a peculiar right or private law conceded to particular persons or places **whereby a certain individual or class of individuals was exempted from the rigor of the common law**. Privilege or immunity is conferred upon any person when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some particular advantage or exemption.[14]*
[The Privileges and Immunities of State Citizenship, Roger Howell, PhD, 1918, pp. 9-10;
SOURCE: http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The_privileges_and_immunities_of_state_c.pdf]

[14] See Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31.

You should NEVER file a suit in any civil court to vindicate a statutory privilege or franchise PUBLIC right, but only to defend a PRIVATE right under the CONSTITUTION and the COMMON law, NOT as a STATUTORY "person", but as a CONSTITUTIONAL "person" who is NOT a STATUTORY "person". CONSTITUTIONAL and STATUTORY "persons" are mutually exclusive and NON-overlapping. More details can be found at:

Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm

Some very interesting inferences are suggested by the above cite from Adickes v. Kress Company, 398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed.2d. 142 (1970). Whenever you are under external state compulsion by, for instance, being the target of government enforcement actions to compel you to obey a specific civil statute:

1. The REAL actor, liable party, and defendant if an injury occurs because of your conduct is THE GOVERNMENT and not you personally.
2. You may not be listed as the defendant if the party whose constitutional rights were injured files suit in court. Instead, it is those who are instituting the enforcement activity that compels you to perform the offending or injurious act.
3. The Constitution limits your conduct if the injured party is NOT a state actor. This includes the entire Bill of Rights.
4. Government can't have it both ways. They can't, for instance:
   4.1. Claim that YOU are the PRIVATE actor instead of them without also admitting that they are enforcing ILLEGALLY against you and that they have no jurisdiction to enforce.
   4.2. Refuse to identify THEMSELVES as the real defendant if the injured party files suit, either by falsely stating so or through omission refusing to admit it.
5. All the "benefits" of the rules of evidence afforded to public officers also accrue to you. That means that the judge HAS to admit EVERYTHING you say or write into evidence because it documents your efforts AS a public officer to fulfill your lawful COMPELLED duties.
   5.1. Everything you produce becomes a "public record" of a public officer, including information that incriminates the judge and the party illegally instituting the enforcement action that compelled you to act as a public officer to begin with.
   5.2. They can't EXCLUDE anything because it might, for instance, incriminate ANOTHER public officer who injure you. See Federal Rule of Evidence 803(9).
   5.3. You don't have to produce the ORIGINAL of your records. See Federal Rule of Evidence 1005.

If you would like to learn more about the history and application of the State Action Doctrine, please see:

State Action and the Public/Private Distinction, Harvard Law Review, Volume 123, pp. 1248-1314, Exhibit #04.025 http://sedm.org/Exhibits/ExhibitIndex.htm

5.9 Collective Entity Doctrine[15]

The Collective Entity Doctrine of the U.S. Supreme Court is a very important basis for establishing that corporations are public entities and agents or officers of the state that created or incorporated them. The doctrine was first articulated in the case of Hale v. Henkel, 201 U.S. 43 (1906). It holds the following:

1. The constitution protects PRIVATE humans, not artificial or collective entities.
2. Artificial or collective entities such as corporations may not claim Fourth Amendment right to privacy or Fifth Amendment rights of freedom from compelled self-incrimination.
3. Corporations are collective entities. As franchises of the government, the government has "power of visitation and control" over said corporations. Withholding corporate books and records during legal discovery would interfere with that power.
4. Representatives of a collective entity act as agents of the entity that granted them the "privilege" of legally existing. Therefore, such representatives are not acting on their own PRIVATE behalf.[16]

[15] SOURCE: *Proof That There Is a "Straw Man"*, Form #05.042, Section 17.2; https://sedm.org/Forms/FormIndex.htm.

[16] **"But individuals, when acting as representatives of a collective group, cannot be said to be exercising their personal rights and duties nor to be entitled to their purely personal privileges. Rather they assume the rights, duties and privileges of the artificial entity or association of which they are agents or officers and they are bound by its obligations. In their official capacity, therefore, they have no privilege against self-incrimination.**

Another similar case explains an important angle on the Collective Entity Doctrine, which is how it applies to STATUTORY "employees" of the national government. All governments are corporations, and therefore their employees are treated as "agents" of said corporation.[17] Such STATUTORY "employees" of said corporation are NOT protected by the Constitution either and are NOT acting in a PRIVATE capacity, but a PUBLIC capacity:

> *"The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973)."*
> *[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

The most instructive case on the Collective Entity Doctrine is Braswell v. United States, 487 U.S. 99 (1988). It gives a history of the doctrine. Other cases dealing with this doctrine include the following:

1. Hale v. Henkel, 201 U.S. 43 (1906): Court held that corporations have no Fifth Amendment constitutional rights.
2. Wilson v. United States, 221 U.S. 361 (1911): Court held that Fifth Amendment did not protect a corporate officer.
3. Dreier v. United States, 221 U.S. 394 (1911): Dealt with a Fifth Amendment attack on a subpoena issued to a corporate custodian. Court held custodian had no Fifth Amendment right.
4. United States v. White, 322 U.S. 694 (1944): Court held that a labor union is a collective entity.
5. Bellis v. United States, 417 U.S. 85 (1974): Court held that partner in a small partnership could not refuse to produce records that might incriminate him.
6. Braswell v. United States, 487 U.S. 99 (1988): Court held that Fifth Amendment did not protect unincorporated associations such as Unions. Court jettisoned reliance on the visitorial powers of the state over corporations owing their existence to the State, one of the bases for earlier decisions.

In White above, the following language reveals what makes an entity "collective" in nature:

> *"The test . . . is whether one can fairly say under all the circumstances that a particular type of organization has a character so impersonal in the scope of its membership and activities that it cannot be said to embody or represent the purely private or personal interests of its constituents, but rather to embody their common or group interests only. If so, the privilege cannot be invoked on behalf of the organization or its representatives in their official capacity. Labor unions — national or local, incorporated or unincorporated — clearly meet that test."*
> *[United States v. White, 322 U.S. 694, 701 (1944)]*

We, on the other hand, have always argued that the only thing the government can tax or regulate is that which it creates:

And the official records and documents of the organization that are held by them in a representative rather than in a personal capacity cannot be the subject of the personal privilege against self-incrimination, even though production of the papers might tend to incriminate them personally."
[United States v. White, 322 U.S. 694,699 (1944)]

[17] "Corporations are also of all grades, and made for varied objects; **all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made. One universal rule of law protects persons and property**. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution."
[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837)]

"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. The Constitution is certain and fixed; it contains the permanent will of the people, and is the supreme law of the land; it is paramount to the power of the Legislature, and can be revoked or altered only by the authority that made it. ***The life-giving principle and the death-doing stroke must proceed from the same hand.*** *"*
[VanHorne's Lessee v. Dorrance, 2 U.S. 304 (1795)]

*"****The great principle is this: because the constitution will not permit a state to destroy, it will not permit a law [including a tax law] involving the power to destroy.*** *"*
[Providence Bank v. Billings, 29 U.S. 514 (1830)]

More on the above in the following:

Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm

When the U.S. Supreme Court first held in United States v. White, 322 U.S. 694 (1944) that the Collective Entity Rule applied to entities OTHER than government-granted corporation franchises, they are overstepping their authority because of the above. Admittedly, they might not be in some exceptional cases, such as any of the following, none of which any judge is likely to admit to, because it would destroy their authority over NON-privileged parties or entities, such as private, unincorporated business trusts:

1. The entity has a business or professional license.
2. The entity uses a government-issued PRIVILEGED "Employer Identification Number (EIN)", which is a de facto license to represent a government office.

The Collective Entity Doctrine explains why it is not considered a violation of the Fifth Amendment to be compelled to file a tax return. The reason is that the statutory "taxpayer" is a PUBLIC office. The officer VOLUNTARILY filling said office is an officer of the "U.S. Inc." federal corporation, and the activity he is engaged in is called a "trade or business" and is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". The duty to file returns NEED NOT appear in a statute, because the fiduciary duty held by the officer is sufficient to enforce the filing of the return.

"I: DUTY TO ACCOUNT FOR PUBLIC FUNDS

*§ 909. In general.-****It is the duty of the public officer, like any other agent or trustee, although not declared by express statute, to faithfully account for and pay over to the proper authorities all moneys which may come into his hands upon the public account, and the performance of this duty may be enforced by proper actions against the officer himself, or against those who have become sureties for the faithful discharge of his duties."***
[Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890;
SOURCE: http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage]

The "return" is the equivalent of a subpoena for the "books and records" of the corporation sole instantiated by the combination of the ALL CAPS NAME of the OFFICER in combination with the SSN or TIN. The number is legal evidence of the existence of both a corporation franchise and agency on the part of all those who use it. More on the subject of the duty to file returns can be found below:

Legal Requirement to File Federal Income Tax Returns, Form #05.009 http://sedm.org/Forms/FormIndex.htm

In addition, a STATUTORY "U.S. citizen", is, by definition, a representative of and agent of a federal corporation under the laws of the national government. That civil status is granted by the government, is a franchise/privilege, and therefore implies agency on the part of all those in the custody of that civil status and public property. This is exhaustively proven in:

Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

Christian readers are reminded that they are not ALLOWED to join secular collectives if they are part of the government or have any legal relation to the government, and especially if the collective government is able to abuse taxation to redistribute wealth. See:

1. Judges 2:1-4:

> *"I [God] brought you up from Egypt [slavery] and brought you to the land of which I swore to your fathers; and I said, 'I will never break My covenant with you. And **you shall make no covenant [contract or franchise or agreement of ANY kind] with the inhabitants of this [corrupt pagan] land; you shall tear down their [man/government worshipping socialist] altars.**' But you have not obeyed Me. Why have you done this?*
>
> *"Therefore I also said, '**I will not drive them out before you; but they will become as thorns [terrorists and persecutors] in your side and their gods will be a snare [slavery!] to you.**'"*
>
> *So it was, when the Angel of the LORD spoke these words to all the children of Israel, that the people lifted up their voices and wept.*
> *[Judges 2:1-4, Bible, NKJV]*

2. Exodus 23:32-33:

> ***"You shall make no covenant [contract or franchise] with them [foreigners, pagans], nor with their [pagan government] gods [laws or judges]**. They shall not dwell in your land [and you shall not dwell in theirs **by becoming a "resident" or domiciliary in the process of contracting with them**], lest they make you sin against Me [God]. For if you serve their [government] gods [under **contract or agreement or franchise**], it will surely be a snare to you."*
> *[Exodus 23:32-33, Bible, NKJV]*

3. Prov. 1:10-19:

> *"**My son, if sinners [socialists, in this case] entice you,***
> ***Do not consent [do not abuse your power of choice]***
> *If they say, "Come with us,*
> *Let us lie in wait to shed blood [of innocent "nontaxpayers"];*
> *Let us lurk secretly for the innocent without cause;*
> *Let us swallow them alive like Sheol,*
> *And whole, like those who go down to the Pit:*
> ***We shall fill our houses with spoil [plunder];***
> ***Cast in your lot among us,***
> ***Let us all have one purse [the GOVERNMENT socialist purse, and share the stolen LOOT]"--***
> ***My son, do not walk in the way with them [do not ASSOCIATE with them and don't let the government FORCE you to associate with them either by forcing you to become a "taxpayer"/government whore or a "U.S. citizen"],***
> ***Keep your foot from their path;***
> ***For their feet run to evil,***
> ***And they make haste to shed blood.***
> *Surely, in vain the net is spread*
> *In the sight of any bird;*
> *But they lie in wait for their own blood.*
> *They lurk secretly for their own lives.*
> *So are the ways of everyone who is greedy for gain [or unearned government benefits];*
> *It takes away the life of its owners."*
> *[Proverbs 1:10-19, Bible, NKJV]*

Finally, those wishing to investigate the Collective Entity Doctrine further may wish to read the following additional articles:

1. *Great IRS Hoax*, Form #11.302, Section 3.17.3, Family Guardian Fellowship
   http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm
2. *Collective Entity Rule: Background*, Family Guardian Fellowship
   http://famguardian.org/Subjects/Taxes/Research/CollEntityRule.htm
3. *Tax DVD: Collective Entity Rule*, Family Guardian Fellowship. Look under \Cases\Collective Entity Rule\
   https://sedm.org/tax-dvd/

5.10 Doctrine of Apparent Authority

The doctrine of apparent authority has important implications in legal contexts involving agency relationships. Here are some key implications:

1. Third-party reliance: The doctrine recognizes that a principal can be bound by the actions, representations, or conduct of an agent that create the appearance of authority. If a third party reasonably relies on such appearances, the principal may be held responsible for the agent's actions, even if the agent lacked actual authority.
2. Protecting third parties: Apparent authority provides a measure of protection to third parties who enter into transactions or dealings with an agent. It allows them to rely on the agent's apparent authority and hold the principal accountable for the agent's actions.
3. Limits on apparent authority: The doctrine of apparent authority has limits. The appearance of authority must be based on the principal's actions or representations, and the third party's reliance must be reasonable. If the principal takes steps to correct any misperceptions or if the third party is aware of the agent's lack of authority, the doctrine may not apply.
4. Agency relationships: Apparent authority highlights the importance of clear communication and documentation within agency relationships. Principals should take care to avoid creating the appearance of authority where none exists, and agents should ensure that their actions align with their actual authority.

Overall, the doctrine of apparent authority helps establish a framework for determining the liability and responsibilities of principals in agency relationships based on the reasonable expectations and reliance of third parties.

There are several U.S. Supreme Court cases that address the doctrine of apparent authority. Here are a few notable ones:

1. United States v. Standard Oil Co. of California, 332 U.S. 301 (1947): This case addressed the issue of whether apparent authority could be imputed to a corporate agent. The Court held that apparent authority could be established based on the actions, conduct, or representations of a corporate agent that led a third party to reasonably believe that the agent had authority to act on behalf of the corporation.
2. United States v. Bank of New England, N.A., 821 F.2d. 844 (1st Cir. 1987): In this case, the Court discussed the elements of apparent authority, emphasizing that it requires a manifestation by the principal that the agent has authority and a reasonable reliance on that manifestation by a third party.
3. First National Bank of Boston v. Brink, 135 U.S. 392 (1890): This case involved the issue of apparent authority in the context of a bank's liability for the acts of its officers. The Court held that a bank can be bound by the acts of its officers if the officers' actions were within the scope of their apparent authority and the third party reasonably relied on that authority.

It's worth noting that the doctrine of apparent authority may vary in application depending on the specific facts and circumstances of each case.

5.11 State Action Immunity

The Sherman Antitrust Act, 26 Stat. 209, 15 U.S.C. §§1-7 is a federal law in the United States that is primarily aimed at regulating and preventing anticompetitive behavior in the marketplace. It is described at:

1. Wikipedia: Sherman Antitrust Act
   https://en.wikipedia.org/wiki/Sherman_Antitrust_Act
2. 15 U.S. Code, Chatper 1: Monopolies and Combinations in Restraint of Trade
   https://www.law.cornell.edu/uscode/text/15/chapter-1l

The law is enforced by the federal government, specifically by the Department of Justice (DOJ) and the Federal Trade Commission (FTC).

The Sherman Act generally applies to private entities and businesses engaged in interstate commerce. It prohibits certain anticompetitive practices, such as monopolies, price fixing, and agreements that restrain trade. However, it does not directly apply to state governments or federal government agencies.

There is a legal concept called "state action immunity" that shields state governments and their agencies from certain antitrust liability. This immunity is based on the principle that the Sherman Act was not intended to interfere with the sovereign powers and activities of state governments. Under this concept, certain actions taken by state governments or their agencies that may otherwise be considered anticompetitive are immune from federal antitrust laws.

The Supreme Court of the United States has recognized state action immunity in several landmark cases, including Parker v. Brown (1943) and California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc. (1980). These cases established the requirements for state action immunity, such as the need for a clearly articulated state policy and active state supervision.

It is important to note that although the Sherman Act may not directly apply to state governments, other federal laws, such as the Clayton Act, may have provisions that apply to state governments in certain circumstances. Additionally, individual states often have their own antitrust laws that regulate anticompetitive behavior within their jurisdiction.

To prove a violation of the Sherman Antitrust Act, several elements need to be established. The specific elements may vary depending on the particular section of the act being invoked, but generally, the following elements are necessary:

1. Agreement: There must be evidence of an agreement or understanding between two or more parties. This can be an express or implied agreement to restrain trade or engage in anticompetitive behavior. The agreement may be in the form of a written contract, oral understanding, or a concerted course of action.
2. Restraint of trade: There must be evidence that the agreement or conduct has a substantial effect on restraining trade or competition. This can include actions such as price fixing, market allocation, bid rigging, or other anticompetitive practices.
3. Interstate commerce: The anticompetitive behavior or the relevant market must involve interstate commerce. The Sherman Antitrust Act applies to activities that affect commerce between states, foreign countries, or with U.S. territories.
4. Antitrust injury: There must be evidence of harm or injury to competition or consumers resulting from the anticompetitive conduct. This can include higher prices, reduced output, reduced consumer choice, or other negative effects on competition.
5. Intent: In certain cases, it may be necessary to establish the intent of the parties involved to engage in anticompetitive behavior. This can be demonstrated through direct evidence or inferred from the circumstances surrounding the conduct.

It's important to note that the Sherman Antitrust Act is a complex area of law, and the specific elements required to prove a violation may vary depending on the specific circumstances and the particular section of the act being invoked. Legal analysis and interpretation of the Sherman Act can involve extensive case law and judicial precedents.

If you have specific concerns or questions related to antitrust matters or potential violations of the Sherman Act, it is recommended to consult with an attorney who specializes in antitrust law. They can provide you with the necessary guidance based on the specific facts and circumstances of your situation.

5.12 Major Questions Doctrine

The Major Questions Doctrine, also known as the Major Questions Exception, is a principle of statutory interpretation that holds that when a statute is ambiguous on a major or significant question of policy, courts should defer to the interpretation offered by the executive agency charged with implementing the statute. It requires agencies to point to clear congressional authorization for their actions in major questions cases. Congress rarely provides an extraordinary grant of regulatory authority through language that is modest, vague, subtle, or ambiguous. While the Major Questions Doctrine has been discussed in various contexts, it does not have a comprehensive list of Supreme Court cases specifically dedicated to it. However, there are a few notable cases where the doctrine has been referenced or applied. Here are a couple of examples:

1. King v. Burwell, 576 U.S. 473 (2015): This case involved a challenge to the availability of tax subsidies under the Affordable Care Act (ACA) for individuals who purchased health insurance on the federal exchange. The Supreme Court applied the Major Questions Doctrine and held that the ACA authorized the availability of subsidies on both state and federal exchanges, despite ambiguous language in the statute.
2. Utility Air Regulatory Group v. EPA, 573 U.S. 302 (2014): This case concerned the regulation of greenhouse gas emissions under the Clean Air Act. The Supreme Court applied the Major Questions Doctrine and held that the Environmental Protection Agency (EPA) exceeded its authority by interpreting the statute in a way that would have triggered permitting requirements for a large number of previously unregulated stationary sources.
3. West Virginia v. EPA, 577 U.S. 1126 (2016): The Supreme Court held that the EPA's Clean Power Plan was invalid because it exceeded the agency's statutory authority under the Clean Air Act.
4. Lucia v. SEC, 138 S.Ct. 2044 (2018): The Supreme Court held that SEC administrative law judges are "officers of the United States" and must be appointed in accordance with the Appointments Clause of the Constitution.

5. Kisor v. Wilkie, 139 S.Ct. 2400 (2019): The Supreme Court reaffirmed Auer deference, which requires courts to defer to an agency's reasonable interpretation of its own ambiguous regulations.

It is important to note that the Major Questions Doctrine is not a standalone legal principle, but rather an application of broader principles of statutory interpretation, such as Chevron deference or the avoidance of constitutional questions. Its application and scope may vary depending on the specific context and circumstances of each case.

5.13 Constitutional Avoidance Doctrine

The Constitutional Avoidance Doctrine is a principle of statutory interpretation that suggests that when a federal statute is susceptible to multiple interpretations, one of which would raise constitutional issues, courts should choose the interpretation that avoids the constitutional question. Here are a few notable U.S. Supreme Court cases that have involved or referenced the Constitutional Avoidance Doctrine:

1. Ashwander v. Tennessee Valley Authority, 297 U.S. 288 (1936): This case is often cited as one of the earliest instances of the Supreme Court discussing the principle of constitutional avoidance. The Court stated that it should avoid passing on constitutional questions if the case can be decided on other grounds.
2. Edward J. DeBartolo Corp. v. Florida Gulf Coast Building & Construction Trades Council, 485 U.S. 568 (1988): In this case, the Supreme Court applied the Constitutional Avoidance Doctrine to avoid deciding a First Amendment challenge to a state statute. The Court interpreted the statute in a way that would not raise constitutional issues.
3. Clark v. Martinez, 543 U.S. 371 (2005): This case involved a challenge to a federal statute that potentially impacted the equal protection rights of certain groups. The Supreme Court applied the Constitutional Avoidance Doctrine and interpreted the statute in a way that did not raise significant constitutional concerns.
4. National Labor Relations Board v. Catholic Bishop of Chicago, 440 U.S. 490 (1979): In this case, the Supreme Court applied the Constitutional Avoidance Doctrine to avoid deciding whether certain employees of religious schools were subject to federal labor law, as this could raise First Amendment concerns regarding the separation of church and state.
5. National Cable & Telecommunications Association v. Brand X Internet Services, 545 U.S. 967 (2005): While this case primarily focused on issues related to administrative law and the Chevron deference doctrine, it also touched on the concept of constitutional avoidance. The Court noted that if a statute could be reasonably interpreted to avoid a serious constitutional question, that interpretation should be preferred.

These cases demonstrate the application of the Constitutional Avoidance Doctrine in various legal contexts and its role in guiding the Court's approach to statutory interpretation when constitutional issues are potentially at stake.

The rules specifically include:

1. Rule 1) The Rule against Feigned or Collusive Lawsuits. Parties to a case must be adverse to each other. Justice Brandeis stated: The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary, proceeding, declining because to decide such questions 'is legitimate only in the last resort, and as a necessity in the determination of real, earnest, and vital controversy between individuals.'[8]
2. Rule 2) Ripeness. The court should not resolve constitutional questions prematurely. As Justice Brandeis wrote: The Court will not 'anticipate a question of constitutional law in advance of the necessity of deciding it'[9] and '[i]t is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case.'[10]
3. Rule 3) Judicial Minimalism. The court should decide questions of constitutional law narrowly. Justice Brandeis stated: The Court will not 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'[11]
4. Rule 4) The Last Resort Rule. If possible, a court should resolve a case on non-constitutional grounds instead of resolving it on constitutional grounds. Explaining this rule, Justice Brandeis stated: The Court will not pass upon a constitutional question . . . if there is also present some other ground upon which the case may be disposed . . . . [I]f a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter.[12] He further added: Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.[13]
5. Rule 5) Standing and Mootness. The complainant should suffer an actual injury; as Justice Brandeis noted: The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation.[14]

6. Rule 6) Constitutional Estoppel. A party cannot challenge a law's constitutionality when he or she enjoys the benefits of such law.[15] Justice Brandeis stated: The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.[16]
7. Rule 7) The Constitutional-Doubt Canon. Courts should construe statutes to be constitutional if such a construction is plausible. Explaining this requirement, Justice Brandeis noted: 'When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.'[17]

FOOTNOTES:

8. *Ashwander*, 297 U.S. at 346–48 (Brandeis, J. concurring) (quoting Chicago & Grand Trunk Ry. v. Wellman, 143 U.S. 339, 345 (1892)). The Rule Against Feigned or Collusive Lawsuits corresponds to the adversity requirement discussed in ArtIII.S2.C1.5.1 Overview of Adversity Requirement.

9. *Id.* at 346–47 (quoting Liverpool, N.Y. & Phila. S.S. Co. v. Comm'rs of Emigration, 113 U.S. 33, 39 (1885) and citing Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. (11 Pet.) 420, 553 (1837); Trademark Cases, 100 U.S. 82, 96 (1879); Arizona v. California, 283 U.S. 423, 462–64 (1931); Abrams v. Van Schaick, 293 U.S. 188 (1934); and Wilshire Oil Co. v. United States, 295 U.S. 100 (1935)). The ripeness requirement is discussed, in ArtIII.S2.C1.7.1 Overview of Ripeness Doctrine.

10. *Ashwander*, 297 U.S. at 347 (quoting Burton v. United States, 196 U.S. 283, 295 (1905)).

11. *Id.* (quoting Liverpool, N.Y. & Phila. S.S. Co. v. Emigration Comm'rs, 113 U.S. 33, 39 (1885)).

12. *Id.* (quoting Siler v. Louisville & Nashville R.R., 213 U.S. 175, 191 (1909); Light v. United States, 220 U.S. 523, 538 (1911)).

13. *Id.* (citing Berea Coll. v. Ky., 211 U.S. 45, 53 (1908)).

14. *Id.* at 347–48 (citing Columbus & Greenville Railway v. Miller, 283 U.S. 96, 99–100 (1939); Concordia Fire Institute Co. v. Illinois, 292 U.S. 535, 547 (1934); Corp. Comm'n of Okla. v. Lowe, 281 U.S. 431, 438 (1930); Sprout v. South Bend, 277 U.S. 163, 167 (1928); Massachusetts v. Mellon, 262 U.S. 447 (1923); Fairchild v. Hughes, 258 U.S. 126 (1922); Heald v. District of Columbia, 259 U.S. 114, 123 (1922); Hendrick v. Maryland, 235 U.S. 610, 621 (1915); Hatch v. Reardon, 204 U.S. 152, 160–61 (1907); Tyler v. The Judges, 179 U.S. 405 (1900)). Standing and mootness are discussed, in ArtIII.S2.C1.6.1 Overview of Standing and ArtIII.S2.C1.8.1 Overview of Mootness Doctrine, respectively.

15. Fahey v. Mallonee, 332 U.S. 245, 255 (1947) ([I]t is an elementary rule of constitutional law that one may not 'retain the benefits of the Act while attacking the constitutionality of one of its important conditions.' (citations omitted)). *See also* Buck v. Kuykendall, 267 U.S. 307, 316 (1925) ([O]ne cannot in the same proceeding both assail a statute and rely upon it. Nor can one who avails himself of the benefits conferred by a statute deny its validity. (citations omitted)).

16. *Ashwander*, 297 U.S. at 348 (citing St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469 (1923); Wall v. Parrot Silver & Copper Co. 244 U.S. 407, 411–12 (1917); Great Falls Manufacturing Co. v. Garland, 124 U.S. 581 (1888)).

17. *Id.* (quoting Crowell v. Benson, 285 U.S. 22, 62 (1932) and citing Interstate Com. Comm'n v. Or.-Wash. R.R. & Navigation Co., 288 U.S. 14, 40 (1933); Lucas v. Alexander, 279 U.S. 573, 577 (1929); Richmond Screw Anchor Co. v. United States, 275 U.S. 331, 346 (1928); Blodgett v. Holden, 275 U.S. 142, 148 (1928); Mo. Pac. R.R. v. Boone, 270 U.S. 466, 471–72 (1926); Panama R.R. v. Johnson, 264 U.S. 375, 390 (1924); Linder v. United States, 268 U.S. 5, 17–18 (1922); Texas v. E. Tex. R.R., 258 U.S. 204, 217 (1922); Baender v. Barnett, 255 U.S. 224 (1921); United States v. Jin Fuey Moy, 241 U.S. 394, 401 (1916); United States v. Del. & Hudson Co., 213 U.S. 366, 407–08 (1909)).

See also:

ArtIII.S2.C1.10.4 Ashwander and Rules of Constitutional Avoidance https://constitution.congress.gov/browse/essay/artIII-S2-C1-9-4/ALDE_00013156/

5.14 Castle Doctrine

The castle doctrine refers to an exception to the duty to retreat before using deadly self-defense if a party is in their own home.

Under the doctrine of self-defense, a party who reasonably believes they are threatened with the immediate use of deadly force can legally respond with a proportional amount of force to deter that threat. The doctrine of self-defense is subject to various restrictions which differ from jurisdiction to jurisdiction.

One such restriction on self-defense is the rule to retreat. In jurisdictions that follow the rule to retreat, a party is not entitled to a defense of self-defense unless they first tried to mitigate the necessity of force by fleeing the situation, so long as retreating could be done safely. That said, in jurisdictions that follow the castle doctrine, this restriction has an exception for parties in their own home. A party in their own home does not have a duty to retreat and, therefore, is entitled to a defense of self-defense so long as the other requirements of the defense are met.

The castle doctrine exists in both common law and Model Penal Code jurisdictions.

While the doctrine is primarily a matter of state law, it can intersect with federal constitutional principles, particularly the Second Amendment's right to bear arms. However, the U.S. Supreme Court has not directly addressed the Castle Doctrine as a standalone legal doctrine. Instead, the Court has ruled on cases involving self-defense, gun rights, and the Fourth Amendment, which can relate to the broader principles of the Castle Doctrine. Here are a few notable Supreme Court cases that are relevant in this context:

1. District of Columbia v. Heller, 554 U.S. 570 (2008): In this landmark case, the Supreme Court held that the Second Amendment protects an individual's right to possess firearms for self-defense within the home. While not explicitly a Castle Doctrine case, it has had implications for self-defense laws, including those related to home protection.
2. McDonald v. City of Chicago, 561 U.S. 742 (2010): Building on Heller, the Court ruled that the Second Amendment's protections applied to state and local governments. This decision further extended the right to possess firearms for self-defense, including within one's home.
3. Tennessee v. Garner, 471 U.S. 1 (1985): This case did not specifically deal with the Castle Doctrine, but it established that law enforcement officers may not use deadly force to apprehend a fleeing suspect unless the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others. The principles of self-defense and the use of force in protection are relevant to the broader Castle Doctrine concept.
4. Beard v. United States, 158 U.S. 550 (1895): This case involved a man who shot and killed an intruder in his home. The Supreme Court ruled that the man was justified in using deadly force, but only if the intruder expressed an intention to take life or to inflict grievous bodily injury.
5. Minnesota v. Carter, 525 U.S. 83 (1998): This case involved two men who were arrested for drug possession after they were found hiding in a home that they did not own. The Supreme Court ruled that the men could not be convicted of burglary because they did not have the intent to commit a crime when they entered the home. The court noted that the Castle Doctrine does not apply to people who are not invited into a home.

It's important to note that the Castle Doctrine varies from state to state, and state courts play a significant role in interpreting and applying these laws. As a result, the U.S. Supreme Court's role in Castle Doctrine-related cases primarily involves broader constitutional principles related to self-defense, gun rights, and the use of force.

5.15 Consent Once Removed Doctrine

The consent-once-removed doctrine is a legal principle that allows law enforcement officers to enter a home without a warrant when consent to enter has already been granted to an undercover officer who has observed contraband in plain view.[18][19]

In Pearson v. Callahan, 555 U.S. 223 (2009), the Supreme Court of the United States invoked this doctrine. The case involved a 42 U.S.C. §1983 damages action brought by respondent Callahan against petitioners Pearson and other officers who

[18] *The Fourth Amendment, Once Removed: The Suipreme Court Examines a New Search and Seizure Loophole*, Findlaw, Sherry F. Colb; The Fourth Amendment, Once Removed: The Supreme Court Examines a New Search and Seizure Loophole | FindLaw.

[19] Wikipedia topic: Pearson v. Callahan; https://en.wikipedia.org/wiki/Pearson_v._Callahan.

conducted a warrantless search of his house that led to his arrest after he sold drugs to an undercover informant he had voluntarily admitted into his house1. The District Court granted summary judgment in favor of the officers, noting that other courts had adopted the "consent-once-removed" doctrine and that the officers were entitled to qualified immunity because they could reasonably have believed that the doctrine authorized their conduct. The Tenth Circuit held that petitioners were not entitled to qualified immunity and disapproved broadening the consent-once-removed doctrine to situations in which the person granted initial consent was not an undercover officer, but merely an informant.

Supreme Court cases that invoke the consent-once-removed doctrine are:

1. Pearson v. Callahan, 555 U.S. 223 (2009): This case involved a warrantless search of a house by officers who followed an undercover informant who had consented to enter. The Court invoked the doctrine and modified the qualified immunity analysis for officers.
2. Illinois v. Rodriguez, 497 U.S. 177 (1990): This case involved a warrantless entry into an apartment by officers who relied on the consent of a woman who claimed to live there. The Court invoked the doctrine and held that the officers' entry was reasonable if they reasonably believed that the woman had common authority over the premises.
3. United States v. Bramble, 103 F.3d. 1475 (9th Cir. 1996): This case involved a warrantless entry into a hotel room by officers who followed an undercover agent who had consented to enter. The Court invoked the doctrine and upheld the search as valid under the Fourth Amendment.

A plaintiff may rebut the entitlement to official immunity by showing that the government officials:

1. Committed a constitutional violation; and
2. That this violation was "clearly established" in law at the time of the alleged misconduct.

See Pearson v. Callahan, 555 U.S. 223, 232 (2009). In theory, this judge-made doctrine is designed to protect government officials from the consequences of their reasonable mistakes made in the exercise of their official duties. See id. at 231. The test is conjunctive, and if a plaintiff fails either prong of the qualified immunity analysis, his claim is barred.

5.16 Void for vagueness doctrine

The Void for Vagueness Doctrine is a legal principle derived from the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution. It holds that a law is void and unenforceable if it is so vague that a person of ordinary intelligence cannot understand what conduct is prohibited or required, or if the law fails to provide standards for enforcement, thereby allowing arbitrary and discriminatory enforcement.

Here are some notable U.S. Supreme Court cases relating to the Void for Vagueness Doctrine:

1. Connally v. General Construction Co. (1926): In this case, the Court held that a criminal statute must give a person of ordinary intelligence fair notice of what is prohibited and what conduct is required or allowed, otherwise, it violates due process.
2. Smith v. California (1959): This case involved a challenge to a municipal ordinance that made it unlawful to have in one's possession obscene material "for the purpose of sale or distribution." The Court held that the ordinance was unconstitutionally vague because it failed to provide adequate standards for enforcement.
3. Papachristou v. City of Jacksonville (1972): The Court struck down a vagrancy ordinance for being impermissibly vague. The ordinance prohibited "rogues and vagabonds, or dissolute persons who go about begging, common gamblers, persons who use juggling or unlawful games or plays, common drunkards, common night walkers, thieves, pilferers or pickpockets, traders in stolen property, lewd, wanton and lascivious persons, keepers of gambling places, common railers and brawlers, persons wandering or strolling around from place to place without any lawful purpose or object, habitual loafers, disorderly persons, persons neglecting all lawful business and habitually spending their time by frequenting houses of ill fame, gaming houses, or places where alcoholic beverages are sold or served, persons able to work but habitually living upon the earnings of their wives or minor children."
4. Grayned v. City of Rockford (1972): This case involved a challenge to a noise ordinance that prohibited noise that "disturbs or tends to disturb the peace or good order of the city." The Court held that the ordinance was not unconstitutionally vague because it provided sufficient guidance to law enforcement and citizens.
5. Sessions v. Dimaya (2018): The Court struck down a provision of the Immigration and Nationality Act that allowed the deportation of noncitizens convicted of "a crime of violence." The Court held that the provision was unconstitutionally vague because it failed to provide adequate notice of what conduct was prohibited and invited arbitrary enforcement.

These cases illustrate the Supreme Court's application of the Void for Vagueness Doctrine to strike down laws that fail to provide fair notice of prohibited conduct or adequate standards for enforcement.

5.17 Minimum contacts doctrine

The "minimum contacts" doctrine is a principle of personal jurisdiction in United States law. It is derived from the Due Process Clause of the Fourteenth Amendment and requires that a defendant have sufficient connections with a state before that state's courts can exercise jurisdiction over the defendant. Here are some notable U.S. Supreme Court cases relating to the minimum contacts doctrine:

1. International Shoe Co. v. Washington (1945): This landmark case established the minimum contacts doctrine. The Supreme Court held that for a state to exercise jurisdiction over a nonresident defendant, the defendant must have "certain minimum contacts with [the forum state] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice."
2. Burger King Corp. v. Rudzewicz (1985): In this case, the Supreme Court held that a Florida court had personal jurisdiction over a Michigan franchisee of Burger King because the franchise agreement between the parties included a clause requiring the franchisee to submit to jurisdiction in Florida.
3. World-Wide Volkswagen Corp. v. Woodson (1980): The Court held that the mere foreseeability that a product might end up in a particular state is not sufficient to establish jurisdiction over a defendant. There must be some additional conduct by the defendant that shows purposeful availment of the forum state.
4. Asahi Metal Industry Co. v. Superior Court of California (1987): This case involved a complex issue of specific personal jurisdiction over a foreign manufacturer. The Court held that merely placing a product into the "stream of commerce" with awareness that it may reach a particular state is not enough to establish jurisdiction.
5. Walden v. Fiore (2014): The Court clarified that for a court to have specific personal jurisdiction over a defendant, the defendant's contacts with the forum state must arise out of or relate to the cause of action, and those contacts must be purposefully established by the defendant.

These cases demonstrate the Supreme Court's development and application of the minimum contacts doctrine to ensure that exercising jurisdiction over a defendant comports with principles of due process and fairness.

5.18 Fruit of a poisonous tree doctrine

The "fruit of the poisonous tree" doctrine is a legal principle in U.S. law that holds that evidence obtained through illegal or unconstitutional means (the "poisonous tree") is also tainted and cannot be used in court proceedings (the "fruit"). Here are some notable U.S. Supreme Court cases relating to this doctrine:

1. Silverthorne Lumber Co. v. United States (1920): In this case, the Supreme Court introduced the "fruit of the poisonous tree" metaphor. The Court held that evidence obtained through an illegal seizure could not be used in court, nor could evidence derived from that illegal seizure.
2. Nardone v. United States (1939): This case extended the fruit of the poisonous tree doctrine to apply to evidence obtained through wiretaps that violated the Fourth Amendment. The Court held that evidence derived from illegally obtained wiretap evidence was inadmissible.
3. Wong Sun v. United States (1963): This case further clarified the application of the doctrine, holding that not only is evidence directly obtained through unconstitutional means inadmissible, but so are any statements or evidence obtained as a result of the initial illegality.
4. Mapp v. Ohio (1961): While not directly addressing the fruit of the poisonous tree doctrine, this case held that evidence obtained through an illegal search and seizure, in violation of the Fourth Amendment, is inadmissible in state courts. This decision extended the exclusionary rule to the states.
5. United States v. Ceccolini (1978): In this case, the Court clarified that the fruit of the poisonous tree doctrine does not apply to evidence obtained from an independent source unrelated to the original illegality.

These cases illustrate the Supreme Court's application of the fruit of the poisonous tree doctrine to protect individuals' Fourth Amendment rights against unreasonable searches and seizures, as well as to deter law enforcement from engaging in unconstitutional conduct.

5.19 Standing to sue doctrine

Standing to sue is a legal principle that determines whether a party has the right to bring a lawsuit in court. The U.S. Supreme Court has addressed this doctrine in numerous cases. Here are some notable Supreme Court cases relating to standing to sue:

1. Marbury v. Madison (1803): Although this case is primarily known for establishing the principle of judicial review, it also addressed the issue of standing. The Court held that Marbury had standing to sue because he had a clear legal right to his commission as a justice of the peace, and the denial of that right constituted a concrete injury.
2. Lujan v. Defenders of Wildlife (1992): In this case, the Court clarified the requirements for standing under Article III of the Constitution. The Court held that for a plaintiff to have standing, they must have suffered a concrete and particularized injury that is actual or imminent, not conjectural or hypothetical. Additionally, the injury must be fairly traceable to the defendant's conduct, and it must be likely that the injury will be redressed by a favorable decision.
3. Massachusetts v. Environmental Protection Agency (2007): This case involved a challenge to the EPA's refusal to regulate greenhouse gas emissions from motor vehicles under the Clean Air Act. The Court held that Massachusetts had standing to sue because it had demonstrated an injury in fact—the potential harm caused by rising sea levels due to climate change—and that this injury was fairly traceable to the EPA's refusal to regulate greenhouse gas emissions.
4. Spokeo, Inc. v. Robins (2016): In this case, the Court addressed the requirement of concrete injury for standing under the Fair Credit Reporting Act (FCRA). The Court held that a plaintiff must allege more than just a bare procedural violation of a statute to establish standing; there must be a concrete injury that is actual or imminent.
5. Hollingsworth v. Perry (2013): This case involved a challenge to California's Proposition 8, which banned same-sex marriage in the state. The Court held that the proponents of Proposition 8 lacked standing to appeal a lower court decision striking down the law because they had not suffered a concrete injury.

These cases illustrate the Supreme Court's jurisprudence on standing to sue and the requirements that plaintiffs must meet to bring a lawsuit in federal court.

5.20 Friction not fiction doctrine

The leading case for the "Friction not fiction doctrine" is Evans v. Cornman (1970) [Federal enclave - Wikipedia].

This case dealt with voting rights for residents of a federal enclave, a land area owned by the federal government but surrounded by a state. The Supreme Court ruled that enclave residents could vote in state elections.

In its decision, the Court relied on the "friction not fiction" doctrine established in an earlier case, Howard v. Commissioners (1842) [Federal enclave - Wikipedia]. This doctrine states that courts should look at the practical realities of a situation, not just the legal fiction of federal sovereignty, when deciding whether to apply state laws to federal enclaves.

So, while federal enclaves are technically federal territory, the "friction not fiction" doctrine allows state laws to apply in certain situations to avoid causing undue disruption or "friction" in the daily lives of enclave residents.

6 Specific Rights

6.1 The Glucksberg Test: Unenumerated Constitutional Rights[20]

A constitutional right may exist without expressly being identified in the Constitution. Such a right is called a "liberty interest". The test of whether such a right can exist is found in the Glucksberg Test, which originated in the case of Washington v. Glucksberg, 521 U.S. 702, 719-22, 117 S.Ct. 2258, 117 S. Ct. 2302, 138 L.Ed.2d. 772 (1997). That case identified a two-prong test to determine whether a right is protected by the Due Process Clause of the Fourteenth Amendment to the Constitution. Below is what that case says on the subject:

> *[4] The Due Process Clause guarantees more than fair process, and the "liberty" it protects includes more than the absence of physical restraint. Collins v. Harker Heights, 503 U.S. 115, 125 (1992) (Due Process Clause "protects individual liberty against 'certain government actions regardless of the fairness of the procedures used to implement them'") (quoting [*720] Daniels v. Williams, 474 U.S. 327, 331 (1986)). The Clause also provides heightened protection against government interference with certain fundamental rights and liberty interests. Reno*

[20] Source: *Enumeration of Inalienable Rights*, Form #10.002, Section 4; https://sedm.org/Forms/10-Emancipation/EnumRights.pdf.

v. Flores, 507 U.S. 292, 301-302 (1993); Casey, 505 U.S. at 851. In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the "liberty" specially protected by the Due Process Clause includes the rights to marry, Loving v. Virginia, 388 U.S. 1 (1967) ; to have children, Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942); to direct the education [30] and upbringing of one's children, Meyer v. Nebraska, 262 U.S. 390 (1923); Pierce v. Society of Sisters, 268 U.S. 510 (1925); to marital privacy, Griswold v. Connecticut, 381 U.S. 479 (1965); to use contraception, ibid*; Eisenstadt v. Baird, 405 U.S. 438 (1972); to bodily integrity, Rochin v. California, 342 U.S. 165 (1952), and to abortion, Casey, supra. We have also assumed, and strongly suggested, that the Due Process Clause protects the traditional right to refuse unwanted lifesaving medical treatment. Cruzan, 497 U.S. at 278-279. [5]But we "have always been reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended." Collins, 503 U.S. at 125.By extending constitutional protection to an asserted right [**2268] [***2268] or liberty interest, we, to a great extent, place the matter outside the arena of public debate and legislative action. We must therefore "exercise the utmost care whenever we are asked to break new ground in this field,"* ibid*, lest the liberty protected by the Due Process Clause be subtly transformed into the policy [31] preferences of the members of this Court, Moore, 431 U.S. at 502 (plurality opinion).*

*[6]Our established method of substantive-due-process analysis has two primary features: First, we have regularly observed that the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, [*721] "deeply rooted in this Nation's history and tradition," id., at 503 [****788] (plurality opinion); Snyder v. Massachusetts, 291 U.S. 97, 105 (1934) ("so rooted in the traditions and conscience of our people as to be ranked as fundamental"), and "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if they were sacrificed," Palko v. Connecticut, 302 U.S. 319, 325, 326 (1937). Second, we have required in substantive-due-process cases a "careful description" of the asserted fundamental liberty interest. Flores, supra, at 302; Collins, supra, at 125; Cruzan, supra, at 277-278. Our Nation's history, legal traditions, and practices thus provide the crucial "guideposts for responsible decisionmaking," Collins, supra, at 125, that direct and restrain our exposition of the Due Process Clause. [32] As we stated recently in* Flores, *HN9 the Fourteenth Amendment "forbids the government to infringe . . . 'fundamental' liberty interests* at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." 507 U.S. at 302.*

JUSTICE SOUTER, relying on Justice Harlan's dissenting opinion in Poe *v.* Ullman*, would largely abandon this restrained methodology, and instead ask "whether [Washington's] statute sets up one of those 'arbitrary impositions' or 'purposeless restraints' at odds with the Due Process Clause of the Fourteenth Amendment,"* post*, at 1 (quoting Poe, 367 U.S. 497, 543 (1961) (Harlan, J., dissenting)). 17 [*722] In our view, however, the development of this Court's substantive-due-process jurisprudence, described briefly above, supra, at 15, has been a process whereby the outlines of the "liberty" specially protected by the Fourteenth Amendment--never fully clarified, to be sure, and perhaps not capable of being fully clarified--have at least been carefully refined by concrete examples involving fundamental rights found to be deeply rooted in our legal tradition. This approach tends to rein [33] in the subjective elements that are necessarily present in due-process judicial review. In addition, by establishing a threshold requirement--that a challenged state action implicate a fundamental right--before requiring more than a reasonable relation to a legitimate state interest [****789] to justify the action, it avoids the need for complex balancing of competing interests in every case.*
[Washington v. Glucksberg, 521 U.S. 702, 719-22, 117 S.Ct. 2258, 117 S. Ct. 2302, 138 L.Ed.2d. 772 (1997)]

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FOOTNOTES:

[4] John Doe, Jane Roe, and James Poe, plaintiffs in the District Court, were then in the terminal phases of serious and painful illnesses. They declared that they were mentally competent and desired assistance in ending their lives. Declaration of Jane Roe, id.*, at 23-25; Declaration of John Doe,* id.*, at 27-28; Declaration of James Poe,* id.*, at 30-31; Compassion in Dying, 850 F.Supp., at 1456-1457.*

[5] The District Court determined that Casey's *"undue burden" standard, 505 U.S. at 874 (joint opinion), not the standard from United States v. Salerno, 481 U.S. 739, 745 (1987) (requiring a showing that "no set of circumstances exists under which the [law] would be valid"), governed the plaintiffs' facial challenge to the assisted-suicide ban. 850 F. Supp., at 1462-1464.*

[6] Although, as JUSTICE STEVENS observes, post*, at 2-3 (opinion concurring in judgment), "[the court's] analysis and eventual holding that the statute was unconstitutional was not limited to a particular set of plaintiffs before it," the court did note that "declaring a statute unconstitutional as applied to members of a group is atypical but not uncommon." 79 F.3d, at 798, n.9, and emphasized that it was "not deciding the facial validity of [the Washington statute]," id., at 797-798, and nn. 8-9. It is therefore the court's holding that Washington's physician-assisted suicide statute is unconstitutional as applied to the "class of terminally ill, mentally competent patients,"* post*, at 14 (STEVENS, J., concurring in judgment), that is before us today.*

So, the Glucksberg test has two elements;

1. First, we have regularly observed that the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, [*721] "deeply rooted in this Nation's history and tradition," id., at 503 [****788] (plurality opinion); Snyder v. Massachusetts, 291 U.S. 97, 105 (1934) ("so rooted in the traditions and conscience of our people as to be ranked as fundamental"), and "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if they were sacrificed," Palko v. Connecticut, 302 U.S. 319, 325, 326 (1937).
2. Second, we have required in substantive-due-process cases a "careful description" of the asserted fundamental liberty interest. Flores, supra, at 302; Collins, supra, at 125; Cruzan, supra, at 277-278. Our Nation's history, legal traditions, and practices thus provide the crucial "guideposts for responsible decisionmaking," Collins, supra, at 125, that direct and restrain our exposition of the Due Process Clause. [32] As we stated recently in *Flores*, HN9 the Fourteenth Amendment "forbids the government to infringe . . . 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." 507 U.S. at 302.

The reason we need the Glucksberg Test is to ensure that Courts do not "make law', which is a right reserved exclusively to the Legislative Branch. The purpose of "making law" is to create PUBLIC RIGHTS or PUBLIC PRIVILEGES. Statutory civil law enacted by the Legislative Branch is the customary method of creating such PUBLIC rights and PUBLIC privileges. Rights in the Constitution, however, are NOT PUBLIC, but rather PRIVATE. PRIVATE rights are fixed and unchanging because the Constitution is fixed and unchanging, while PUBLIC rights change constantly because new statutes are enacted all the time.

A PRIVATE right CREATED by the U.S. Supreme Court under the authority of the Glucksberg Test should be well-defined and not arbitrary in any way, because if the test is too broad, then the Supreme Court could conceivably become in effect a Legislative Body dedicated exclusively to literally creating and granting any kind of PRIVATE right that it wants, and doing so in a way that hamstrings the lawmaking power of the REAL Legislative Branch.

A challenge to Roe v. Wade precedent permitting abortion ruled on in 2022 resulted in the following arguments AGAINST invoking the Glucksberg Test in that case:

> *The leaked draft Supreme Court decision overruling Roe v. Wade has a fatal flaw, according to the off-air legal analyst for MSNBC's "The Rachel Maddow Show."*
>
> *"Beyond the practical consequences of overturning Roe, however, then there are the legal analyses of Justice Samuel Alito's draft. Before detailing why that draft is so flawed legally, a brief outline of Justice Alito's approach is in order. In concluding that Roe and Casey 'must be overruled,' Alito reasons that because 'the Constitution makes no reference to abortion,' the right to abortion, like any right purportedly implicit in the Constitution, can be recognized only if it is 'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty.'"*
>
> *"That standard, known as the Glucksberg test, is lifted from the 1997 case upholding Washington's ban on assisted suicide," Lisa Rubin wrote. She then explained why Washington v. Glucksberg is key."*
>
> *"But what makes Justice Alito's analysis truly disingenuous is its distortion of the one case on which it depends: Glucksberg. In that case, the Court found a person's liberty interest, as recognized by Casey, was not limitless and did not guarantee terminally-ill adults the right to end their own lives. Yet in distinguishing physician-assisted suicide from 'those personal activities and decisions that this Court has identified as so deeply rooted in our history and traditions, or so fundamental to our concept of constitutionally ordered liberty, that they are protected by the Fourteenth Amendment,' the Court left no doubt which decisions and history it meant," she explained. "In fact, it expressly lists them in a footnote, as the clinic's lawyer reminded Justice Alito at oral argument, that includes Griswold v. Connecticut, which established a right to contraception; Loving v. Virginia, which guaranteed the freedom to marry a person of another race; and Roe itself, noting that that opinion 'stat[ed] that at the Founding and throughout the 19th century, 'a woman enjoyed a substantially broader right to terminate a pregnancy.'"*
>
> *Rubin then explained that Alito's legal reasoning did not add up.*
>
> *"In other words, Obergefell treats Glucksberg as wholly inappropriate for any analysis of marriage and intimacy rights. In fact, in dissenting from Obergefell, Justice Roberts — who, as of this week, had not joined Justice Alito's opinion in Dobbs — went even further, complaining that Obergefell 'effectively overrule[d] Glucksberg.' So if Glucksberg itself held that decisions like Loving v. Virginia, Griswold v. Connecticut, Roe, and Casey, which established our rights to interracial marriage, contraception, and abortion, fulfilled its standard and Obergefell distinguished Glucksberg as irrelevant to marriage and intimacy, how can Justice Alito justify overruling Roe with a case that, by its own terms, recognizes its vitality?" she wondered.*

[Legal Expert Identifies a 'fatal flaw' in Alito's Leaked Draft, Bob Brigham, Raw Story; 5/11/22; SOURCE: https://www.msn.com/en-us/sports/nba/legal-expert-identifies-a-fatal-flaw-in-alito-s-leaked-draft/ar-AAXaWY5?ocid=msedgntp&cvid=661bf6a4e4464754840214c8cd5efdaf]

Recall that a "grant" of a right is an act of CREATION, and that the government owns what it creates.[21] Here is how we put it in our Disclaimer:

SEDM Disclaimer

4.28. "Grant" or "loan"

The term "grant" or "loan", in the context of this website and especially in relation to any type of property or right or to "franchises" generally, means a temporary conveyance or transfer of physical custody or possession of absolutely owned property with legal strings or conditions attached by the grantor in which there are no moities or usufructs over the property held or reserved by the party to whom the property is loaned or temporarily conveyed.

1. The grantor or lender is the "Merchant" under U.C.C. §2-104(1).

2. The recipient or borrower of the property conveyed is the "Buyer" under U.C.C. §2-103(1)(a).

3. The property loaned can include land, physical/chattel property, rights, or privileges.

4. The legal relation or "privity" created between the grantor and the borrower or recipient is referred to as a "franchise". All franchises are contracts or agreements of one kind or another. Franchises are defined as "a privilege [meaning "property"] in the HANDS of a subject". Receipt of the property by the Buyer, in fact is what MAKES them the "subject"

In the context of GOVERNMENT grants of property:

1. This conveyance of property is the foundation of ALL governmental civil statutory privileges and most civil statutory law, as explained in Why Civil Statutory Law is Law for Government and Not Private Persons, Form #05.037.

2. The constitutional authority for such grants is Article 4, Section 3, Clause 2 of the U.S. Constitution, which allows Congress to "dispose of and make all needful rules and Regulations respecting the Territory or other property belonging to the United States".

3. Those receiving the granted property and the associated privileges essentially waive their constitutional rights under the Brandeis Rules of the U.S. Supreme Court, Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936).

4. Individual agencies of the government are created to manage the SPECIFIC property and franchises and privileges loaned or granted, and such agencies DO NOT have jurisdiction over PRIVATE parties NOT in receipt or eligible to receive said property. These agencies are referred to as "the administrative state". Click here for details on the "Administrative State".

5. Types of property that may be loaned must fit within 5 U.S.C. §553(a)(2).

6. In the context of GOVERNMENT property so granted or loaned to the public, the party in temporary custody of the property is legally defined as a "public officer" subject to DIRECT legislative control of Congress WITHOUT the need for implementing regulations pursuant to 5 U.S.C. §553(a), and 44 U.S.C. §1505(a)(1).

> *"Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of Elkhart, 75 Ind.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46 Ariz. 413, 52 P.2d. 483, 486. Where, by*

[21] See: Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship; https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm.

> *virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as de- notes duration and continuance, with Independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. State v. Brennan, 49 Ohio.St. 33, 29 N.E. 593."*
> *[Black's Law Dictionary, Fourth Edition, p. 1235]*

7. Jurisdiction over government property extends EXTRATERRITORIALLY and INTERNATIONALLY, and thus grants can occur anywhere in the world and may cross state borders and reach into a Constitutional state of the Union.

8. There is NO CONSTITUTIONAL AUTHORITY EXPRESSLY GRANTED that allows government to abuse government property to CREATE new public offices. This is a usurpation and an invasion of the states in violation of Article 4, Section 4 of the Constitution.

9. This source of jurisdiction is the MAIN source of jurisdiction in the case of the income tax, which is an excise tax and a franchise tax upon federal offices legislatively created by Congress but usually implemented ILLEGALLY and UNCONSTITUTIONALLY within states of the Union, as described in Challenge to Income Tax Enforcement Authority within Constitutional States of the Union, Form #05.052.

> *"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for granting coasting licenses, licenses to pilots, licenses to trade with the Indians, and any other licenses necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*
>
> *But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. Congress cannot authorize [e.g. LICENSE using a Social Security Number] a trade or business within a State in order to tax it."*
> *[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]*

[SEDM Disclaimer, Section 4.28: "Grant" or "loan"; SOURCE: https://sedm.org/disclaimer.htm#4.28._Grant]

To suggest that the U.S. Supreme Court has the authority to GRANT or CREATE entirely new rights or to place conditions on their exercise or to take them away is to make them PUBLIC rights rather than PRIVATE rights that the government then literally owns. Thus, even the Constitution, at that point, would become essentially a franchise abused to regulate anyone and everyone, rather than a restraint upon government power that it was intended primarily to be.

6.2 Right to Travel Without a License

The right to travel without a license has been the subject of several U.S. Supreme Court cases, particularly in relation to the right to travel within the United States. Here are some of the most notable cases:

1. Edwards v. California, 314 U.S. 160 (1941): This case held that a state law prohibiting the transportation of indigent non-residents into the state was unconstitutional under the Privileges and Immunities Clause of the U.S. Constitution, which protects the right to travel.
2. Shapiro v. Thompson, 394 U.S. 618 (1969): This case held that a state law denying welfare benefits to new residents who had not lived in the state for at least a year was unconstitutional under the Equal Protection Clause and the right to travel.
3. United States v. Guest, 383 U.S. 745 (1966): This case upheld a federal law that required foreign nationals to obtain a visa before entering the United States, holding that the law did not violate the right to travel.

4. Saenz v. Roe, 526 U.S. 489 (1999): This case held that a state law that limited welfare benefits to new residents based on the benefits they received in their previous state of residence violated the right to travel under the Privileges and Immunities Clause.
5. Dunn v. Blumstein, 405 U.S. 330 (1972): This case struck down a Tennessee law that required a one-year residency period before a citizen could register to vote, holding that the law violated the right to travel and the Equal Protection Clause.

These cases demonstrate the importance of the right to travel as a fundamental constitutional right, and the Supreme Court's role in enforcing and protecting that right.

6.3 Freedom

The concept of freedom is central to many areas of constitutional law, and the Supreme Court has decided numerous cases over the years that involve the definition and scope of freedom. Here are some of the most notable U.S. Supreme Court cases that address what constitutes freedom:

1. Dred Scott v. Sandford, 60 U.S. 393 (1857): This case famously held that African Americans could not be considered citizens of the United States and therefore could not sue in federal court. The decision was based in part on the idea that slaves were not "free" and therefore could not claim the protections of the Constitution.
2. Lochner v. New York, 198 U.S. 45 (1905): This case struck down a New York law that limited the number of hours that bakers could work each week, holding that the law violated the "freedom of contract" guaranteed by the Fourteenth Amendment's Due Process Clause.
3. Meyer v. Nebraska, 262 U.S. 390 (1923): This case struck down a Nebraska law that prohibited the teaching of foreign languages to young children, holding that the law violated the liberty guaranteed by the Due Process Clause of the Fourteenth Amendment.
4. West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943): This case held that students could not be forced to salute the American flag and recite the Pledge of Allegiance in school, because such compelled speech violated the First Amendment's protections for freedom of speech and religion.
5. Lawrence v. Texas, 539 U.S. 558 (2003): This case struck down a Texas law that criminalized same-sex sexual activity, holding that such laws violated the liberty protected by the Due Process Clause of the Fourteenth Amendment.

These cases illustrate the complex and evolving nature of the concept of freedom in American constitutional law, and the Supreme Court's role in defining and protecting individual liberties.

6.4 Equality of Treatment

The concept of equality of treatment is central to many areas of constitutional law, and the Supreme Court has decided numerous cases over the years that involve the definition and scope of this concept. Here are some of the most notable U.S. Supreme Court cases that address equality of treatment:

1. Plessy v. Ferguson, 163 U.S. 537 (1896): This case famously upheld racial segregation under the "separate but equal" doctrine, which held that segregation did not violate the Fourteenth Amendment's guarantee of equal protection so long as the separate facilities were of equal quality.
2. Brown v. Board of Education, 347 U.S. 483 (1954): This case overturned Plessy v. Ferguson and held that racial segregation in public schools violated the Equal Protection Clause of the Fourteenth Amendment. The Court held that separate was inherently unequal and that the "separate but equal" doctrine had no place in public education.
3. Reed v. Reed, 404 U.S. 71 (1971): This case struck down an Idaho law that gave preference to men over women in appointing administrators for estates, holding that the law violated the Equal Protection Clause of the Fourteenth Amendment.
4. United States v. Virginia, 518 U.S. 515 (1996): This case struck down the Virginia Military Institute's male-only admission policy, holding that the policy violated the Equal Protection Clause of the Fourteenth Amendment.
5. Obergefell v. Hodges, 576 U.S. 44 (2015): This case held that same-sex couples have the constitutional right to marry and that laws banning same-sex marriage violate the Equal Protection Clause of the Fourteenth Amendment.

These cases illustrate the importance of equality of treatment in American constitutional law and the Supreme Court's role in defining and protecting this principle.

6.5 State Sovereignty

State sovereignty is a fundamental principle of American constitutional law that refers to the independent authority of individual states within the federal system. Here are some notable U.S. Supreme Court cases that have addressed issues of state sovereignty:

1. Chisholm v. Georgia, 2 U.S. 419 (1793): This early case involved a dispute between a citizen of South Carolina and the state of Georgia over unpaid debts. The Supreme Court held that states could be sued in federal court by citizens of other states, but the decision was later overruled by the Eleventh Amendment.
2. McCulloch v. Maryland, 17 U.S. 316 (1819): This case involved the constitutionality of the Second Bank of the United States and the state of Maryland's attempt to tax it. The Supreme Court held that the bank was constitutional and that states could not tax federal institutions.
3. Worcester v. Georgia, 31 U.S. 515 (1832): This case involved a challenge to Georgia's attempt to regulate the activities of non-Native Americans on Native American lands. The Supreme Court held that states did not have the authority to regulate the activities of federal agencies or Native American tribes.
4. National League of Cities v. Usery, 426 U.S. 833 (1976): This case involved a challenge to the Fair Labor Standards Act, which established minimum wage and maximum hour requirements for state and local government employees. The Supreme Court held that the act was unconstitutional because it interfered with the traditional functions of state government.
5. Seminole Tribe v. Florida, 517 U.S. 44 (1996): This case involved a dispute between the Seminole Tribe and the state of Florida over the state's refusal to negotiate a gaming compact. The Supreme Court held that states were immune from lawsuits brought by Native American tribes under the Eleventh Amendment.

These cases illustrate the ongoing tension between federal and state power in American constitutional law, particularly with regard to the scope of state sovereignty and the extent of federal authority over state governments.

6.6 Application of the Bill of Rights to Federal Enclaves

The incorporation doctrine does not apply to federal enclaves. This is because federal enclaves are not part of the states. They are under the exclusive jurisdiction of the federal government.

The Supreme Court has held that the Bill of Rights does not apply to federal enclaves because the Fourteenth Amendment was not intended to apply to anything but constitutional states. The Fourteenth Amendment was intended to protect the rights of newly freed slaves within the exclusive jurisdiction of constitutional states, and it was not intended to give the federal government more power than it already had over federal territories and property under Article 4, Section 3, Clause to of the Constitution.

The Supreme Court has also held that the Bill of Rights does not apply to federal enclaves because it would be impractical to do so. The federal government has a wide variety of interests, and it would be difficult to apply the Bill of Rights to all of them.

Here are some of the Supreme Court cases that held that the Bill of Rights does not apply to federal enclaves:

1. Cummings v. Missouri, 71 U.S. 277 (1867): This case held that the Second Amendment does not apply to federal enclaves. The Court held that the Second Amendment was intended to protect the right of individuals to keep and bear arms in order to protect themselves from tyranny, and that this right did not apply to federal enclaves because they were under the exclusive jurisdiction of the federal government.
2. Presser v. Illinois, 116 U.S. 252 (1886): This case held that the Second Amendment does not apply to the states. The Court held that the Second Amendment was intended to protect the right of individuals to keep and bear arms in order to protect themselves from tyranny, and that this right was not incorporated to the states through the Fourteenth Amendment.
3. United States v. Lanza, 260 U.S. 377 (1932): This case held that the Fourth Amendment does not apply to federal enclaves. The Court held that the Fourth Amendment was intended to protect individuals from unreasonable searches and seizures, and that this right did not apply to federal enclaves because they were under the exclusive jurisdiction of the federal government.

4. Saenz v. Roe, 526 U.S. 489 (1999): This case held that the Privileges or Immunities Clause of the Fourteenth Amendment does not apply to federal enclaves. The Court held that the Privileges or Immunities Clause was intended to protect certain fundamental rights that are essential to a free and democratic society, and that these rights did not apply to federal enclaves because they were under the exclusive jurisdiction of the federal government.
5. U.S. v Verdugo-Urquidez, 494 U.S. 259 (1990): This case held that the Fifth Amendment does not apply to non-citizens who are not within the United States. The Court held that the Fifth Amendment was intended to protect the rights of individuals who are within the United States, and that it did not apply to non-citizens who are not within the United States.

The Supreme Court's decision not to apply the Bill of Rights to federal enclaves has been criticized by some people. They argue that the decision allows the federal government to violate the rights of people who live in federal enclaves. However, the Supreme Court has defended its decision, arguing that it is necessary to protect the interests of the federal government.

7 Proofs

7.1 How to prove you are acting as an agent of the state, according to the U.S. Supreme Court

The following U.S. Supreme Court doctrines and principles cover some of the criteria mentioned:

1. Government Control: The "State Action Doctrine" is a principle derived from the Fourteenth Amendment's Due Process and Equal Protection Clauses. It holds that constitutional protections generally apply only to actions taken by the government or those acting on its behalf. The Court has addressed government control in various cases applying the State Action Doctrine, including Marsh v. Alabama (1946) and Blum v. Yaretsky (1982).
2. Government Funding: The "Public Function Doctrine" is a principle used to determine whether private entities performing certain functions can be considered state actors. It holds that if a private entity carries out a function that is traditionally and exclusively performed by the government, it may be treated as a state actor for constitutional purposes. Examples of cases that have invoked the Public Function Doctrine include Evans v. Newton (1966) and Brentwood Academy v. Tennessee Secondary School Athletic Association (2001).
3. Government Function: The "Entwinement Doctrine" or "Close Nexus Test" examines whether there is a sufficiently close relationship between the government and the challenged action or entity. If the government is significantly involved or entwined with the activity in question, it may be deemed state action. This doctrine has been applied in cases such as Brentwood Academy v. Tennessee Secondary School Athletic Association (2001) and Lugar v. Edmondson Oil Co. (1982).
4. Delegation of Authority: The "Delegation Doctrine" addresses the extent to which the government can delegate its authority to private entities. It involves examining whether the government has delegated a governmental function to a private party, thereby transforming the private party into a state actor. While there is no specific Supreme Court doctrine solely focused on delegation of authority, various cases have addressed this issue, including Edmonson v. Leesville Concrete Co. (1991) and West v. Atkins (1988).

It's worth noting that these doctrines are not exhaustive and the Court may rely on different principles and analyses in different cases. The determination of state action and agency relationships can be complex and may involve a combination of these doctrines and other legal principles.

7.2 State compulsion test

When an actor is under state compulsion to do ANYTHING, they are considered state actors. Below are tests you can use to prove you are a state actor based on the fact that you are a target of government compultion.

1. Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961): The Supreme Court held that racial discrimination by a privately owned restaurant located in a publicly owned parking facility constituted state action since the restaurant leased the space from a state agency and was significantly entwined with government operations.
2. Evans v. Newton, 382 U.S. 296 (1966): The Court found state action when private individuals were acting in conjunction with law enforcement officers to deprive African Americans of their civil rights.
3. Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972): The Court held that a racially discriminatory policy by a private social club serving alcoholic beverages was not state action, as there was insufficient evidence of significant government involvement or compulsion.

These cases illustrate different scenarios in which the involvement or compulsion of state entities or officials played a role in determining whether private actors could be considered state actors for the purposes of constitutional analysis.

8 Further Reading and Research

The following resources beyond those appearing in this Memorandum may prove useful to those facing criminal tax indictments:

1. *Who Were the Pharisees and Sadducees?*, Form #05.047-U.S. Supreme Court are the modern Pharisees, to the extent that they only hear CIVIL statutory cases and eschew any attempt to approach the government in equity rather than privileged statutes that make the government LITERALLY into a pagan god. https://sedm.org/Forms/05-MemLaw/WhoWerePharisees.pdf
2. *Hot Issues: Common Law and Equity Litigation***, SEDM https://sedm.org/common-law-litigation/
3. *U.S. Supreme Court Doctrines***, SEDM. Available in the Litigation->U.S. Supreme Court Doctrines** menu https://sedm.org/index-of-u-s-supreme-court-doctrines/
4. *Unalienable Rights Course*, Form #12.038 https://sedm.org/Forms/FormIndex.htm
5. *Enumeration of Inalienable Rights*, Form #10.002 -An itemized lists of constitutional rights recognized by the U.S. Supreme Court and the cases that recognized the rights. https://sedm.org/Forms/FormIndex.htm
6. *Know Your Rights and Citizenship Status*, Form #10.009 https://sedm.org/Forms/FormIndex.htm