HOW JUDGES UNCONSTITUTONALLY MAKE LAW

DEDICATION

Unjust Judgments Rebuked.

A Psalm of Asaph.

82 *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 [pause 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 IGNORANT satisfaction];
All the foundations of the earth [the fundamental principles of the administration of justice, Form #05.050] are shaken.

I said, "You [judges] are gods [because of lack of accountability, the Lucifer Principle];
Indeed, all of you are sons of the Most High.

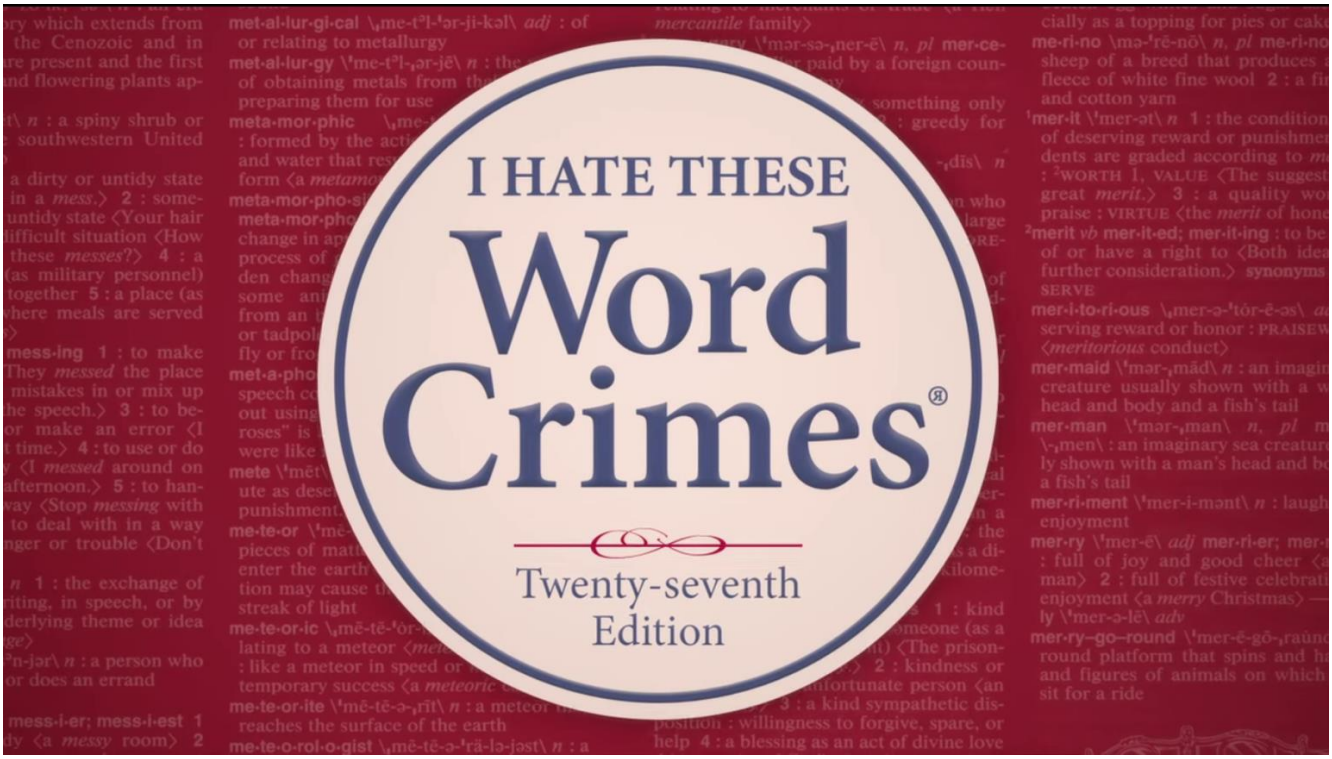
"Nevertheless you will die like men
And fall like any one of the princes."

Arise, O God, judge the earth!
For to You belong all the nations.
[Psalm 82:1-8, Bible, NKJV]

The Messiah's Triumph and Kingdom

2 ***Why do the nations [governments] rage,***
And the people plot a vain thing [Form #11.401]?
The kings of the earth set themselves,
And the rulers take counsel together,
Against the LORD and against His Anointed, saying,
"Let us break Their bonds [God's Law, Form #13.001] in pieces
And cast away Their cords from us."
He who sits in the heavens shall laugh;
The Lord shall hold them in derision.
Then He shall speak to them in His wrath,
And distress them in His deep displeasure:
"Yet I have set My King
On My holy hill [political kingdom] of Zion."
"I will declare the decree:
The LORD has said to Me,
'You are My Son,
Today I have begotten You.
Ask of Me, and I will give You

The nations [governments] for Your inheritance,
And the ends of the earth for Your possession.
You shall break them with a rod of iron;
You shall dash them to pieces like a potter's vessel.' "
Now therefore, be wise, O kings;
Be instructed, you judges of the earth.
Serve the LORD with fear,
And rejoice with trembling.
Kiss the Son, lest He be angry,
And you perish in the way,
When His wrath is kindled but a little.
Blessed are all those who put their trust in Him [instead of GOVERNMENT]
[Psalm 2:1-12, Bible, NKJV]



The purpose of this document is to PREVENT:

(Lawyer) Word Crimes-by Weird Al Yankovic
https://youtu.be/8Gv0H-vPoDc?list=RD8Gv0H-vPoDc

Courts Cannot Make Law Video

Courts Cannot Make Law, SEDM
https://sedm.org/courts-cannot-make-law/

"Dishonest [unequal, Form #05.033] scales are an abomination to the Lord, but a just weight is His delight."
[Prov. 11:1, Bible, NKJV]

"The great enemy of clear language is insincerity. When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink. "
[George Orwell, "Politics and the English Language", 1946; English essayist, novelist, & satirist (1903 - 1950)]

"Political chaos is connected with the decay of language... one can probably bring about some improvement by starting at the verbal end."
[George Orwell]

"Political language... is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind."
[George Orwell]

"Sometimes the first duty of intelligent men is the restatement of the obvious. "
[George Orwell]

"Judicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our government of laws with a judicial oligarchy."
[Senator Sam Ervin, during Watergate hearing]

"When words lose their meaning, people will lose their liberty."
[Confucius, circa 500 B.C.]

"If a word has an infinite number of meanings [or even a SUBJECTIVE meaning], it has no meaning, and our reasoning with one another has been annihilated."
[Aristotle, Metaphysica Book IV]

"Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of their wiser neighbors. But the best instruction on this subject is unhappily conveyed to America by the example of her own situation. ***She finds that she is held in no respect by her friends; that she is the derision of her enemies; and that she is a prey to every nation which has an interest in speculating on her fluctuating councils and embarrassed affairs.***

The internal effects of a mutable policy are still more calamitous. ***It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?***

Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few over the industrious and uniformed mass of the people*. Every new regulation concerning commerce or revenue, or in any way affecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens.* ***This is a state of things in which it may be said with some truth that laws are made for [benefit of] the FEW, not for the MANY.****"*
[Federalist Paper No. 62, James Madison]

"It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. ***To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them****; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them."*
[Federalist Paper No. 78, Alexander Hamilton]

*"****What right have you [a government judge or legislator] to declare My [God's] statutes [write man's vain law or any substitute for the common law], or take My covenant [***the Bible, Form #13.007***] 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]

"The coming of the lawless one [government anarchy created with sovereign immunity] is according to the working of Satan, with all power, signs, and lying wonders, and with all unrighteous deception among those who perish, because they did not receive the love of the truth, that they might be saved. ***And for this reason God will send them strong delusion, that they should believe the lie, that they all may be condemned who did not believe the truth but had pleasure in unrighteousness.*** *"*
[2 Thess. 2:9-12, Bible, NKJV]

"For the idols [civil rulers] speak ***delusion****; The diviners envision lies, And tell false dreams; They comfort in vain. Therefore the people wend their way like sheep; They are in trouble because there is no shepherd [GOD, or an wolf pretending to BE a shepherd]."*
[Zech. 10:2, Bible, NKJV]

"Your prophets [judges wearing black robes as priests of a civil religion] have seen for you
False and deceptive visions;
They have not uncovered your iniquity,
To bring back your captives,
But have envisioned for you false prophecies and delusions."
[Lamentations 2:14, Bible, NKJV]

"He who kills a bull is as if he slays a man;
He who sacrifices a lamb, as if he breaks a dog's neck;
He who offers a grain offering, as if he offers swine's blood;
He who burns incense, as if he blesses an idol.
Just as they have chosen their own ways,
And their soul delights in their abominations,
So will I [GOD!] choose their delusions,
And bring their fears on them;
Because, when I called, no one answered,
When I spoke they did not hear;
But they did evil before My eyes,
And chose that in which I [GOD!] do not delight."
[Isaiah 66:3-4, Bible, NKJV]

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> *"**Shall the** throne of iniquity, **which devises** evil by law, **have fellowship with You?** They gather together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own wickedness; **the Lord our God shall cut them off.**"*
> *[Psalm 94:20-23, Bible, NKJV]*

"Law" as legally defined ISN'T ***everything*** the legislature passes, but only a VERY small subset. You are being systematically LIED to by your public servants about this HUGELY IMPORTANT subject. Wise up! Don't drink their "Kool-Aide".

1 Introduction

The most frequent method of judicial and government instituted injustice, usurpation, and corruption is judges unconstitutionally "making law". Most people understand this concept as a general principle, but even judges themselves are loath to talk about HOW this actually happens in a real, live courtroom to real flesh and blood people. The purpose of this memorandum of law is to describe EXACTLY how this process happens so that it can be identified for what it is and punished both civilly and criminally.

This document is intended only as an introduction to the subject of how judges "make law". It provides exhaustive links to those who would like to investigate all the elements for themselves in their leisure at home. This document is also intended to be filed as an attachment or exhibit in a complaint or pleading or motion filed in a court to both prevent and punish judges who engage in this despicable, injurious, and unconstitutional behavior.

2 Judicial Tyranny[1]

Judicial tyranny is what allows corruption in the government to flourish and grow, because judicial tyranny protects wrongdoing by public servants throughout the government. Judicial tyranny is the most pervasive and necessary type of tyranny in order for tyranny elsewhere in the government to exist because:

1. It protects judges from being prosecuted for treason and conspiracy against rights by persons who have been injured by government wrongdoing.
2. It facilitates the official cover-up of government wrongdoing by using protective orders, nonpublication of cases, and suppression of incriminating evidence against government wrongdoing
3. It screens juries to ensure only biased jurists hear cases and rule in the government's favor, when there is a jury trial.
4. Allows corrupt judges to dismiss cases before they are heard, so that discovery of the wrongdoing can never occur.
5. Courts punish and persecute attorneys who try to prosecute government officials or agencies for wrongdoing by pulling their license to practice law.
6. Courts cannot pull licenses of pro per litigants. They will frequently but illegally penalize them under Rule 11 of the Federal Rules of Civil Procedure for "frivolous pleadings" or they also grant motions to strike pleadings by the government so that pro per litigants are left with nothing to argue.

The above types of evil are the worst types of tyranny found anywhere in the government, because the collective net effect of them has a very repressive effect on society. Thomas Jefferson warned us that our federal judiciary would get out of control when he made the following statements about the federal judiciary:

> *"Contrary to all correct example, [the Federal judiciary] are in the habit of going out of the question before them, to throw an anchor ahead and grapple further hold for future advances of power. **They are then in fact the corps of sappers and miners, steadily working to undermine the independent rights of the States and to consolidate all power in the hands of that government in which they have so important a freehold estate**."*
> *[Thomas Jefferson: Autobiography, 1821. ME 1:121]*

> *"We all know that permanent judges acquire an* esprit de corps; *that, being known, **they are liable to be tempted by bribery; that they are misled by favor, by relationship, by a spirit of party, by a devotion to the executive or legislative**; that it is better to leave a cause to the decision of cross and pile than to that of a judge biased to one side; and that the opinion of twelve honest jurymen gives still a better hope of right than cross and pile does."*
> *[Thomas Jefferson to Abbe Arnoux, 1789. ME 7:423, Papers 15:283]*

> *"**It is not enough that honest men are appointed judges. All know the influence of interest on the mind of man, and how unconsciously his judgment is warped by that influence. To this bias add that of the esprit de corps,***

[1] Source: *Great IRS Hoax*, Form #11.302, Section 2.8.13; https://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm.

> ***of their peculiar maxim and creed that 'it is the office of a good judge to enlarge his jurisdiction,' and the absence of responsibility, and how can we expect impartial decision between the General government, of which they are themselves so eminent a part, and an individual state from which they have nothing to hope or fear****?"*
> *[Thomas Jefferson: Autobiography, 1821. ME 1:121]*

> *"At the establishment of our Constitutions, the judiciary bodies were supposed to be the most helpless and harmless members of the government.* ***Experience, however, soon showed in what way they were to become the most dangerous; that the insufficiency of the means provided for their removal gave them a freehold and irresponsibility in offic****e; that their decisions, seeming to concern individual suitors only, pass silent and unheeded by the public at large; that these decisions nevertheless become law by precedent, sapping by little and little the foundations of the Constitution and working its change by construction before any one has perceived that that invisible and helpless worm has been busily employed in consuming its substance. In truth, man is not made to be trusted for life if secured against all liability to account."*
> *[Thomas Jefferson to A. Coray, 1823. ME 15:486]*

> *"I do not charge the judges with willful and ill-intentioned error; but honest error must be arrested where its toleration leads to public ruin.* ***As for the safety of society, we commit honest maniacs to Bedlam; so judges should be withdrawn from their bench whose erroneous biases are leading us to dissolution. It may, indeed, injure them in fame or in fortune; but it saves the republic, which is the first and supreme law.****"*
> *[Thomas Jefferson: Autobiography, 1821. ME 1:122]*

> *"****The original error [was in] establishing a judiciary independent of the nation, and which, from the citadel of the law, can turn its guns on those they were meant to defend, and control and fashion their proceedings to its own will.****"*
> *[Thomas Jefferson to John Wayles Eppes, 1807. FE 9:68]*

> *"****It is a misnomer to call a government republican in which a branch of the supreme power [the Federal Judiciary] is independent of the nation****."*
> *[Thomas Jefferson to James Pleasants, 1821. FE 10:198]*

> *"****It is left... to the juries, if they think the permanent judges are under any bias whatever in any cause, to take on themselves to judge the law as well as the fact. They never exercise this power but when they suspect partiality in the judges; and by the exercise of this power they have been the firmest bulwarks of English liberty.****"*
> *[Thomas Jefferson to Abbe Arnoux, 1789. ME 7:423, Papers 15:283]*

Very wise words indeed! Thomas Jefferson's warnings and predictions above were prophetic, because today we have a federal judiciary that is completely out of control with respect to income tax matters, which happens to be the area of law possessing the greatest conflict of interest universally for ***all*** federal judges, as we will explain.

We'll now examine in greater detail how judicial tyranny is perpetuated and expanded in today's federal courts to show just how far the tyranny predicted by Jefferson has taken us. The abuses and usurpations of power are very numerous but carefully concealed by most judges so that they are out of public view. Collectively, these usurpations constitute a massive conspiracy against the rights of the sovereign people that is a treasonable offense, and they also explain why:

> *"Absolute power corrupts absolutely."*

and why the founding fathers went to such extensive means to separate sovereign powers in our government to prevent corruption and conspiracy of the kind that is commonplace today. As you read through the following subsections and witness all the antics and corruption of our judiciary, compare this with what God in His sovereignty requires of these same judges in the following scripture:

> ***Psalm 82*** *[Amplified Bible]*
> *A Psalm of Asaph.*
>
> *1 GOD STANDS in the assembly [of the representatives] of God; in the midst of the magistrates or judges He gives judgment [as] among the gods.*
>
> *2 How long will you [magistrates or judges] judge unjustly and show partiality to the wicked? Selah [pause, and calmly think of that]!*
>
> *3 Do justice to the weak (poor) and fatherless; maintain the rights of the afflicted and needy.*
>
> *4 Deliver the poor and needy; rescue them out of the hand of the wicked.*

5 [The magistrates and judges] know not, neither will they understand; they walk on in the darkness [of complacent satisfaction]; all the foundations of the earth [the fundamental principles upon which rests the administration of justice] are shaking.

6 I said, You are gods [since you judge on My behalf, as My representatives]; indeed, all of you are children of the Most High.([1][2])

7 But you shall die as men and fall as one of the princes.

8 Arise, O God, judge the earth! For to You belong all the nations.[3]

After you have read this scripture, pray about it and then ask yourself the following questions:

- What can we do to punish these tyrants?
- How can we reform our corrupted system to eliminate or at least reduce such abuses?
- How can we eliminate the inherent conflict of interest that exists because judges are paid by the income tax and are beholden to the IRS if they rule against it?

Also consider that the answer ***cannot*** rely on the judges or the legal profession they come from, because they have already demonstrated that they ***can't*** be trusted and have become corrupted, mostly by the love of money.

If you want to know why these issues are important, read how one corrupt judge handled a malicious prosecution in the following case:

Great IRS Hoax, Form #11.302, Section 6.11.1: Prosecution of Dr. Phil Roberts: "Political Tax Prisoner" https://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm

2.1 Conflict of Interest and Bias of Federal Judges

"The king establishes the land by justice, but he who receives bribes overthrows it."
[Prov. 29:4, Bible, NKJV]

Federal law prohibits conflict of interest or bias on the part of judges as follows:

1. 28 U.S.C. §144: Bias or prejudice of judge
2. 28 U.S.C. §455: Disqualification of justice, judge, or magistrate judge

If you would like to learn what the courts think of the use of these statutes against judges, look at the link below on our website:

Recusal: Analysis of Case Law Under 28 U.S.C. §§455 & 144, Federal Judicial Center, 2002 http://famguardian.org/PublishedAuthors/Govt/FJC/Recusal.pdf

When judges possess a conflict of interest, they are more likely to judge unrighteously and in favor of their selfish interest over and above the interests of justice. Below are some of the more prevalent sources of conflicts of interest:

1. Many judges believe that their pay or benefits are derived from income taxes and that if they rule against the income tax, they will harm their employer and jeopardize future pay increases. Article III, Section I of the Constitution prevents the salaries of judges from being reduced while in office, but their future pay increases can be reduced.
2. When a judge rules against the government's interest too often, one of two things will happen to them:
   2.1. They will be removed from office for bad behavior under 28 U.S.C. §44(b).
   2.2. The Department of Justice will frame the judge so that he gets removed from office. There are many examples of this happening to judges, and one example is mentioned in the We The People Truth in Taxation hearings in which a judge was framed, according to Attorney Larry Becraft.

[2] John 10:34-36; Rom. 13:1, 2.

[3] Rev. 11:15.

2.3. They will be threatened with an IRS audit or collection action unless they cooperate. Remember that the IRS is part of the Executive branch of the government and performs a function delegated from Congress to collect taxes. The ability of the Executive branch to influence or coerce members of the judiciary using the power of the IRS becomes a financial terrorism vehicle that few judges will resist.

> *"In the general course of human nature, A POWER OVER A MAN's SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL."*
> *[Alexander Hamilton, The Federalist, No. 79]*

Furthermore, it is a well established precedent that a judge whose salary can be diminished by legislation or who holds office for other than a lifetime cannot be an Article III judge who can rule on the rights or status of a person in the Union states. He can only rule on Article I or Article IV issues relating to the federal zone.

3. Most judges were lawyers at one time. In many cases, they were federal prosecutors and they have college buddies who are in private practice who they may feel inclined to help. Because of this, they are inclined to want to protect and rule in favor of their former coworker attorneys in the Department of Justice.
4. The more litigation there is, the more prosperous it is for lawyers. One way to increase litigation is to increase injustice in the courts or to rule excessively in favor of the government, so that citizens litigating against government corruption will want to appeal to the circuit courts and run up even more legal fees. This means lawyers will make more money and the legal profession will need more lawyers, and what lawyer, whether a judge or not, wouldn't want that? Therefore, judges who were once lawyers will be inclined to want to benefit their profession and expand its power and totalitarian control and economic power over our government and the people. They do this through:
   4.1. Ruling in favor of the government when it would be unjust.
   4.2. Punishing litigants who practice law without a license granted by them.
5. The federal government is in deep debt and that the goal of our politicians is to spend us into a deep hole and put us into massive debt slavery to the privately owned Federal Reserve. We also mentioned that the Bible says this creates a conflict of interest:

> *"The rich ruleth over the poor, and the borrower [is] servant to the lender."*
> *[Prov. 22:7, Bible, NKJV]*

Federal judges know that if they rule against the illegal enforcement of Internal Revenue Code and thereby reduce federal revenues, they may threaten the solvency of their employer and cause bankruptcy, civil unrest, and chaos in our society. By doing so, they compromise the integrity of the federal judiciary today to prevent the inevitable collapse of the communist system later.

6. Judges know that pro per or pro se litigants are the most dangerous types of litigants because they: 1. Do not economically benefit the legal profession by doing all their own litigation; 2. Have a potential to clog the courts for years because there are far more of them then there are lawyers; 3. Are more likely to bring up issues that will embarrass the government because they have no license they could lose and can be more independent and objective than most attorneys. Therefore, judges have a vested interest in sanctioning and penalizing pro per litigants in order to maintain their iron fist control over the courtroom and to ensure that only attorneys THEY license can appear in court, and these attorneys will always litigate in favor of the government or have their license pulled to practice law and starve to death. Tyranny.

All of the above conflicts of interest create severe biases and prejudices against justice in federal courtrooms all over the country and explain the irrational, tyrannical rulings relating to income tax that are so prevalent. Irwin Schiff, as a matter of fact, is famous for saying "*More crimes occur in federal courtrooms every day than anywhere else in the country!*" and we believe he is right. The only way to eliminate these conflicts of interest completely is:

1. Eliminate the requirement for jurors to be "U.S. citizens", because this creates a bias and prejudice against those who are "nationals" ONLY because the juries are not juries of peers.
2. Require jury trials for all tax matters so that judges don't have to decide the case. Currently, jury trials are *optional* but not *mandatory* under 28 U.S.C. §2402.
3. Eliminate attorney licensing. This is a scam that does nothing but undermine our First Amendment rights of freedom of speech and our right to contract under Article 1, Section 10 of the U.S. Constitution.
4. Eliminate the ability to sanction pro per litigants under Rule 11 of the Federal Rules of Civil Procedure.
5. Repudiate the national debt and make it illegal for our Congressmen to borrow more money except with the consent of the voters and a three fourths vote by the Congress.

6. Make judges directly accountable to the people they serve by making them ***elected*** by the people in their district rather than ***appointed*** by the President. This is the focus of the Judicial Accountability Initiative Law (J.A.I.L.), which you can read about at http://www.jail4judges.org/.

2.2 Sovereign and Official Immunity

Sovereign immunity is defined in Black's Law Dictionary, Sixth Edition, page 1396 as follows:

> ***Sovereign immunity***. ***A judicial doctrine which precludes bringing suit against the government without its consent. Founded on the ancient principle that "the King can do no wrong," it bars holding the government or its political subdivisions liable for the torts of its officers or agents unless such immunity is expressly waived by statute or by necessary inference from legislative enactment.*** *Maryland Port Admin. V. I.T.O. Corp. Of Baltimore, 40 Md.App. 697, 395 A.2d. 145, 149. The federal government has generally waived its non-tort action immunity in the Tucker Act, 28 U.S.C.A. §1346(a)(2), 1491, and its tort immunity in the Federal Tort Claims Act, 28 U.S.C.A. §1346(b), 2674. Most states have also waived immunity in various degrees at both the state and local government levels.*
>
> *The immunity from certain suits in federal court ranted to states by the Eleventh Amendment to the United States Constitution.*

This sounds reasonable on the surface, but remember that the government is NOT the king in our system of government, which is a republican democracy founded on *individual rights*. *The PEOPLE* are the sovereigns and the king, and the government exists and acts on their behalf as a *fiduciary*. The contract which limits and defines the powers of government officers as fiduciaries is the Constitution. The supreme Court also agreed with the conclusion that the people are the sovereigns and the government servants are fiduciaries in the case of Yick Wo v. Hopkins in 1886:

> *"When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.* ***Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.*** *It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

And in 1884, the supreme Court repeated this doctrine again:

> *"****There is no such thing as a power of inherent sovereignty in the government of the United States****…****In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it. All else is withheld.****"*
> *[Juilliard v. Greenman, 110 U.S. 421 (1884)]*

Therefore, THE PEOPLE are the ones who should have sovereign immunity, and not the government but tyrannical judges try to twist this around for their personal benefit. It ought to be obvious, though, that the doctrine of sovereign immunity competes directly with the goal of the written social contract called the Constitution, which is to define and limit the delegated powers of government officers acting as fiduciaries of the people. The officers individually may be tried for their torts (injurious actions) if they are acting outside of their lawful delegated authority and so may the government they work for under the Federal Tort Claims Act, 28 U.S.C.A. §1346(b). Here is the way one court described it:

> *"The doctrine of sovereign immunity, raised by defendants, is inapplicable since plaintiffs contend that the defendants' action were beyond the scope of their authority or they were acting unconstitutionally."*
> *[Berends v. Butz, 357 F.Supp. 143 (1973)]*

However, in many cases, federal judges often will try assert sovereign immunity anyway or they will allow or encourage the government to substitute the United States as defendant when an injured party tries to civilly prosecute an individual

government employee who was acting illegally. This, of course, violates common sense and principles of equity but happens quite often. When it does happen, the supreme Court says it amounts to *communism*!:

> *"… **the maxim that the King can do no wrong has no place in our system of government; yet it is also true, in respect to the State itself, that whatever wrong is attempted in its name is imputable to its government and not to the State, for, as it can speak and act only by law, whatever it does say and do must be lawful. That which therefore is unlawful because made so by the supreme law, the Constitution of the United States, is not the word or deed of the State, but is the mere wrong and trespass of those individual persons who falsely spread and act in its name.**"*
>
> *"This distinction is essential to the idea of constitutional government. To deny it or blot it out obliterates the line of demarcation that separates constitutional government from absolutism, free self- government based on the sovereignty of the people from that despotism, whether of the one or the many, which enables the agent of the state to declare and decree that he is the state; to say 'L'Etat, c'est moi.' Of what avail are written constitutions, whose bills of right, for the security of individual liberty, have been written too often with the blood of martyrs shed upon the battle-field and the scaffold, if their limitations and restraints upon power may be overpassed with impunity by the very agencies created and appointed to guard, defend, and enforce them; and that, too, with the sacred authority of law, not only compelling obedience, but entitled to respect? And how else can these principles of individual liberty and right be maintained, if, when violated, the judicial tribunals are forbidden to visit penalties upon individual offenders, who are the instruments of wrong, whenever they interpose the shield of the state? **The doctrine is not to be tolerated**. The whole frame and scheme of the political institutions of this country, state and federal, protest against it. Their continued existence is not compatible with it. **It is the doctrine of absolutism, pure, simple, and naked, and of communism which is its twin, the double progeny of the same evil birth**."*
> *[Poindexter v. Greenhow, 114 U.S. 270, 5 S.Ct. 903 (1885)]*

Even so, it isn't unusual when a lower court such as a district or circuit court abuses a litigant by abusing sovereign immunity that when the case is appealed, the supreme Court in effect sanctions and encourages the abuse by refusing to hear the appeal or grant the case a writ of certiorari. The sin in such a case becomes an act of *omission* rather than *commission*, but it is still a sin and a wrong by any moral standard. All of this explains a rather wise comment one of our colleagues made when he said about man's law (rather than God's law):

> *"The first casualty of man's law is always truth and justice."*

A related type of abuse occurs when the court asserts "official immunity", the purpose of which is to insulate from liability a government employee for acts done while in office, even if those acts are injurious and unlawful. We discuss this subject further in section 6.6.3.

2.3 Cases Tried Without Jury

Another cruel abuse that tyrannical judges impose in the courtroom is to eliminate the use of juries when it is being prosecuted civilly and is the defendant, even though the intent of the Seventh Amendment was to guarantee a jury trial for any matter over $20. We talk about this kind of abuse later in section 6.9.2, where we say that the federal courts stole your right to a trial by jury. This is hypocrisy at its finest and the most blatant conflict of interest imaginable: putting a single judge in charge of ruling or deciding whether he should bite the hand that feeds him, which is his government employer, by ruling against it. What do you think he is going to do, especially if this very same hand that feeds him can have him removed from office for bad behavior (28 U.S.C. §134(a)), blacklisted, and framed by false witnesses who were secretly pressured by the DOJ and FBI? This is what the government often does to judges and even Congressmen who are honest about the fraud of the income tax. Case in point is what happened to Congressmen James Traficant from Ohio. We have the complete docket of pleadings for his case posted on our website at:

http://famguardian.org/Subjects/Taxes/CaseStudies/JamesTraficant/JamesTraficant.htm

Here is the way one corrupt judge unethically and immorally wiggled out of the requirement for jury trials with the government as defendant:

> *Taxpayers also assert they were denied their Seventh Amendment right to trial by jury before the Tax Court. **The Seventh Amendment preserves the right to jury trial "in suits at common law." Since there was no right of action at common law against a sovereign, enforceable by jury trial or otherwise, there is no constitutional right to a jury trial in a suit against the United States.** See 9 C. Wright & A. Miller, Federal Practice & Procedure § 2314, at 68-69 (1971). Thus, there is a right to a jury trial in actions against the United States only if a statute*

> *so provides. Congress has not so provided when the taxpayer elects not to pay the assessment and sue for a redetermination in the Tax Court. For a taxpayer to obtain a trial by jury, he must pay the tax allegedly owed and sue for a refund in district court. 28 U.S.C. §§ 2402 and 1346(a)(1). The law is therefore clear that a taxpayer who elects to bring his suit in the Tax Court has no right, statutory or constitutional, to a trial by jury. Phillips v. Commissioner, 283 U.S. 589, 599 n. 9, 51 S.Ct. 608, 75 L.Ed. 1289 (1931); Wickwire v. Reinecke, 275 U.S. 101, 105-106, 48 S.Ct. 43, 72 L.Ed. 184 (1927); Dorl v. Commissioner, 507 F.2d. 406, 407 (2d Cir. 1974) (holding it "elementary that there is no right to a jury trial in the Tax Court.").*
> *[Mathes v. Commissioner of Internal Revenue, 576 F.2d. 70 (1978)]*

The above ruling does nothing but encourage irresponsibility and hypocrisy in our own government, and takes government employees out of their role as servants and fiduciaries of the sovereign people and makes them into communist tyrants, to use the words of the supreme Court, who can't be called to account for their wrongs. Treason! By natural law, the judge that made the above ruling deserves to be executed under Article III of the Constitution.

2.4 Attorney Licensing

Another area of massive conflict of interest in the courtroom that promotes injustice is the notion of attorney licensing by the same court that hears cases by the licensed attorney. What do you think a judge is going to do if the attorney that the court licensed brings a civil suit against the government or a government officer? They are going to pull his license to practice law or at least threaten to pull it if he won't withdraw his case. This is exactly what happened to the attorney who defended Congressman James Traficant of Ohio in July of 2002. She had her license pulled because Traficant was a scapegoat who they wanted to make into a public outcast by leaving him without legal representation so that he would have to defend himself in the courtroom and would be more likely to lose!

Let's think about this for a minute folks. The First Amendment guarantees us a right of free speech. The right of free speech includes the right to either *not speak* or to appoint someone else to speak for us. When we hire an attorney to speak for us, it shouldn't matter whether he is "deemed licensed" to practice law by anyone, because we are paying the money to hire him. The government and the bar association who is in bed with them uses the "magnanimous" but fraudulent and ridiculous excuse that they have to license attorneys to protect us from predators and from our own indiscriminate taste in lawyers so that only ethical and upstanding lawyers can "practice" law. This just interferes with the rule of supply and demand and jacks up the price. The only reason to license lawyers is because:

1. It restricts the supply of lawyers so that the price is jacked up, which makes legal representation unaffordable for the vast majority of individuals.
2. It creates a source of additional leverage for the government when the government or its officers are prosecuted for wrongdoing.
3. Because malpractice insurance companies may charge higher premiums to insure lawyers who aren't licensed.

But remember that a license is legally defined as "permission from the state to do that which otherwise illegal", and the implication is that it is illegal for an unlicensed attorney to talk in front of a judge or jury. Common sense tells us that this violates the First Amendment guarantee of free speech. As reasonable men, we must therefore conclude that the American Bar Association (ABA) is nothing but a lawyer union that wants to jack up its own salaries by restricting the supply of lawyers and which is in bed with federal judges to help illegally expand their jurisdiction in return for the privilege of having those inflated salaries.

The following supreme Court cases held that a State may not pass statutes prohibiting the unauthorized practice of law or to interfere with the Right to freedom of speech, secured in the First Amendment: *United Mine Workers v. Illinois Bar Association*, 389 U.S. 217, and *NAACP v. Button*, 371 U.S. 415, and also in *Brotherhood of Railhood Trainmen v. Virginia State Bar*, 377 U.S. 1 (1964).

2.5 Protective Orders and Motions in Limine

The most common thing that people want to do who know they are doing wrong is *hide the evidence*. This was true of the first sinner Eve and every human after her who sinned. The book of Genesis chapter 3, verses 6 through 19, in the Bible records that the first human to sin, Eve, after she sinned by disobeying God and eating the fruit from the tree of the knowledge of good and evil, first hid her shameful nakedness with a leaf, and then hid with Adam when God approached. Sinners have been hiding the evidence ever since, and defense lawyers actually make a large part of their livelihood from being good at hiding evidence and avoiding direct or revealing answers in depositions. No doubt, we would need a LOT fewer lawyers and judges if people just told the truth and did the right thing to begin with. We must remember that a "lying tongue" is one of

the seven things that God hates (see Prov. 6:19). Why then would we want to violate God's law by using man's laws or our legal system to encourage or protect fraud by allowing for protective orders?

Jesus in the Bible repeats this same theme of the desire to hide evidence as being the hallmark of sinners and wrongdoers again in John 3:18-21:

> *"He who believes in Him [Jesus, the Son of God] is not condemned ; but he who does not believe is condemned already, because he has not believed in the name of the only begotten Son of God.* **And this is the condemnation, that the light has come into the world, and men loved darkness rather than light, because their deeds were evil**. **For everyone practicing evil hates the light and does not come to the light, lest his deeds should be exposed**. *But he who does the truth comes to the light, that his deeds may be clearly seen, that they have been done in God."*
> *[John 3:18-21, Bible]*

In a massive conflict of interest, judges in federal courts very often do the same thing that Eve did by conspiring with the government prosecutor (usually from the DOJ) to try to hide evidence of wrongdoing by either the government or by employees of the government. The easiest way for them to conspire in this cover-up is to grant a pre-trial motion by the Department of Justice for a protective order, often without argument or explanation, and even as an Ex Parte emergency motion so that the opposing side doesn't even have a chance to prepare for the hearing. A protective order is an order by the court to cease certain types of discovery of evidence for use in trial. A protective order might be issued, for instance, to bar the plaintiff in a civil suit from deposing a government witness to ask him questions or it might prevent the subpoena of government documents related to the government wrongdoing. Because the protective order is issued BEFORE the trial, the truth is suppressed *before* the jury ever has a chance to hear it. This is what they did at Congressman Traficant's trial in July 2002, who was a vocal opponent of the IRS and the income tax.

Another type of order by the judge that biases a case in the government's favor is what is called a "motion in limine", whereby the government prosecutor before the trial asks to exclude certain pieces of evidence from the upcoming trial that would cause the government to lose its case. This happens very often with evidence that is totally credible but would be disadvantageous to the government. The way to prevent being victimized by such tactics is to ensure that you keep the ORIGINAL copy of all correspondence you send the government, and send it with a Certificate of Service documenting everything you sent. Typically, judges will use the excuse in granting a motion in limine that the documents are photocopies and that the chain of custody and therefore the foundation of the evidence is untrustworthy.

Federal judges seldom have to even justify why they granted the order and even the fact that the order was granted is not allowed by the judge to be revealed to the jury even though it should because it constitutes evidence of massive conflict of interest and obstruction of justice. When they make the protective order, they will often tell the clerk of the court to make their comments off the record so they can't be prosecuted for doing so. When this happens, you ought to tape record it and prosecute them for conflict of interest (28 U.S.C. §455) and obstruction of justice! If the party who is wronged by the protective order then tries to prosecute the judge for wrongdoing and obstruction of justice, his license to practice law is pulled if he is an attorney. If he is a pro per litigant representing himself, he is fined by the court for submitting "frivolous pleadings" as an unethical and immoral way to silence him in violation of the First Amendment and strike (remove) his pleadings from the record so there is no evidence or argument to convict the judge with! Judges look out for each other and play golf together, you know. It's a good old boy network that MUST be eliminated if we are ever to have justice and equality of rights under the law and restore our society to the status of being a government of laws rather than men.

All of this discussion underscores the following words of wisdom:

> *"There can be no justice without truth."*

If the judge won't allow the truth to be admitted into evidence during the trial or discussed, he is simply inviting more litigation and not allowing the issue to be resolved. This does a disservice to our justice system, undermines its credibility, and causes massive injustice against the rights and liberties of Americans everywhere. It is a treasonable offense also because it covers up a violation of the oath of office for the judge in question. In most cases, juries decide only the facts and apply the law as given to them by the judge. But if the judge is corrupt and biased and the jury detects that the judge is involved in this kind of cover-up, then Thomas Jefferson said that the jury then has the *duty* to decide both the facts AND the law, and in many cases, to rule against the law as being unjust or at least rule that a different judge is needed to hear the case:

> *"**It is left... to the juries, if they think the permanent judges are under any bias whatever in any cause, to take on themselves to judge the law as well as the fact. They never exercise this power but when they suspect partiality in the judges; and by the exercise of this power they have been the firmest bulwarks of English liberty.**"*
> *[Thomas Jefferson to Abbe Arnoux, 1789. ME 7:423, Papers 15:283]*

2.6 "Frivolous" Penalties

The First Amendment guarantees every American the right to petition their government for Redress of Grievances/wrongs. Because this amendment recognizes but not creates a ***right***, and because the exercise of rights cannot be legally penalized or taxed or restricted or regulated by the government, then at least theoretically, it is illegal for a judge to fine or sanction a litigant no matter what he says in his pleadings, and even if they are totally without merit! This isn't true of his GOVERNMENT LICENSED (conflict of interest!) attorney, but it is certainly true of the litigant who is represented ***by*** the attorney. However, in some instances, federal judges have been known to fine litigants up to $25,000 for frivolous pleadings if they are litigating a very embarrassing issue against the government. An example of such an embarrassing issue would be the 861 source position described later in Chapter 5 or any other issue that would destroy government revenues from income taxes. Corrupt federal judges use frivolous penalties in order to:

1. Protect the government or its employees from prosecution.
2. Avoid having to tell the truth or rule on a "hot-potato" issue that could threaten their job
3. Discourage future lawsuits on the same subject.

What often happens is the judge will sanction the attorney rather than the litigant because they can't fine the litigant, who has First Amendment rights, and of course the attorney passes on the cost to the litigant. Even if the case is a good one with legal merit and good arguments, many attorneys will refuse to take the case if they think the judge will be biased or could sanction them. This further discourages future suits on the same subject.

We must remember, however, what it means to be frivolous:

> ***frivolous**:*
>
> *Of little weight or importance. A pleading is "frivolous" when it is clearly insufficient on its face and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purposes of delay or to embarrass the opponent. A claim or defense is frivolous if a proponent can present no rational argument based upon the evidence or law in support of that claim or defense. Liebowitz v. Aimexco Inc., Col.App., 701 P.2d. 140, 142. Frivolous pleadings may be amended to proper form or ordered stricken under federal and state rules of civil procedure."*
> *[Black's Law Dictionary, Sixth Edition, p. 668]*

Even though the pleading is rational, organized, and focused on substantive legal issues, judges will routinely try to sanction pro per litigants who are defending themselves without a lawyer. They will use the excuse that the litigant is inexperienced, incompetent, and every other type of verbally abusive but unsubstantiated rhetoric they can think of. They have to do this because pro per litigants are the most dangerous type of litigants since they:

Don't have any legal fees, they can litigate endlessly against the government and must be discouraged from doing so.
Aren't licensed like typical attorneys, the court can't threaten to pull their license if they don't like the subject of the suit or its adverse impact on the government.
Haven't given jurisdiction to the court by hiring an attorney. All persons who hire an attorney automatically admit the jurisdiction of the court over them and therefore cannot challenge the court's jurisdiction:

> ***In Propria Persona**. In one's own proper person. It is a rule in pleading that pleas to the jurisdiction of the court must be plead in propria persona, because **if pleaded by an attorney they admit the jurisdiction, as an attorney is an officer of the court**, and he is presumed to plead after having obtained leave, which admits the jurisdiction. Lawes, Pl. 91.*
> *[Black's Law Dictionary, Fourth Edition, p. 900]*

Therefore, frivolous penalties are the most prevalent kind of violation of the First Amendment that federal judges like to use to gag pro per litigants, and especially if they are vexatious (outspoken, articulate, organized, and very combative). It's an obvious conflict of interest where the suit is against the government or one of its employees, and for that reason, it may be

preferable to pursue your suit against the government ***agent*** as a private person and ensure that you get a jury trial to make the ruling as unbiased as possible.

Lastly, if you are sanctioned with frivolous penalties and then try to litigate the same matter again, then tyrannical judges sometimes will increase the sanctions and justify their action by saying that the matters you litigated were already resolved. In most cases, they will not be resolved from the previous ruling because in most cases, any time you litigate matters found in this book, they will collude in the cover-up of these materials and try to use protective orders to keep you from doing complete discovery. If they had not attempted the protective order and had allowed your evidence and findings into the court record and had published that court record, then they would be correct in saying that the matters were resolved and in instituting additional sanctions, but this combination of factors seldom happens with tax honesty advocates because of the government cover-up of the truth and tyranny in maintaining their power. Remember:

> *"There can be no justice without truth, "*

If the judge will not allow the truth or evidence of the truth to be admitted into evidence or discussed in the courtroom, then the issues you are litigating have not been resolved and no sanction should therefore be instituted unless and until the truth is fully explored, exposed, and decided upon by an impartial jury. Sometimes the judge will cite previous cases as his authority or excuse why he doesn't have to deal with your issues and say it has been decided already, but in many cases, he will cite *unpublished cases*, which doesn't expose the truth, or the case won't have explored the truth at all and he will be hoping you don't know how to do case research to discover their fraud and obstruction of justice.

If you would like to know more about the meaning of the word "frivolous", see the reference below:

Responding to "Frivolous" Penalties or Accusations, Form #05.027 http://sedm.org/Forms/FormIndex.htm

2.7 Fifth Amendment Abuses

> *"Constitutional privilege against self-incrimination applies to civil as well as criminal proceedings"*
> *[McCarthy v. Arndstein, 266 U.S. 34, 45 S.Ct. 16 (1924)]*

Judges and government lawyers are aided in their abuse of our liberties by deliberate and flagrant violations of the Fifth Amendment. The Fifth Amendment says:

> *"No person shall be … compelled in any criminal case to be a witness against himself,"*
> *[Fifth Amendment]*

What they will tell ignorant litigants opposing the government is that the Fifth Amendment only protects testimony in a *criminal* trial, not a *civil* trial such as those involving taxes. The judge will then threaten to sanction such a litigant for contempt of court if he does not testify, hoping that he will provide enough information to make the government's case. However, this approach violates the precedents of the United States supreme Court, which said on the subject:

> *"The [Fifth Amendment] privilege reflects a complex of our fundamental values and aspirations, and marks an important advance in the development of our liberty.* ***It can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory; and it [406 U.S. 441, 445] protects against any disclosures that the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used****. This Court has been zealous to safeguard the values that underlie the privilege. "*
> *[Kastigar v. United States, 406 U.S. 441 (1972)]*

Why do you think the Fifth Amendment protects testimony even in a *civil* or tax trial? The reason is because a criminal trial could result from the testimony in a *civil* trial! This is what the supreme Court calls a "derivative use". If the government puts you on the stand in a *civil* trial related to the imposition of penalties and the payment of a tax, and finds out that you committed criminal fraud based on your testimony, then they might later decide to indict you based on your testimony for a *criminal* offense and use your own testimony as evidence. Consequently, you can confidently assert the privilege in either a civil or a criminal trial and if the government wants to compel you, then all you have to do is demand immunity under 18

U.S.C. §6002. The ruling in *Kastigar* upholds the doctrine that such immunity, although granted by the federal government as the sovereign, also affords immunity from state prosecution as well.

> *"'[A] state witness may not be compelled to give testimony which may be incriminating under federal law unless the compelled testimony and its fruits cannot be used in any manner by federal officials in connection with a criminal prosecution against him. We conclude, moreover, that in order to implement this constitutional rule and accommodate the interests of the State and Federal Governments in investigating and prosecuting crime, the Federal Government must be prohibited from making any such use of compelled testimony and its fruits.' 43 378 U.S., at 79 ."*
> *[Kastigar v. United States, 406 U.S. 441 (1972)*

Furthermore, if the state or federal governments attempt to introduce evidence in a criminal or civil proceeding where there was previous testimony under which immunity was granted, they have an affirmative duty as follows, citing again from *Kastigar*:

> *A person accorded this immunity under 18 U.S.C. 6002, and subsequently prosecuted, is not dependent for the preservation of his rights upon the integrity and good faith of the prosecuting authorities. As stated in Murphy:*
>
> > *"Once a defendant demonstrates that he has testified, under a state grant of immunity, to matters related to the federal prosecution, the federal authorities have the burden of showing that their evidence is not tainted by establishing that they had an independent, legitimate source for the disputed evidence." 378 U.S., at 79 n. 18.*
>
> *This burden of proof, which we reaffirm as appropriate, is not limited to a negation of taint; rather, it imposes on the prosecution the affirmative duty to prove that the evidence it proposes to use is derived from a legitimate source wholly independent of the compelled testimony. [406 U.S. 441, 461]*

Consequently, if a judge in a civil trial tries to compel you as a litigant and not a third party witness to testify after you have asserted your Fifth Amendment rights by saying that those rights only apply to ***criminal*** trials, then he is either ignorant, incompetent, or corrupt, or any combination of the foregoing.

Along the same lines, corrupt judges will also try to assert that being compelled to submit tax returns is ***not*** a violation of the Fifth Amendment. We know from the U.S. supreme Court ruling in Garner v. U.S., 424 U.S. 648 (1976), however, that tax returns constitute the compelled testimony of a witness. Several cases have litigated this issue, including William Conklin v. IRS, No. 89N 1514 (unpublished), *U.S. v. Troescher*, No. 95-55609 (unpublished), etc., and in all cases, the government has wiggled out of claiming that tax returns don't violate the Fifth Amendment because they are voluntary, which just reinforces our point throughout all of Chapter 5 that income taxes under Subtitle A of the Internal Revenue Code are and always have been voluntary and that calling them a "tax" is a misnomer, because they are really just a "donation"! This provides a good transition into our next section about nonpublication of court rulings, because both of these cases were unpublished for the obvious reason that the government doesn't want the average American to know that income taxes are voluntary so they made the rulings in the above cases unpublished so that it could not be cited as an authority in later cases.

2.8 Nonpublication of Court Rulings

Nonpublication is the act by a judge of making a ruling without putting the pleadings or ruling of the case into the official, published government court record accessible to the general public. Nonpublication is very commonly used in our courts today, and especially in the federal courts on cases involving income tax issues. The reasons for this are clear: Federal judges work hand in hand with the IRS to mistreat and abuse Americans by denying their constitutional rights to life, liberty and property and then cover up that fact in order to escape culpability and prevent successful techniques or information used against the government from being learned about or reused by other freedom fighters. This section summarizes some of the issues related to nonpublication by our courts. You can obtain further information about this subject on our website at:

http://famguardian.org/Subjects/LawAndGovt/LegalEthics/Nonpublication/Arguments/index.htm

2.8.1 Background

1. From time immemorial, the test of fair judgment has been the willingness of a court to apply the same rules consistently.
2. Our legal system is based on the principle that each of us is allowed our day in court. Secret opinions destroy this principle because our day in court is no longer open.

3. Selected publication policies of the courts imply that every court of appeal opinion is presumptively *unworthy* of publication, unless such opinion meets an arbitrary standard that it (1) establishes a new rule of law or alters or modifies an existing rule, 2) involves a legal issue of continuing public interest, or (3) criticizes existing law.

2.8.2 Publication Procedures Have Been Changed Unilaterally

1. The transition to a policy that comes close to uniform non-publication has been so gradual that very few lawyers, let alone members of the general public, have any idea that this destruction of the appellate system of law has taken place.
2. The movement toward limited publication is usually traced back to the 1971 Annual Report by the Federal Judicial Center.
3. Only a third of federal courts' opinions are now published.
4. In 1997, 93 percent of the opinions and handed down by California appellate justices were unpublished.
5. Changes in reporting procedures have been put in place throughout the United States unilaterally, only in the last three decades, without any public or legislative input.

2.8.3 Publication is Essential to a Legal System Based on Precedent

1. The notion and that rulings that are inconsistent with precedent should not be published goes against a fundamental reality: decisions that are inconsistent with the weight of precedent are, by definition, law-making.
2. The weight of precedent on a point of law hardens it, making it more difficult to overturn. The sheer number of affirmations allow attorneys to rely on the stability of a doctrine with greater confidence.
3. Put a different way: a court may ignore one precedent but rarely a dozen.
4. Later cases help flesh out a precedent, and help to make it more understandable.
5. The sheer accumulation of a number of seemingly routine decisions on a particular point of law may suggest to the courts, legal practitioners, scholars, the legislature, or the public that problems exist in this area. This may set in motion reform.
6. Publication furthers an important institutional goal: maintaining the appearance that justice has been done. Publication is a signal to litigants and observers that court has nothing tied, that the quality of its work in a case is open for public inspection.

2.8.4 Citizens In A Democracy are Entitled to Consistent Treatment from the Courts

1. The federal courts are not works of art to be protected from the profane and the trivial. Nor are they debating or learned societies that exist to enhance the professional satisfaction of the judges. They are a public resource.
2. Explanation is fundamental to our system of justice.
3. The signed the opinion assigns responsibility. The author of a bad opinion cannot behind the shield of anonymity; blame or praise worthiness is there for all to see.
4. Similarly situated parties are entitled to receive like treatment in the courts. Where there is no assurance that an opinion will be published, no litigant can be certain that his case will be decided by the Court of Appeal in accordance with principles of law followed in similar cases.
5. If an appeals court unilaterally changes public law by a decision and then marks that opinions "not for publication," it effectively rules that its changes do not apply to all similar circumstances, but instead, apply only to the appellant.
6. An unreported decision means that judgment may be completely different from one person to another even if the facts are exactly the same. By declaring itself unbound by precedent and uncommitted to the future use of precedent, the court makes law for one person only. This is, de facto, a judicial bill of attainder.

2.8.5 Operational Realities of Non-Publication

1. Nearly all circuits use staff attorneys or staff law clerks to help screen cases for full or summary appellate procedure. The screening decision inevitably coincides to a great extent with the publication decision. Thus, the reliance upon staff attorneys combined with a predisposition toward non-publication seriously diminishes the responsibility that the judge bears for his decisions.
2. Because law clerk influence is likely to be the greatest in less important cases, which are not argued and will not be published, diminished quality, once again, will be most prevalent there.
3. In practice, publication decisions, once made, are usually cast in concrete, and a party seeking reconsideration is perceived as adverse and meets solid resistance in the court.

4. Selective publication undermines fundamental legal functions by limiting the Supreme Court's ability to correct inconsistent appellate decisions where there is no petition for hearing.
5. Litigants whose situation is complicated by an unpublished opinion can count on the Supreme Court for relief *only in theory*. High courts take a few cases, and even fewer that have not been published. *For most litigants, then, a court of appeal is the court of last resort.*
6. Non-publication raises the genuine possibility that a subsequent panel, unaware of a prior result, might reach a contrary result, creating a conflict in the law.
7. If there is only one circuit court opinion on issue, another court might feel justified in reaching a different result. However, in several panels or circuit has spoken on different variations of the issue, it will be the rare court which will take a different path. Thus, more published opinions make the law more stable. And conversely, more unpublished opinions destabilize the law.
8. Non-publication also creates the possibility that a court may decline to publish an opinion to avoid calling attention to the fact that its opinion conflicts with a prior holding.
9. Judges appear to be caught in a serious dilemma: if they pay no attention to their unpublished decisions, they risk inconsistency; if they consult those opinions, they appear to be using them is precedent.
10. No citation rules significantly diminish the possibility of review based upon conflict among the circuits. The very notion of a conflict is theoretically attenuated; can be said, for instance, that conflict exists between two circuit courts that have come to opposite results on a single issue when each one insists that its determination is not precedential?
11. An attorney seeking a writ of certiorari is unlikely to know of the unpublished law of other circuits and therefore, will be unable to draw the Supreme Court's attention to the existence of a conflict.
12. Similarly, the fact that unpublished opinions are typically not as thorough or as elaborate as reported opinions makes it more difficult for the Supreme Court to determine exactly what the lower court has done and accept the case for review.

2.8.6 Impact Of Non-Publication Inside the Courts

1. Those who choose what opinions to publish may consciously decide to suppress an opinion they know to be significant enough to publish either to escape review by a higher court, to escape criticism for a controversial decision, or even to allow a court to get away with making a decision contrary to prevailing law.
2. Unpublished opinions inevitably contribute to conflicts of decision. Unpublished opinions may conflict with other unpublished opinions; worse, existing conflicts between unpublished opinions, and prior, published opinions are considerably more difficult to justify.
3. The refusal to publish undercuts the ability of appellate divisions to cross check on each court's acumen. This further erodes quality-control.
4. Many unpublished opinions have been found to be dreadful in quality, clearly falling below minimal standards of legal scholarship and consistency.
5. The poor writing quality or unnecessary brevity of most unpublished opinions makes it difficult to identify examples of inconsistency or suppressed precedent. Lack of publication thus compounds inequitable treatment under the law.
6. When errors are not brought to public attention via publication, courts may continue to decide low-profile cases wrongly for years.
7. Inequality of publication rates within appellate divisions in larger states further compounds the essential inequality of the basic practice of nonpublication. In some California appellate divisions, fewer than 3% of cases are published. This raises fundamental questions about whether the court is fulfilling its constitutional duty.
8. The criteria for publication cannot help but be applied unevenly. Cases that qualify for publication remained unpublished.
9. Similarly, procedures for requesting publication work unequally and capriciously. Even if the court is inclined to permit publication (an uncommon occurrence) only the parties and institutional litigants have practical access to unpublished opinions, and they frequently do not have an interest in seeking publication.
10. Depublication rules have been used by the California Supreme Court and by the appellate courts in order to silence criticism of their own rules by lower courts.

2.8.7 Openness

1. There is no difference between non-publication of judicial decisions and any other instance of unjustified secrecy in government.

2. The argument that public interest must be distinguished from public curiosity is without value: it reflects a disregard for the people's right and ability to decide for themselves what aspects of their government's activities are worthy of their attention.
3. There is no such thing as unnecessary public curiosity with regard to the courts: unlike matters of national security or police intelligence, the courts have nothing to hide.
4. What goes on in the courts is public business and therefore, unpublished appellate opinions -- whether cut-and-dried or not -- which contain any matters that arguably provide insight into the judicial process should be freely citable, and should -- the same as any other acts of government -- been subject to open public scrutiny and discussion.
5. Wide publication would reduce, if not eliminate, the wasted time, money, and human effort that is expended daily in pursuing, administering, and terminating fruitless appeals, whose points of law already have been decided in prior unpublished opinions.
6. If a court is not willing to stand by a decision as a valid precedent for all, then the decision should not be made or should be regarded as unenforceable.
7. The lasting authority of a decision depends largely on the quality of its reasoning, which can be evaluated *only* by reading the opinion.

2.8.8 Constitutional Considerations

1. Inefficiency of judicial operations is certainly not a desirable objective; it may, however, be a price worth paying if it buys or helps to buy individual liberty.
2. Inequities in publication consist of concerns over fundamental First Amendment rights of petition for redress of grievances and over equal access to the courts which involve both the procedural and the substantial due process provision.
3. Inequities in publication also involve the equal protection provision of the Fourteenth Amendment.
4. Inequities in publication present a challenge to the constitutional strictures that prescribe the duty of adjudication and demand a separation of powers between the legislative and judicial branches of government.
5. The Supreme Court of United States has held repeatedly that the due process clauses of the fifth and fourteenth amendments to the United States Constitution prohibit a vague law because it is like a secret law to which no one has access.
6. Many legal doctrines illustrate the importance of the law being knowable and accessible: for example, the void for vagueness doctrine, limitations on retroactive legislation, restrictions on retroactive overruling of judicial decisions, and requirements regarding prison law libraries.
7. An unpublished appellate decision may create new law de facto, but is unexposed to the scrutiny of the public or the legislature. Moreover, the refusal to publish sends a message that the public in general and other potentially interested parties will never be affected by the law promulgated in this situation.
8. An ever-growing body of decisional law is invaluable asset and the essence of a stable system that renders consistent judgments. New democracies throughout the world specifically bemoan a lack of such precedents. Totalitarian regimes, by definition, act unilaterally, are bound by no precedents, and are unaccountable.

2.8.9 Opinions Are Necessary, Even in "Insignificant Matters"

1. It is false to condition non-publication on the assumption that most decisions only serve a dispute-settling function among two parties. Readers can compare and evaluate the majority opinion alongside any concurring or dissenting opinions to determine precisely what the court decided, and how far its decision may extend in future cases.
2. Opinions facilitate the discovery of conflicts in the law.
3. Opinions also permit readers to view the law's historical development and trace its impact on the society.
4. Opinions that create inconsistencies must be considered law-making opinions; by definition, they depart noticeably from the established course of decisions. Such opinion should always be published.
5. Unpublished opinions, especially ones that cannot be cited, will generally not receive critical commentary from the bench, the bar, scholars, and the public, for the obvious reason that they will go unnoticed. Moreover, there's little incentive to comment upon an opinion that is not "law."

2.8.10 Impact On The Legal System In Society

1. Selective publication creates inequality of access to case law by making pertinent and unpublished opinions available largely to institutional and specialized lawyers

2. Selective publication deprives trial judges, lawyers, litigants, and members of society of guidance.
3. Selective publication decreases trial court compliance with the law, thus contributing to increased appellate litigation.
4. The loss of precedent has driven many parties into alternative methods of dispute resolution. Simultaneously, it has made litigation to final judgment after appeal unavoidable because results have become random.
5. Non-publication guarantees inequity in the legal establishment. It produces two classes of lawyers: the uninitiated ordinary practitioner who keeps up with the advance sheets and knows only what he reads there, and the specialist-insider who collects unpublished opinions in his field as well, and therefore possesses a special insight into the thinking of the intermediate appellate courts.
6. Widespread uncertainty in the law erodes professional competence and the confidence of lawyers in the quality of their work. This, in turn, feeds misconduct, which is tolerated until it becomes the norm.
7. Moreover, unequal access to unpublished decisions creates a "grapevine" among appellate judges and their research attorneys, and among attorneys who practice solely in one particular area of the law, whereby earlier unpublished opinions are relied on expressly or implicitly.
8. Nonpublication subverts one of the most important forces in the development of the law: scholarly commentary. One of the most potent analytical tools in the hands of a legal commentator is an abundance of decisional law from which he can extract trends in the law, based on an assessment of how the rule of law is being judicially articulated, or how it may be operating in application.
9. Most important of all, selective publication contributes to popular distrust of the courts.

2.8.11 Questions to Ponder

1. How can we have the equal protection of the law if the courts have no institutional memory of the manner in which the laws are applied in similar cases?
2. How can we be certain that our judges correctly and honestly state the law, if their decisions are not put out to the people for criticism?
3. How can we ask our legislators to correct the law if we cannot know how the law is actually being applied by our courts?
4. What effect does our right to equal protection of the law have if law can be applied to one person without immediately causing others who would otherwise be affected to complain on that person's behalf when the rule used is illegal, unconstitutional, or unjust?
5. If experience shows that unpublished rulings truly add nothing to law, why do lawyers and judges continue to research unpublished opinions in preparing their briefs?

3 What is "law"?

For the purposes of this document, the term "law" is defined as follows:

> ***SEDM Disclaimer***
> ***4. Meaning of Words***
> ***4.8 Law***
>
> *The term "law" as used on this site is constrained by the following requirements:*
>
> *1. It must apply equally to ALL. It cannot compel INEQUALITY of treatment between any man or class of men. See Form #05.033.*
>
> *2. It cannot do collectively what people individually cannot NATURALLY do. In other words, in the words of Frederic Bastiat, it aggregates the individual right of self-defense into a collective body so that it can be delegated. A single human CANNOT delegate a right he does not individually ALSO possess, which indirectly implies that no GROUP of men called "government" can have any more COLLECTIVE rights under the collective entity rule than a single human being. Click here (https://sedm.org/liberty-university/liberty-university-2-2-philosophy-of-liberty/) for a video on the subject.*
>
> *3. It cannot punish a citizen for an innocent action that was not a crime or not demonstrated to produce measurable harm. The ability to PROVE such harm with evidence in court is called "standing".*
>
> *4. It cannot compel the redistribution of wealth between two private parties. This is ESPECIALLY true if it is called a "tax".*

5. It cannot interfere with or impair the right of contracts between PRIVATE parties. That means it cannot compel income tax withholding unless one or more of the parties to the withholding are ALREADY public officers in the government.

6. It cannot interfere with the use or enjoyment or CONTROL over private property, so long as the use injures no one. Implicit in this requirement is that it cannot FAIL to recognize the right of private property or force the owner to donate it to a PUBLIC USE or PUBLIC PURPOSE. In the common law, such an interference is called a "trespass".

7. The rights it conveys must attach to LAND rather than the CIVIL STATUS (e.g. "taxpayer", "citizen", "resident", etc.) of the people ON that land. One can be ON land within a PHYSICAL state WITHOUT being legally "WITHIN" that state (a corporation) as an officer of the government or corporation (Form #05.042) called a "citizen" or "resident". See:

7.1 Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008.

https://sedm.org/Forms/13-SelfFamilyChurchGovnce/RightToDeclStatus.pdf
7.2 Foundations of Freedom Course, Form #12.021, Video 4 (https://www.youtube.com/watch?v=hPWMfa_oD-w) covers how LAND and STATUS are deliberately confused through equivocation in order to KIDNAP people's identity (Form #05.046) and transport it illegally to federal territory. ("It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it." [Balzac v. Porto Rico, 258 U.S. 298 (1922)]*)*

8. It must provide a remedy AFTER an injury occurs. It may not PREVENT injuries before they occur. Anything that operates in a PREVENTIVE rather than CORRECTIVE mode is a franchise. There is no standing in a REAL court to sue WITHOUT first demonstrating such an injury to the PRIVATE or NATURAL rights of the Plaintiff or VICTIM.

9. It cannot acquire the "force of law" from the consent of those it is enforced against. In other words, it cannot be an agreement or contract. All franchises and licensing, by the way, are types of contracts.

10. It does not include compacts or contracts between private people and governments. Rights that are INALIENABLE cannot be contracted away, even WITH consent. See Form #05.003.

11. It cannot, at any time, be called "voluntary". Congress and even the U.S. Supreme Court call the IRC Subtitle a "income tax" voluntary. See Exhibits #05.025 and #05.051.

12. It does not include franchises, licenses, or civil statutory codes, all of which derive ALL of their force of law from your consent in choosing a civil domicile (Form #05.002).

The above criteria derives from What is "law"?, Form #05.048, Section 16. Any violation of the above rules is what the Bible calls "devises evil by law" in Psalm 94:20-23 as indicated above.

Roman statesman Cicero defined law as follows:

> *"True Law is right reason in agreement with Nature, it is of universal application, unchanging and everlasting; it summons to duty by its commands and averts from wrong-doing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, although neither have any effect upon the wicked. It is a sin to try to alter this law, nor is it allowable to try to repeal a part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by Senate or People, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome or at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all times and all nations, and there will be one master and one rule, that is God, for He is the author of this law, its promulgator, and its enforcing judge."*
> *[Marcus Tullius Cicero, 106-43 B.C.]*

> *"Power and law are not synonymous. In truth, they are frequently in opposition and irreconcilable. There is God's Law from which all equitable laws of man emerge and by which men must live if they are not to die in oppression, chaos and despair. Divorced from God's eternal and immutable Law, established before the founding of the suns, man's power is evil no matter the noble words with which it is employed or the motives urged when enforcing it. Men of good will, mindful therefore of the Law laid down by God, will oppose governments whose rule is by men, and if they wish to survive as a nation they will destroy the [de facto] government which attempts to adjudicate by the whim of venal judges."*
> *[Marcus Tullius Cicero, 106-43 B.C.]*

"Law" is defined to EXCLUDE any and all civil statutory codes, franchises, or privileges in relation to any and all governments and to include ONLY the COMMON law, the CONSTITUTION (if trespassing government actors ONLY are involved), and the CRIMINAL law.

> *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)]*

> *Municipal law, thus understood, is properly defined to be "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong."*
>
> *[. . .]*
>
> *It is also called a rule to distinguish it from a compact or agreement;* **for a compact is a promise proceeding from us, law is a command directed to us**. *The language of a compact is, "I will, or will not, do this"; that of a law is, "thou shalt, or shalt not, do it." It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different.* **In compacts we ourselves determine and promise what shall be done, before we are obliged to do it; in laws. we are obliged to act without ourselves determining or promising anything at all.** *Upon these accounts law is defined to be "a rule."*
> *[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 4]*

> *"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*]*
>
> _____
>
> *FOOTNOTES:*
>
> *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.*

"What, then, is [civil] legislation? It is an assumption [presumption] by one man, or body of men, of absolute, irresponsible dominion [because of abuse of sovereign immunity and the act of "CONSENT" by calling yourself a "citizen"] over all other men whom they call subject to their power. It is the assumption by one man, or body of men, of a right to subject all other men to their will and their service. It is the assumption by one man, or body of men, of a right to abolish outright all the natural rights, all the natural liberty of all other men; to make all other men their slaves; to arbitrarily dictate to all other men what they may, and may not, do; what they may, and may not, have; what they may, and may not, be. It is, in short, the assumption of a right to banish the principle of human rights, the principle of justice itself, from off the earth, and set up their own personal will [society of men and not law], pleasure, and interest in its place. All this, and nothing less, is involved in the very idea that there can be any such thing as human [CIVIL] legislation that is obligatory upon those upon whom it is imposed [and ESPECIALLY those who never expressly consented in writing]."
[Natural Law, Chapter 1, Section IV, Lysander Spooner;
SOURCE:
http://famguardian.org/PublishedAuthors/Indiv/SpoonerLysander/NaturalLaw.htm]

The above methods of REMOVING the protections of the common law and the constitution from the INALIENABLE rights [rights that CANNOT lawfully be given away, even WITH consent] that are protected by them has been described by the U.S. Congress as the ESSENCE of communism itself! This is especially true when you add games with legal words of art to remove even the STATUTORY limitations upon the conduct of the government. See Legal Deception, Propaganda, and Fraud, Form #05.014.

TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > *Sec. 841.*
Sec. 841. - Findings and declarations of fact

*The Congress finds and declares that the Communist Party of the United States [***consisting of the IRS, DOJ, and a corrupted federal judiciary***], although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [***and replace it with a de facto government ruled by the judiciary***]. It constitutes an* **authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion]** *within a [constitutional] republic, demanding for itself the rights and [FRANCHISE] privileges [including immunity from prosecution for their wrongdoing in violation of Article 1, Section 9, Clause 8 of the Constitution] accorded to political parties, but* **denying to all others** the liberties [Bill of Rights] guaranteed by the Constitution [Form #10.002]**.** *Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [***by corrupt judges and the IRS in complete disregard of, Form #05.014, the tax franchise "codes", Form #05.001***] prescribed for it by the foreign leaders of the world Communist movement [***the IRS and Federal Reserve***]. Its members [***the Congress, which was terrorized to do IRS bidding by the framing of Congressman Traficant***] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public FOOL system by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains.* **Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members [ANARCHISTS!, Form #08.020].** *The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means.* **The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence [or using income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced [illegally KIDNAPPED via identity theft!, Form #05.046] into the service of the world Communist movement [using FALSE information returns and other PERJURIOUS government forms, Form #04.001], trained to do its bidding [by FALSE government publications and statements that the government is not accountable for the accuracy of, Form #05.007], and directed and controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form #05.030] in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed**

The above corruption of our Constitutional Republic by the unconstitutional abuse of franchises, the violation of the rules of statutory construction, and interference with common law remedies was described by the U.S. Supreme Court as follows:

> **"These are words of weighty import. They involve consequences of the most momentous character. I take leave to say that if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system of government will be the result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism.**
>
> *Although from the foundation of the Government this court has held steadily to the view that the Government of the United States was one of enumerated powers, and that no one of its branches, nor all of its branches combined, could constitutionally exercise powers not granted, or which were not necessarily implied from those expressly granted,* Martin v. Hunter, 1 Wheat. 304, 326, 331, **we are now informed that Congress possesses powers outside of the Constitution, and may deal with new territory, 380*380 acquired by treaty or conquest, in the same manner as other nations have been accustomed to act with respect to territories acquired by them. In my opinion, Congress has no existence and can exercise no authority outside of the Constitution. Still less is it true that Congress can deal with new territories just as other nations have done or may do with their new territories. This nation is under the control of a written constitution, the supreme law of the land and the only source of the powers which our Government, or any branch or officer of it, may exert at any time or at any place. Monarchical and despotic governments, unrestrained by written constitutions, may do with newly acquired territories what this Government may not do consistently with our fundamental law. To say otherwise is to concede that Congress may, by action taken outside of the Constitution, engraft upon our republican institutions a colonial system such as exists under monarchical governments. Surely such a result was never contemplated by the fathers of the Constitution. If that instrument had contained a word suggesting the possibility of a result of that character it would never have been adopted by the People of the United States. The idea that this country may acquire territories anywhere upon the earth, by conquest or treaty, and hold them as mere colonies or provinces — the people inhabiting them to enjoy only such rights as Congress chooses to accord to them — is wholly inconsistent with the spirit and genius as well as with the words of the Constitution.**"
> *[Downes v. Bidwell,* 182 U.S. 244 *(1901), Justice Harlan, Dissenting]*

Civil statutory codes, franchises, or privileges are referred to on this website as "private law", but not "law". The word "public" precedes all uses of "law" when dealing with acts of government and hence, refers only to COMMON law and CRIMINAL law that applies equally to everyone, regardless of their consent. Involvement in any and all "private law" franchises or privileges offered by any government ALWAYS undermines and threatens sovereignty, autonomy, and equality, turns government into an unconstitutional civil religion, and corrupts even the finest of people. This is explained in:

Government Instituted Slavery Using Franchises, Form #05.030
https://sedm.org/Forms/05-MemLaw/Franchises.pdf

Any use of the word "law" by any government actor directed at us or any member, if not clarified with the words "private" or "public" in front of the word "law" shall constitute:

1. A criminal attempt and conspiracy to recruit us to be a public officer called a "person", "taxpayer", "citizen", "resident", etc.

2. A solicitation of illegal bribes called "taxes" to treat us "AS IF" we are a public officer.

3. A criminal conspiracy to convert PRIVATE rights into PUBLIC rights and to violate the Bill of Rights.

The protection of PRIVATE rights mandated by the Bill of Rights BEGINS with and requires:

1. ALWAYS keeping PRIVATE and PUBLIC rights separated and never mixing them together.

2. Using unambiguous language about the TYPE of "right" that is being protected: PUBLIC or PRIVATE in every use of the word "right". The way to avoid confusing PUBLIC and PRIVATE RIGHTS is to simply refer to PUBLIC rights as "privileges" and NEVER refer to them as "rights".

3. Only converting PRIVATE rights to PUBLIC rights with the express written consent of the HUMAN owner.

4. Limiting the conversion to geographical places where rights are NOT unalienable. This means the conversion occurred either abroad or on government territory not within the exclusive jurisdiction of a Constitutional state. Otherwise, the Declaration of Independence, which is organic law, would be violated.

5. Keeping the rules for converting PRIVATE to PUBLIC so simple, unambiguous, and clear that a child could understand them and always referring to these rules in every interaction between the government and those they are charged with protecting.

6. Ensuring that in every interaction (and ESPECIALLY ENFORCEMENT ACTION) between the government both administratively and in court, that any right the government claims to civilly enforce against, regulate, tax, or burden otherwise PRIVATE property is proven ON THE RECORD IN WRITING to originate from the rules documented in the previous step. This BURDEN OF PROOF must be met both ADMINISTRATIVELY and IN COURT BEFORE any enforcement action may be lawfully attempted by any government. It must be met by an IMPARTIAL decision maker with NO FINANCIAL interest in the outcome and not employed by the government or else a criminal financial conflict of interest will result. In other words, the government has to prove that it is NOT stealing before it can take property, that it is the lawful owner, and expressly HOW it became the lawful owner.

7. Enforcing the following CONCLUSIVE PRESUMPTION against government jurisdiction to enforce unless and until the above requirements are met:

> *"All rights and property are PRESUMED to be EXCLUSIVELY PRIVATE and beyond the control of government or the CIVIL statutory franchise codes unless and until the government meets the burden of proving, WITH EVIDENCE, on the record of the proceeding that:*
>
> *1. A SPECIFIC formerly PRIVATE owner consented IN WRITING to convert said property to PUBLIC property.*
>
> *2. The owner was either abroad, domiciled on, or at least PRESENT on federal territory NOT protected by the Constitution and therefore had the legal capacity to ALIENATE a* Constitutional *right or relieve a public servant of the fiduciary obligation to respect and protect the right. Those physically present but not necessarily domiciled in a constitutional but not statutory state protected by the constitution cannot lawfully alienate rights to a real, de jure government, even WITH their consent.*
>
> *3,. If the government refuses to meet the above burden of proof, it shall be CONCLUSIVELY PRESUMED to be operating in a PRIVATE, corporate capacity on an EQUAL footing with every other private corporation and which is therefore NOT protected by official, judicial, or sovereign immunity."*

For a detailed exposition on the mandatory separation between PUBLIC and PRIVATE as indicated above, please see the following course on our site:

Separation Between Public and Private Course, Form #12.025
https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf

For a detailed exposition of the legal meaning of the word "law" and why the above restrictions on its definition are important, see:

What is "law"?, Form #05.048
https://sedm.org/Forms/05-MemLaw/WhatIsLaw.pdf

[SEDM Disclaimer, Section 4.8; https://sedm.org/disclaimer.htm#4.8. Law]

4 Two methods of creating "obligations" clarify the definition of "law"[4]

The legal definition of "law" can be easily discerned by examining HOW "obligations" are created. The California Civil Code, Section 1427 defines what an obligation or duty is:

Civil Code - CIV
DIVISION 3. OBLIGATIONS [1427 - 3272.9]
(Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)

[4] Source: *What is "law"?*, Form #05.048, Section 4; https://sedm.org/Forms/FormIndex.htm.

PART 1. OBLIGATIONS IN GENERAL [1427 - 1543] *(Part 1 enacted 1872.)*
TITLE 1. DEFINITION OF OBLIGATIONS [1427 - [1428.]] *(Title 1 enacted 1872.)*

1427. *An obligation is a legal duty, by which a person is bound to do or not to do a certain thing.*

(Enacted 1872.)

The California Civil Code and California Code of Civil Procedure then describe how obligations may lawfully be created. Section **22.2** of the California Civil Code ("CCC") shows that the **common law** shall be the rule of decision in all the courts of this State. CCC section **1428** establishes that obligations are legal duties arising either from contract of the parties, or the operation of law (nothing else). CCCP section **1708** states that the obligations imposed by operation of law are only to abstain from injuring the person or property of another, or infringing upon any of his or her rights.

Civil Code - CIV
DEFINITIONS AND SOURCES OF LAW
(Heading added by Stats. 1951, Ch. 655, in conjunction with Sections 22, 22.1, and 22.2)

22.2. *The common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State. (Added by Stats. 1951, Ch. 655.)*

Civil Code – CIV
DIVISION 3. OBLIGATIONS [1427 - 3272.9]
(Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)
PART 1. OBLIGATIONS IN GENERAL [1427 - 1543] (Part 1 enacted 1872.)
TITLE 1. DEFINITION OF OBLIGATIONS [1427 - [1428.]] (Title 1 enacted 1872.)

[1428.] *Section Fourteen Hundred and Twenty-eight. An obligation arises either from:*

One — The contract of the parties; or,

Two — The operation of law. An obligation arising from operation of law may be enforced in the manner provided by law, or by civil action or proceeding.

(Amended by Code Amendments 1873-74, Ch. 612.)

Civil Code – CIV
DIVISION 3. OBLIGATIONS [1427 - 3272.9]
(Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)
PART 3. OBLIGATIONS IMPOSED BY LAW [1708 - 1725]
(Part 3 enacted 1872.)

1708. *Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his or her rights.*

(Amended by Stats. 2002, Ch. 664, Sec. 38.5. Effective January 1, 2003.)

The phrase "operation of law" uses the word "law" and therefore implies REAL law. REAL law in turn consists of ONLY the common law and the Constitution, as we prove in this document.

Based on the above provisions of the California Civil Code, when anyone from the government seeks to enforce a "duty" or "obligation", such as in tax correspondence, they have the burden of proof to demonstrate.

1. That you expressly consented to a contract with them. This would include:
   1.1. Written agreements.
   1.2. Trusts.
   1.3. Statutory franchises.
2. That "operation of law" is involved. In other words, that you injured a specific, identified flesh and blood person and that such a person has standing to sue in a civil or common law action. THIS is what we refer to as "law" in this

document.

They must meet the above burden of proof with legally admissible evidence and may not satisfy that burden with either a belief or a presumption. Pursuant to Federal Rule of Evidence 610, neither beliefs or opinions constitute legally admissible evidence. Likewise, a presumption is not legally admissible evidence for the same reason. We cover why presumptions are not evidence in:

> *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017
> https://sedm.org/Forms/FormIndex.htm

In practice, they NEVER can meet the above burden of proof and consequently, you will always win when they send you a tax collection notice if you know what you are doing and have read this document!

The first option above, contracts, is described in:

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

The first option, meaning contracts, is EXCLUDED from the definition of "law" based on the following.

> *Municipal law, thus understood, is properly defined to be "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong."*
>
> *[. . .]*
>
> *It is also called a rule to distinguish it from a compact or agreement; **for a compact is a promise proceeding from us, law is a command directed to us**. The language of a compact is, "I will, or will not, do this"; that of a law is, "thou shalt, or shalt not, do it." It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different. **In compacts we ourselves determine and promise what shall be done, before we are obliged to do it; in laws. we are obliged to act without ourselves determining or promising anything at all.** Upon these accounts law is defined to be "a rule."*
> *[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 4]*

Real "law" is what the above refers to as "a rule of civil conduct". By that definition, it can only refer to the common law. Why? Because domicile is a prerequisite to enforcing civil STATUTES and it is voluntary and requires consent in some form, as we prove in the following document:

> *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002
> https://sedm.org/Forms/FormIndex.htm

5 Enacting statutory law

Enacting statutory law refers to the process of creating new laws or modifying existing ones. Laws are rules that are enforced by a controlling authority and are binding on a community. They can be created by legislative bodies such as Congress, which is the lawmaking branch of the federal government in the United States [1][2]. The process of creating a new law typically involves introducing a bill in either chamber of Congress, which is then debated, amended, and voted on by members of Congress. If the bill passes both chambers, it is sent to the President for signature or veto [2]. Once signed into law, it becomes part of the legal code and is enforceable by the government [1].

Learn more:

1. Merriam-Webster Dictionary: Law
   https://www.merriam-webster.com/dictionary/law
2. How Our Laws are Made, USA.gov
   https://www.usa.gov/how-laws-are-made
3. Merriam-Webster Dictionary: Enact
   https://www.merriam-webster.com/dictionary/enact
4. Cambridge Dictionary: Law

https://dictionary.cambridge.org/dictionary/english/law

6 Judge made law

The SOLE function of judges is to INTERPRET and APPLY "laws" written by the Legislative Branch (Congress) under the strict rules of statutory construction. Those rules are described in:

> *Legal Deception, Propaganda, and Fraud*, Form #05.014, Section 14
> https://sedm.org/Forms/FormIndex.htm

According to Timothy Endicott, a professor of legal philosophy at the University of Oxford, judges do not make law in the same way that legislators do. Rather, judges make law incidentally because of the effect their rulings have on the law[5]. When judges give a ruling in a case, they are resolving a dispute between two parties. However, their ruling can also have broader implications for future cases and can set a precedent that other judges may follow. This is known as common law, which is law made and developed by courts.

Courts can make law in two main ways: common law and statutory interpretation.

1. Common law: Law made and developed by courts is known as common law. Individuals are able to contribute to the development of common law by bringing a matter to court to settle an issue. Common law is made when a situation comes before the court for which there is no existing legislation or existing common law. When judges make a decision on a case, they create a precedent which must be followed in the future.
2. Statutory interpretation: Judges also establish precedent when interpreting statutes. They will interpret statutes when there is a dispute about the intention or meaning of the words in the statute. Therefore, by conducting statutory interpretation they will clarify the meaning of certain laws. An example of statutory interpretation can be found in the case Deing v Tarola, 2 VR 163.

In his book "How Judges Make Law," Endicott explains that judges make law incidentally because of the effect their rulings have on the law. He argues that for judges to make law well, it is enough if they do well at their primary task of giving a ruling in the case. In other words, judges do not set out to make new laws; rather, they interpret existing laws and apply them to specific cases.

In some cases, the Supreme Court's rulings expound upon long-established, judge-made doctrines widely referred to as the common law.[6] Some of these common law doctrines have their origins in constitutional norms, such as the rules regarding prudential standing[7] and the various doctrines requiring the suspension of federal court proceedings in favor of state court proceedings.[8] Others have little to do with the Constitution and are justified by more mundane concerns, such as the need for judicial efficiency[9] or the lack of a statute or rule to resolve an existing legal issue.[10] Cases addressing common law doctrines with constitutional underpinnings are included in the *Constitution Annotated* insofar as they help to elucidate the scope of the relevant constitutional provision. You can find several examples of such doctrines in the following:

1. *U.S. Supreme Court Doctrines***, SEDM (Member Subscriptions)
   https://sedm.org/index-of-u-s-supreme-court-doctrines/
2. *Catalog of U.S. Supreme Court Doctrines*, Litigation Tool #10.020
   https://sedm.org/Litigation/10-PracticeGuides/SCDoctrines.pdf

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[5] See: *How Judges Make Law*, Timothy Endicott, Oxford Academic; https://academic.oup.com/book/36678/chapter-abstract/321717571.

[6] The Supreme Court in Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938), broadly announced that [t]here is no federal general common law. *Id.* at 78. Nonetheless, the Supreme Court has recognized that federal common law still exists in two instances: where a federal rule of decision is necessary to protect uniquely federal interests and where Congress has given the courts the power to develop substantive law. *See* Tex. Indus., Inc. v. Radcliff Materials, Inc., 451 U.S. 630, 640 (1981) (internal citations omitted).

[7] S*ee* Gladstone, Realtors v. Bellwood, 441 U.S. 91, 100 & n.6 (1979) (discussing the nonconstitutional limitations on standing that derive in part from the Court's view about the proper role of federal courts in a democratic society (quoting Warth v. Seldin, 422 U.S. 490, 498 (1975)).

[8] *See, e.g.*, Younger v. Harris, 401 U.S. 37, 53–54 (1971) (prohibiting federal courts from enjoining certain ongoing state court criminal, civil, or administrative proceedings); R.R. Comm'n of Tex. v. Pullman Co., 312 U.S. 496, 498 (1941) (requiring federal courts to abstain from hearing cases that state courts can resolve by applying state law in a manner that relieves federal courts from making constitutional determinations).

[9] *See, e.g.*, New Hampshire v. Maine, 532 U.S. 742 (2001) (discussing the doctrines of claim and issue preclusion).

[10] *See generally* LARRY L. TEPLY & RALPH U. WHITTEN, CIVIL PROCEDURE 363–71 (1991) (discussing the gap-filling role of federal common law).

In summary, judges do not make laws in the same way that legislators do. Rather, they interpret existing laws and apply them to specific cases. Their rulings can have broader implications for future cases and can set a precedent that other judges may follow. Judges can make law through common law or statutory interpretation.

7 The MAIN problem with America, according to God, is corrupt judges and lawyers[11]

Below is the way God himself describes the corrupted dilemma we find ourselves in because we have abandoned the path laid by our founding fathers, as described in Isaiah 1:1-26:

> *Alas, sinful nation,*
> *A people laden with iniquity*
> *A brood of evildoers*
> *Children who are corrupters!*
> *They have forsaken the Lord*
> *They have provoked to anger*
> *The Holy One of Israel,*
> *They have turned away backward.*
> *Why should you be stricken again?*
> *You will revolt more and more.*
> *The whole head is sick [they are out of their minds!: insane or STUPID or both],*
> *And the whole heart faints....*
>
> *Wash yourselves, make yourselves clean;*
> *Put away the evil of your doings from before My eyes.*
> *Cease to do evil,*
> *Learn to do good;*
> *Seek justice,*
> *Rebuke the oppressor [the IRS and the Federal Reserve and a corrupted judicial system];*
> *Defend the fatherless,*
> *Plead for the widow [and the " nontaxpayer"]....*
>
> *How the faithful city has become a harlot!*
> *It [the Constitutional Republic] was full of justice;*
> *Righteousness lodged in it,*
> *But now murderers [and abortionists, and socialists, and democrats, and liars and corrupted judges].*
> *Your silver has become dross,*
> *Your wine mixed with water.*
> *Your princes [President, Congressmen, Judges] are rebellious,*
> *Everyone loves bribes,*
> *And follows after rewards.*
> *They do not defend the fatherless,*
> *nor does the cause of the widow [or the "nontaxpayer"] come before them.*
>
> *Therefore the Lord says,*
> *The Lord of hosts, the Mighty One of Israel,*
> *"Ah, I will rid Myself of My adversaries,*
> *And take vengeance on My enemies.*
> *I will turn My hand against you,*
> *And thoroughly purge away your dross,*
> *And take away your alloy.*
> *I will restore your judges [eliminate the BAD judges] as at the first,*
> *And your counselors [eliminate the BAD lawyers] as at the beginning.*
> *Afterward you shall be called the city of righteousness, the faithful city."*
> *[Isaiah 1:1-26, Bible, NKJV]*

So according to the Bible, the *real* problem is corrupted lawyers and judges and people who are after money and rewards. . For evidence of exactly what about them he thinks became corrupted, see:

Who Were the Pharisees and Saducees?, Form #05.047 https://sedm.org/Forms/05-MemLaw/WhoWerePharisees.pdf

[11] Source: *De Facto Government Scam*, Form #05.043, Section 6.4.4; https://sedm.org/Forms/05-MemLaw/DeFactoGov.pdf.

God furthermore says in the Isaiah scripture above that the way to fix the corruption and graft is to ***eliminate the bad judges and lawyers***. Whose job is that? It is the even more corrupted Congress! (see 28 U.S.C. §134(a) and 28 U.S.C. §44(b))

> *"O My people! Those who lead you cause you to err,*
> *And destroy the way of your paths."*
> *[Isaiah 3:12, Bible, NKJV]*

> *"The king establishes the land by justice; but he who receives bribes [or government "benefits", if paid to voters, jurists, judges, or prosecutors] overthrows it."*
> *[Prov. 29:4, Bible, NKJV]*

Can thieves and corrupted judges and lawyers and jurors, who are all bribed with unlawfully collected monies they lust after in the pursuit of socialist benefits, reform themselves if left to their own devices?

> *"When you [the jury] saw a thief [the corrupted judges and lawyers paid with extorted and stolen tax money], you consented with him, And have been a partaker with adulterers."*
> *[Psalm 50:18, Bible, NKJV]*

> ***"The people will be oppressed,***
> ***Every one by another and every one by his [socialist] neighbor [sitting on a jury who was indoctrinated and brainwashed in a government school to trust government];***
> *The child will be insolent toward the elder,*
> *And the base toward the honorable."*
> *[Isaiah 3:5, Bible, NKJV]*

> *"It must be conceded that there are rights [and property] in every free government beyond the control of the State [or any judge or jury]. A government which recognized no such rights, which held the lives, liberty and property of its citizens, subject at all times to the disposition and unlimited control of even the most democratic depository of power, is after all a despotism. It is true that it is a despotism of the many--of the majority, if you choose to call it so--but it is not the less a despotism."*
> *[Loan Ass'n v. Topeka, 87 U.S. (20 Wall.) 655, 665 (1874)]*

The answer is an emphatic no. It is up to ***We The People*** as the sovereigns in charge of our lawless government to right this massive injustice because a corrupted legislature and judiciary and the passive socialist voters in charge of the government today simply cannot remedy their own addiction to the money that was stolen from their neighbor by the *criminals* they elected into office. These elected representatives were supposed to be elected to *serve and protect* the people, but they have become the worst abusers of the people because they only got into politics and government for selfish reasons. Notice we didn't say they got into "public service", because we would be lying to call it that. It would be more accurate to call what they do "self-service" instead of "public service". One of our readers has a name for these kinds of people. He calls them SLAT: Scum, Liars, and Thieves. If you add up all the drug money, all the stolen property, all the white collar crime together, it would all pale in comparison to the "extortion under the color of law" that our own de facto government is instituting against its own people. If we solve no crime problem other than that one problem, then the government will have done the most important thing it can do to solve our crime problem and probably significantly reduce the prison population at the same time. There are lots of people in jail who were put there wrongfully for income tax crimes that aren't technically even crimes. These people were maliciously prosecuted by a corrupted Satan worshipping DOJ with the complicity of a corrupted judiciary and they MUST be freed because they have become slaves and political prisoners of a corrupted state for the sake of statutes that operate as the equivalent of a "civil religion" and which are not and cannot be law in their case. That's right: the corrupted state has erected a counterfeit church and religion that is a cheap imitation of God's design complete with churches, prayers, priests, deacons, tithes, and even its own "Bible" (franchise) and they have done so in violation of the First Amendment. The nature of that civil religion is exhaustively described below:

Socialism: The New American Civil Religion, Form #05.016 DIRECT LINK: http://sedm.org/Forms/05-MemLaw/SocialismCivilReligion.pdf (OFFSITE LINK) FORMS PAGE: http://sedm.org/Forms/FormIndex.htm (OFFSITE)

Why does God describe the source of the corruption as bad lawyers and judges instead of the people accepting the franchises as "Buyers", you might ask? The answer is that:

1. The Constitution and the Declaration of Independence recognize natural rights as INALIENABLE. See

Unalienable Rights Course, Form #12.038 https://sedm.org/LibertyU/UnalienableRights.pdf

2. An INALIENABLE right is one that YOU AREN'T ALLOWED BY LAW to consent (Form #05.003) to give away.
3. If you can't even lawfully consent (Form #05.003) to give away the right, then you can never lose it or contract it away by participating in a government franchise (Form #05.030) or accepting a grant/rental of government property.
4. The fact that judges and lawyers ALLOW inalienable rights (Form #12.038) to be given away in a place where they aren't allowed to be given away is a sign that they love money and enhancing their own power more than they love freedom or the Constitution.
5. Because they love money and power more than they love freedom and obeying the constitution, they are committing treason punishable by death in violation of 18 U.S.C. §2381 and serving Satan himself.

Below is how we explain this conundrum in our Disclaimer:

> *Every attempt by anyone in government to alienate rights that the Declaration of Independence says are UNALIENABLE shall also be treated as "PRIVATE BUSINESS ACTIVITY" that cannot be protected by sovereign, official, or judicial immunity. So called "government" cannot make a profitable business or franchise out of alienating inalienable rights without ceasing to be a classical/de jure government and instead becoming in effect an economic terrorist and de facto government in violation of Article 4, Section 4.*
>
> > *"No servant [or government or biological person] can serve* **two masters***; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other.* **You cannot serve God and mammon [government].***"*
> > *[Luke 16:13, Bible, NKJV]*
>
> *[SEDM Disclaimer, Section 4.3: "Private"; SOURCE: https://famguardian.org/disclaimer.htm]*

8 Limitations upon making law

8.1 Acknowledging and protecting private property is NOT "making law"

The laws of property are simple and even intuitive to nearly all people. Even one year-olds understand them! Take something away and they will yell:

> *"It's MINE! You can't take that!".*

Our entire civilization is built upon these laws. Governments are created MAINLY to property private property, meaning YOUR property as a natural human being. Property includes land, physical objects, chattel property, and contracts (which convey rights). For those who have been living under a rock, here is the definition of "property" to bring you back into the twenty-first century:

> ***Property.*** *That which is peculiar or proper to any person; that which* ***belongs exclusively to one****. In the strict legal sense,* ***an aggregate of rights which are guaranteed and protected by the government****. Fulton Light, Heat & Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy.*
>
> *The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable value or which goes to make up wealth or estate.* ***It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of one's property rights by actionable wrong.*** *Labberton v. General Cas. Co. of America, 53 Wash.2d. 180, 332 P.2d. 250, 252, 254.*
>
> *Property embraces everything which is or may be the subject of ownership, whether a legal ownership. or whether beneficial, or a private ownership. Davis v. Davis. TexCiv-App., 495 S.W.2d. 607. 611. Term includes not only ownership and possession but also the right of use and enjoyment for lawful purposes. Hoffmann v. Kinealy, Mo., 389 S.W.2d. 745, 752.*
>
> *Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical thing, as right to possess, use and dispose of it. Cereghino v. State By and Through State Highway Commission, 230 Or. 439, 370 P.2d. 694, 697.*

> *Goodwill is property, Howell v. Bowden, TexCiv. App.. 368 S.W.2d. 842, &18; as is an insurance policy and rights incident thereto, including a right to the proceeds, Harris v. Harris, 83 N.M. 441,493 P.2d. 407, 408.*
>
> *Criminal code. "Property" means anything of value. including real estate, tangible and intangible personal property, contract rights, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Model Penal Code. Q 223.0. See also Property of another, infra. Dusts. Under definition in Restatement, Second, Trusts, Q 2(c), it denotes interest in things and not the things themselves.*
> *[Black's Law Dictionary, Fifth Edition, p. 1095]*

Property can take many forms, but for a judge to acknowledge and protect a ***specific*** one of its many forms does not constitute "legislation" in any sense of the word. It is not a violation of the Separation of Powers Doctrine, for instance, for a judge to acknowledge and protect private property, WITH OR WITHOUT A STATUTE. The Fifth Amendment, for instance, mentions "property" but doesn't list every SPECIFIC type of property and doesn't even NEED TO. Its "self-evident" as Thomas Jefferson said in the Declaration of Independence, because even one year olds understand its meaning. In fact, if as judge DOESN'T protect PRIVATE property, he is violating his oath!

> *"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [12] **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts**. [13] **That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [14] and owes a fiduciary duty to the public. [15] It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [16] Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual [PRIVATE] rights is against public policy.**[17]"*
> *[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]*

A judge doesn't need legislative permission or a civil statute that can only tax or regulate PUBLIC property to justify protecting PRIVATE property either. All he needs is the Constitution and the Bill of Rights to do so, which, by the way, are SELF-EXECUTING and NEEDS no CIVIL statute to enforce:

> *The design of the Fourteenth Amendment has proved significant also in maintaining the traditional separation of powers 524*524 between Congress and the Judiciary. **The first eight Amendments to the Constitution set forth self-executing prohibitions on governmental action, and this Court has had primary authority to interpret those prohibitions.** The Bingham draft, some thought, departed from that tradition by vesting in Congress primary power to interpret and elaborate on the meaning of the new Amendment through legislation. Under it, "Congress, and not the courts, was to judge whether or not any of the privileges or immunities were not secured to citizens in the several States." Flack, supra, at 64. While this separation-of-powers aspect did not occasion the widespread resistance which was caused by the proposal's threat to the federal balance, it nonetheless attracted the attention of various Members. See Cong. Globe, 39th Cong., 1st Sess., at 1064 (statement of Rep. Hale) (noting that Bill of Rights, unlike the Bingham proposal, **"provide[s] safeguards to be enforced by the courts, and not to be exercised by the Legislature"**); id., at App. 133 (statement of Rep. Rogers) (prior to Bingham proposal it "was left entirely for the courts . . . to enforce the privileges and immunities of the citizens"). As enacted, the Fourteenth Amendment confers substantive rights against the States which, like the provisions of the Bill of Rights, are self-executing. Cf. South Carolina v. Katzenbach, 383 U. S., at 325 (discussing Fifteenth Amendment). The power to interpret the Constitution in a case or controversy remains in the Judiciary.*
> *[City of Boerne v. Flores, 521 U.S. 507 (1997)]*

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[12] State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

[13] Georgia Dep't of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

[14] Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

[15] United States v. Holzer (CA7 Ill), 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L.Ed. 2d 18, 108 S.Ct. 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L.Ed. 2d 608, 108 S.Ct. 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss) 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass), 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

[16] Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

[17] Indiana State Ethics Comm'n v. Nelson (Ind App), 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

Likewise, Congress cannot by legislation DENY or DESTROY an interest in PRIVATE property because to do so would violate the purpose of creating government in the Declaration of Independence and make it into a de facto government as we describe in Form #05.043.

The constitution itself, and more particularly the Bill of Rights, DEFINES the common law and the meaning of private property itself insofar as government interactions with PRIVATE humans. We prove this in Form #08.025.

Judges like even now deceased U.S. Supreme Court Justice Antonin Scalia, for instance, try to distort these realities and EVADE their fiduciary duty to protect PRIVATE property by saying such malignant things as "there is no common law". Quite the statist he was for doing so. See the following for proof:

> *Rebutted False Arguments About the Common Law*, Form #08.025, Section 17.1
> https://sedm.org/Forms/08-PolicyDocs/RebuttedFalseArgumentsAboutCommonLaw.pdf

But the truth remains that without absolute ownership of private property THERE IS NO de jure government and NO real happiness, because that's how the U.S. Supreme Court DEFINES "happiness" and the Declaration of Independence define BOTH.

> *"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.."*
> *[Declaration of Independence]*

> *"The provision [Fourteenth Amendment, Section 1], it is to be observed, places property under the same protection as life and liberty. Except by due process of law, no State can deprive any person of either. The provision has been supposed to secure to every individual the essential conditions for the pursuit of happiness; and for that reason has not been heretofore, and should never be, construed in any narrow or restricted sense."*
> *[Munn v. Illinois, 94 U.S. 113 (1876)]*

So the subject of ABSOLUTELY OWNED PRIVATE PROPERTY is central and even foundational to our system of government, if there even IS a REAL DE JURE government. It is also central to the idea of "happiness" as the Declaration of Independence defines it.

In addition, absolutely owned private property is central to the idea of "justice" as well. We define "justice" in Form #05.050 as "the right to be left alone" by the government and not injured or disturbed by everyone else. Why? Because without private property, you are literally a SLAVE of government. You can't "be left alone" without private property, because you can't keep people off PUBLIC property so they don't bother or disturb you. What is a "slave"? A slave is a human being:

1. Who can be connected with any statutory status in civil franchises or civil law to which public rights attach without their EXPRESS consent. This is a Fifth Amendment taking without compensation, a violation of the right to contract and associate, and a conversion of PRIVATE property to PUBLIC property.
2. Who can't ABSOLUTELY own PRIVATE PROPERTY. Instead, ownership is either exclusively with the government or is QUALIFIED ownership in which the REAL owner is the government and the party holding title has merely equitable interest or "qualified ownership" in the fruits.
3. Who is SOMEONE ELSE'S PROPERTY. That property is called a STATUTORY "person", "taxpayer" (under the tax code), "driver", "spouse" (under the family code) and you volunteered to become someone else's property by invoking these statuses, which are government property. All such "persons" are public officers in the government. Form #05.042.
4. Who is compelled to economic or contractual servitude to anyone else, including a government. All franchises are contracts. Form #05.030.
5. Who is compelled to share any aspect of ownership or control of any property with the government. In other words, is compelled to engage in a "moiety" and surrender PRIVATE rights illegally and unconstitutionally.
6. Whose ownership of property was converted from ABSOLUTE to QUALIFIED without their EXPRESS written and informed consent.
7. Who is not allowed to EXCLUDE government from benefitting from or taxing property held as ABSOLUTE title.
8. Who is EXCLUDED from holding Title to property as ABSOLUTE or outside the "State", where "State" means the GOVERNMENT (meaning a CORPORATION FRANCHISE, Form #05.024) and not a geographic place.
9. Who the government REFUSES its constitutional duty to protect the PRIVATE rights or property of (Form #12.038)

or undermines or interferes with REMEDIES that protect them from involuntary conversion of ownership from ABSOLUTE to QUALIFIED.

10. Who is compelled to associate PUBLIC property with PRIVATE property, namely Social Security Numbers or Taxpayer Identification Numbers and thereby accomplish a conversion of ownership. SSNs and TINs are what the FTC calls a "franchise mark" (Form #05.012).
11. Whose reservation of rights under U.C.C. §1-308 is interfered with or ignored and thereby is compelled to contract with and become an agent or officer of a government (Form #05.042) using a government application form (Form #12.023).
12. Who isn't absolutely equal (Form #05.033) to any and every government or who is compelled to become unequal or a franchisee (Form #05.030). The basis of ALL your freedom is EQUALITY of rights, as held by the U.S. Supreme Court. See Form #12.021, Video 1.

For statists like Justice Scalia, or should we say Injustice Scalia, to say that "there is no common law" is to say that there is no constitution, no government, and no absolutely owned private property, and that everyone is a slave of government privilege granted ONLY by statute. This makes a travesty of our entire system of government and the constitution designed to restrain it. Why people revere such statism in the Republican community or even the freedom community is beyond us.

8.2 Power to Legislate reserved solely to Congress

> *Article I of the US Constitution. Legislative Department*
>
> *Section 1. Legislative Powers*
>
> *All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*
> *[United States Constitution Annotated, Article I, Justia; https://law.justia.com/constitution/us/article-1/]*

8.3 Congress cannot delegate its law making power to another branch or to the judiciary

> *". . . Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. . ."*
> *[A.L.A. Schechter Poultry Corporation v. United States, 295 U.S. 495, 529 (1935), 55 S.Ct. 837, 79 L.Ed. 1570]*

8.4 Congress and the Supreme Court cannot lawfully Conspire together to give any Court law-making power or remove the territorial limitations of "Acts of Congress"

Prior to year 2002, Federal Rule of Criminal Procedure 54(c) read as follows:

> *"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a **territory** or in an insular possession."*
> *[Federal Rule of Criminal Procedure 54(c), Source: https://docs.uscode.justia.com/2001/title18/USCODE-2001-title18/pdf/USCODE-2001-title18-app-federalru-dup1-rule54.pdf]*

Subsequently, the language in above rule was conveniently REMOVED from the rule without explanation, even though the language was accurate. Thus, the U.S. Supreme Court, in publishing new rules in 2002, DELIBERATELY REMOVED the jurisdictional and territorial limitation of Acts of Congress from the Federal Rules of Criminal Procedure. Along these lines, the U.S. Congress has defined "communism" as any effort to not recognize or render ineffective the limitations of the Constitution upon any aspect of any government.

> *TITLE 50 > CHAPTER 23 > SUBCHAPTER IV> Sec. 841.*
> *Sec. 841. - Findings and declarations of fact*
>
> *The Congress finds and declares that the Communist Party of the United States [**consisting of the IRS, DOJ, and a corrupted federal judiciary]**, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [**and replace it with** a de facto government ruled by the judiciary]. It constitutes an **authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion]** within a [constitutional] republic, demanding for itself the rights and [FRANCHISE] privileges [including immunity from prosecution for their wrongdoing in violation of Article 1, Section 9, Clause 8 of the Constitution] accorded to political parties, but **denying to all others** the liberties [Bill of Rights] guaranteed by the Constitution [Form #10.002]. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those*

> *policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [***by corrupt judges and the IRS** *in complete disregard of, Form #05.014,* **the** *tax franchise "codes", Form #05.001] prescribed for it by the foreign leaders of the world Communist movement [***the IRS and Federal Reserve]**. Its members [***the Congress, which was terrorized to do IRS bidding by the framing of** *Congressman Traficant] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public FOOL system by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains.* **Unlike political parties, the Communist Party [thanks to a** *corrupted federal judiciary***]** *acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members [ANARCHISTS!, Form #08.020]***.** *The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means.* ***The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to;*** *force* ***and*** *violence* ***[or using income taxes]. Holding that doctrine, its role as the agency of a hostile*** *foreign* ***power [the Federal Reserve and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are*** *seduced [illegally KIDNAPPED via identity theft!, Form #05.046] into the service of the world Communist movement [using FALSE information returns and other PERJURIOUS government forms, Form #04.001],* ***trained to do its*** *bidding [by FALSE government publications and statements that the government is not accountable for the accuracy of, Form #05.007],* ***and*** *directed and controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form #05.030]* ***in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed***

Therefore, the U.S. Supreme Court in rewriting Federal Rule of Criminal Procedure 54(c) literally declared itself COMMUNIST, according to the U.S. Congress. They did this by refusing to document or recognize THE MOST IMPORTANT aspect of the Separation of Powers between the States in the Constitution and the national government, which is the separation of LEGISLATIVE powers between these two sovereignties.

The current version of the rule is found at:

Federal Rules of Criminal Procedure, U.S. Courts, 2020 https://www.uscourts.gov/sites/default/files/federal_rules_of_criminal_procedure_-_december_2020_0.pdf

A perusal of the one paragraph Forward in the above reads:

> ***FOREWORD***
>
> *This document contains the Federal Rules of Criminal Procedure, as amended to December 1, 2020.* ***The rules have been promulgated and amended by the United States Supreme Court pursuant to law, and further amended by Acts of Congress.*** *This document has been prepared by the Committee in response to the need for an official up-to-date document containing the latest amendments to the rules.*
>
> *For the convenience of the user, where a rule has been amended a reference to the date the amendment was promulgated and the date the amendment became effective follows the text of the rule. The Committee on Rules of Practice and Procedure and the Advisory Committee on the Federal Rules of Criminal Procedure, Judicial Conference of the United States, prepared notes explaining the purpose and intent of the amendments to the rules. The Committee Notes may be found in the Appendix to Title 18, United States Code, following the particular rule to which they relate.*
> *[Federal Rules of Criminal Procedure, 2020;*
> *https://www.uscourts.gov/sites/default/files/federal_rules_of_criminal_procedure_-_december_2020_0.pdf]*

This is noteworthy for a number of reasons.

1. First, it reinforces the conspiratorial relationship between the Supreme Court, the Judicial Conference, and Congress. The three groups who determined back in year 2001, that justice is improved, by deleting Rule 54 (c) (they used the term "combining" the definition of Act of Congress in Rule 54 (c)), and thereby masterfully hiding the territorial and geographical limitations of "Act of Congress".

In light of Congress' plenary power to make all needful rules and regulations under Const. 4:3:2,since every U.S. District Court is located within the federal United States, where Congress has exclusive legislative jurisdiction, it makes sense that the Supreme Court, Congress and the judicial conference, would want to hide the territorial limits of Acts of Congress.

2. Second, if you look at 28 U.S.C. §2072, it purports to grant to the Supreme Court, the statutory authority to promulgate rules for all federal courts. This sorta makes sense because of the separation of powers doctrine. We talk about that separation in:

> *Government Conspiracy to Destroy the Separation of Powers*, Form #05.023
> https://sedm.org/Forms/05-MemLaw/SeparationOfPowers.pdf

However, section 28 U.S.C. §2072(b) goes on to assert that:

> *". . . All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. . ."*

Now, the Constitution asserts in Article I that all legislative authority resides in Congress.

> *Article I of the US Constitution. Legislative Department*
>
> *Section 1. Legislative Powers*
>
> *All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*
> *[United States Constitution Annotated, Article I, Justia; https://law.justia.com/constitution/us/article-1/]*

But we see from 28 U.S.C. §2072, that if the Supreme Court promulgates a criminal rule of procedure that conflicts with a law enacted by Congress, that the law is no longer in effect and the Court's promulgation takes precedence.

If anything the U.S. Supreme Court does supersedes or repeals any Act of Congress or any portion thereof, then the Supreme Court has, in effect, exercised Legislative Powers. So in effect, with 28 U.S.C. §2072, it appears that Congress has deliberately delegated its legislative authority to the Supreme Court.

For a listing of the ONLY geographical locations subject to "Acts of Congress", refer to Title 48 U.S.C. The fact that the Judicial Conference, in concert with the Chief Justice, found it necessary, back in the Spring of 2001, through meetings that occurred in Summer and Fall of 2001, to obscure the truth, by hiding the definition of "Act of Congress", by alleging combining Rule 54 (c) with Rule 1, does not negate the fact that the statutory definition of "Act of Congress", although hidden by its removal from the federal Criminal rules, is still in effect in year 2023.

Legal scholars associated with SEDM know the Truth. It is difficult to convince the uninitiated, especially the generation of attorneys who been admitted to the BAR since 2002, of the serious consequences of the Judicial Branch's overt act of subterfuge in December 2001, taken, no doubt, at the behest of a corrupt Congress, a corrupted BAR, and VERY corrupted attorneys and staff employed by the government. The fact is that it is the U.S. Supreme Court that drafts and revises the Federal Rules of Criminal Procedure so Congress had to act via the Supreme Court.

Now, according to the Code of Conduct for United States Judges:

> *"Canon 1: A Judge Should Uphold the Integrity and Independence of the Judiciary."*
> *[Code of Conduct for United States Judges, United States Courts*
> *(uscourts.gov)](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)]*

The Supreme Court violated Canon 1 when they conspired with Congress to intentionally hide the definition of Act of Congress, after becoming aware of insights garnered above.

The U.S. Supreme Court from time to time, gives up gems of constitutional wisdom that expose their genuine understanding of the notion of delegated powers and the limits of federal jurisdiction. For example, the Court admitted that:

> *"Acts of Congress normally do not have extraterritorial application unless such intent is clearly manifested..."*
> *[Sale v. Haitian Ctrs. Council, Inc., 509 U.S. 155, 188 (1993)]*

Similarly, in 1949, the U.S. Supreme Court held that: \

> *" . . . Legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States. . ."*
> *[Foley Bros., Inc., v. Filardo, 336 U.S. 281, 285 (1949)]*

Foley is cited in United States v. Spelar, 338 U.S. 217, 222 (1949). See also, 34 Op. Att'y Gen. 257, 259 - 260 (1924).

9 Effects of allowing judges to "make law" in the courtroom according to the Designer of our Three Branch system of government

The architect of our three branch government, Montesquieu, described the effect of allowing judges to "make law" as follows:

> *"**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, Book XI, Section 6, 1758;*
> *SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm]*

A major theme of what the legal field calls "Originalism" is the idea that judges cannot "make law". Below are a few videos explaining this concept:

1. *Uncommon Knowledge with Justice Antonin Scalia*
   https://youtu.be/DaoLMW5AF4Y
2. *Interview with U.S. Supreme Court Justice Antonin Scalia about his book Reading Law*, Exhibit #11.006
   https://sedm.org/Exhibits/ExhibitIndex.htm

10 Publici Juris/Public Rights as the Source of ALL Unjust Government Authority[18]

The subject of "publici juris" or "public rights" is the absolute HEART of IRS deception of the public about the origins of their authority. It is worth spending a lot of time on and because it is such a central issue, there is much judicial deception surrounding it which we will carefully explain in the following subsections.

10.1 Proof that "Publici Juris"/PUBLIC RIGHTS Include the ENTIRE Civil Code

Principles underlying this analysis:

1. The CREATOR of a thing is always the absolute owner. See:
   Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship
   https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm
2. CIVIL fictions of law such as "person" are legislative creations of congress and therefore PROPERTY of Congress. See:

[18] Source: *Policy Document: IRS Fraud and Deception About the Statutory Word "Person"*, Form #08.023, Section 11; https://sedm.org/Forms/FormIndex.htm.

Proof That There Is a "Straw Man", Form #05.042
https://sedm.org/Forms/05-MemLaw/StrawMan.pdf

3. If you invoke a civil statutory status such as "person" in court as a method to achieve remedy:
   3.1. That remedy is a RIGHT as property which gives you the ability to enforce a CORRESPONDING obligation on the part of the government as enforcer.
   3.2. That status is government/PUBLIC property you are "borrowing" to which legal strings attach.
   3.3. The government is the GRANTOR or MERCHANT of the property, and you are the BUYER or BORROWER.
   3.4. The MERCHANT always makes the rules under the U.C.C. The civil statutory code is, in fact, the INSTANTIATION of all the rules that regulate the use of such PUBLIC property.
   3.5. The government's EXCLUSIVE SOURCE OF AUTHORITY over you as the Buyer/borrower originate from the RULES in the civil code. Those rules are a regulation of the use of PUBLIC/GOVERNMENT property. Without such a property interest in the civil status or "res" you are invoking, they would have no authority to WRITE such rules or GRANT you the remedies found therein.
   3.6. Your obligations are someone ELSE'S rights because the obligation has to be owed to SOMEONE. If that someone is the government, then in effect you are in custody of government property as an obligor UNTIL you fully satisfy the agreed upon obligation. A public officer is in fact legally defined as someone "in charge of the PROPERTY of the PUBLIC" and that property is YOUR obligation to the government.
4. The legal strings which attach to the CIVIL STATUTORY STATUS of "person" attach as OBLIGATIONS. You cannot acquire such civil statutory OBLIGATIONS WITHOUT your consent otherwise.
5. Invoking the civil statutory status of "person" and claiming its "benefits", protections, immunities, and PRIVILEGES therefore constitutes:
   5.1. An act of IMPLIED CONSENT. See Form #05.003.
   5.2. A "tacit procuration".
6. If you don't want to claim a civil statutory status, you still have a remedy to protect your PRIVATE property, but it MUST derive from the CONSTITUTION and NOT the civil statutory law.
7. CIVIL STATUTORY remedies are PUBLIC rights while CONSTITUTIONAL remedies are PRIVATE rights. You must invoke ONE or the other but NEVER both. They are mutually exclusive and non-overlapping.
8. The only thing the statutory civil law protects is PUBLIC/COLLECTIVE rights and NEVER PRIVATE constitutionally protected rights.
9. You cannot invoke a civil statutory remedy without a CONSENSUAL domicile in the forum granting the privilege. See:

   Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002
   https://sedm.org/Forms/05-MemLaw/Domicile.pdf

10. If you want to AVOID the civil statutory obligations, then either DON'T invoke the status in court or don't choose a civil domicile and instead be a "nonresident" or "non-resident non-person". See:

    Non-Resident Non-Person Position, Form #05.020
    https://sedm.org/Forms/05-MemLaw/NonresidentNonPersonPosition.pdf

11. If you don't consent to the civil status and by implication the CIVIL OBLIGATIONS of the status and do not invoke and specifically DENY its "benefits", but the GOVERNMENT as your opponent enforces those obligations and indirectly the VOLUNTARY STATUS against you, they are:
    11.1. Engaging in criminal identity theft. See Government Identity Theft, Form #05.046.
    11.2. Violating the Thirteenth Amendment prohibition against involuntary servitude.
    11.3. Engaging in criminal human trafficking.
    11.4. Engaging in criminal PEONAGE in the case of taxation, which is slavery to pay off a debt.
12. The equivocation abused in the definitions and authorities below are a method of sophistry intended to DISGUISE or HIDE the fact that they need your consent to civilly govern you and don't want you to be able to opt out and leave the "franchise cage" created by statutory civil privileges. If you opted out, they would lose most of their authority and power over you.
13. In the context of the authorities on this page:
    13.1. "LEGAL" is equated with CIVIL STATUTORY and PUBLIC context.
    13.2. "LAWFUL" is equated with the CONSTITUTIONAL or PRIVATE context.
14. The entire process above is nebulously identified by the judiciary as a "quasi contract". They absolutely and deliberately REFUSE to precisely identify the operations of all the mechanisms described here or exactly what they mean by a "quasi contract", because if they did, it would literally destroy MOST of their power and importance and jurisdiction within constitutional states.

15. When Jefferson in the Declaration of Independence talked about an INVASION of the states with "swarms of officers" (civil statutory "persons"), the above process is EXACTLY what he had in mind. It's a violation of the Constitution and a criminal tort, and because it's a crime, you can't lawfully CONSENT to engage in it. See:

Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union, Form #05.052 https://sedm.org/Forms/05-Memlaw/ChallengeToIRSEnforcementAuth.pdf

More on the subject of this article at:

1. *The "Publici Juris" SCAM*, SEDM Blog
   https://sedm.org/the-publici-juris-or-public-rights-scam/
2. *Private Right or Public Right? Course*, Form #12.044
   https://sedm.org/LibertyU/PrivateRightOrPublicRight.pdf
3. *Separation Between Public and Private Course*, Form #12.025
   https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf
4. *Sovereignty Forms and Instructions Online*, Form #10.004, Cites by Topic: "public right"
   https://famguardian.org/TaxFreedom/CitesByTopic/PublicRight.htm
5. *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037
   https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf
6. *Policy Document: IRS Fraud and Deception About the Statutory Word "Person"*, Form #08.023
   https://sedm.org/Forms/08-PolicyDocs/IRSPerson.pdf
7. *Why the Federal Income Tax is a Privilege Tax Upon Government Property*, Form #04.404 (Member Subscriptions)
   https://sedm.org/Forms/FormIndex.htm

> *PRIVATE. Affecting or belonging to private individuals, as distinct from the public generally.* **Not official; not clothed with [PUBLIC] office**. *People v. Powell, 280 Mich. 699, 274 N.W. 372, 373, 111 A.L.R. 721.*
>
> *As to private "Act," "Agent," "Bill," "Boundary," "Bridge," "Business," "Carrier," "Chapel," Corporation," "Detective," "Dwelling House," "Easement," "Examination," "Ferry," "Nuisance," "Pond," "Property," "Prosecutor," "Rights," "Road," "Sale," "School," "Seal," "Statute," "Stream," "Trust," "Water," "War," "Way,'" 'Wharf," and "Wrongs," see those titles.*
> *[Black's Law Dictionary, Fourth Edition, p. 1358]*
>
> _____
>
> *"PRIVATE PERSON. An individual who is* **not the incumbent of an [PUBLIC] office**.*"*
> *[Black's Law Dictionary, Fourth Edition, p. 1359]*

[EDITORIAL: The "office" they are talking about, in the context of civil statutory law, is the CIVIL STATUS of "person", "citizen", "resident", "spouse", "driver", etc. That office is property of the government WITHIN the government as a corporation. All those claiming the status are therefore "officers of a public corporation" subject to civil statutory regulation.]

> **Res**. *Lat. The subject matter of a trust or will.* **In the civil law, a thing; an object**. *As a term of the law, this word has a very wide and extensive signification, including not only things which are objects of property, but also such as are not capable of individual ownership. And in old English law it is said to have a general import, comprehending both corporeal and incorporeal things of whatever kind, nature, or species.* **By "res," according to the modern civilians, is meant everything that may form an object of rights, in opposition to "persona," which is regarded as a subject of rights. "Res," therefore, in its general meaning, comprises actions of all kinds; while in its restricted sense it comprehends every object of right, except actions**. *This has reference to the fundamental division of the Institutes that all law relates either to* persons, *to* things, *or to* actions.
>
> **Res is everything that may form an object of rights and includes an object, subject-matter or** *[CIVIL] status*. **In re Riggle's Will, 11 A.D.2d 51 205 N.Y.S.2d 19, 21, 22. The term is particularly applied to an object, subject-matter, or status, considered as the defendant in an action, or as an object against which, directly, proceedings are taken.** *Thus, in a prize case, the captured vessel is "the* res"; *and proceedings of this character are said to be* in rem. *(See In personam; In Rem.)* "Res" *may also denote the action or proceeding, as when a cause, which is not between adversary parties, it entitled* "In re _____".
> *[Black's Law Dictionary, Sixth Edition, pp. 1304-1306]*

[EDITORIAL: The civil "status" of "person" is an example of a "res" as described above. This "STATUS" is the OBJECT of rights, not the SUBJECT of them. The human CONSENSUALLY FILLING the civil status of "person" is the SUBJECT of those rights. OBJECTS, SUBJECT MATTERS, or STATUSES are all equivalent and all fall in the category of "res". An example of a "res" is "person", "citizen", "resident", "driver", "taxpayer", etc. An action against a civil statutory "person" is the defendant or plaintiff in a civil action and the fictional party against whom legal proceedings are taken DIRECTLY. The human being consensually filling the office or status is the INDIRECT object of the civil proceeding.]

> *PUBLICI 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 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]*

[**EDITORIAL**: The civil code documents an AGGREGATE of rights, and the civil statuses WITHIN the civil code such as "person" are the OBJECT of those rights. The person CONSENSUALLY filling the PUBLIC office of "person" is the SUBJECT of those rights.]

> **Property.** *That which is peculiar or proper to any person; that which* **belongs exclusively to one**. *In the strict legal sense,* **an aggregate of rights which are guaranteed and protected by the government**. *Fulton Light, Heat & Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy.*
>
> *The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable value or which goes to make up wealth or estate.* **It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of one's [PUBLIC CIVIL] property rights by actionable wrong.** *Labberton v. General Cas. Co. of America, 53 Wash.2d. 180, 332 P.2d. 250, 252, 254.*
>
> *Property embraces everything which is or may be the subject of ownership, whether a legal ownership. or whether beneficial, or a private ownership. Davis v. Davis. TexCiv-App., 495 S.W.2d. 607, 611. Term includes not only ownership and possession but also the right of use and enjoyment for lawful purposes. Hoffmann v. Kinealy, Mo., 389 S.W.2d. 745, 752. Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical thing, as right to possess, use and dispose of it. Cereghino v. State By and Through State Highway Commission, 230 Or. 439, 370 P.2d. 694, 697.*
> *[Black's Law Dictionary, Fifth Edition, p. 1095]*

[EDITORIAL: A civil statutory "person" is an aggregate of rights, because many different TYPES of rights can attach to it as a legal fiction.]

> *The rights which claimants thus acquired through the previous appropriations of the State are property rights.* HN7 **"Property" in the strict legal sense is an aggregate of rights which are guaranteed and protected by government. In the ordinary sense it is used to indicate the thing itself rather than the rights attached to it. Whether or not we employ the term in one or the other of these senses, the result is the same, so far as the interference with** [**49] **property is concerned; for, while in the former attention is directed to the rights which make up the thing, in the latter the thing which constitutes the aggregation of these rights is emphasized. In both cases the rights attached to the thing are the subject of concern. A reference to the cases in the courts will show the various rights which have been protected under the name of property but which, in reality, are rights attached to something which in the ordinary mind constitutes property.** *In Forster v. Scott, 136 N.Y. 577, Judge O'Brien said: "*HN8 *Whenever a law deprives the* [*289] *owner of the*

beneficial use and free enjoyment of his property, or imposes restraints upon such use and enjoyment, that materially affect its value, without legal process or compensation, it deprives him of his property within the meaning of the Constitution. All that is beneficial in property arises from its use and the fruits of that use, and whatever deprives a person of them deprives him of all that is desirable and valuable in the title and possession."

*In Pape v. New York & Harlem R. R. Co., 74 A.D. 175, Justice Ingraham said: "It is sufficient to say that this provision of the Constitution [**50] 'is to have a large and liberal interpretation, and that the fundamental principle of free government, expressed in these words, protects not only life, liberty and property in a strict and technical sense, against unlawful invasion by the government in the exertion of governmental power in any of its departments, but also protects every essential incident to the enjoyment of those rights.' (People v. King, 110 N.Y. 418.)"*
[Fulton Light, Heat & Power Co. v. State, 65 Misc. 263 (1909)]

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*"***It is universally conceded that a divorce proceeding, in so far as it affects the status of the parties, is an action in rem. 19 Cor. Jur. 22, § 24; 3 Freeman on Judgments (5th Ed.) 3152. It is usually said that the 'marriage status' is the res.** *Both parties to the marriage, and the state of the residence of each party to the marriage, has an interest in the marriage status. In order that any court may obtain jurisdiction over an action for divorce that court must in some way get jurisdiction over the res (the marriage status).*
[Delanoy v. Delanoy, 216 Cal. 27, 13 P.2d. 719 (CA. 1932)]

[EDITORIAL: An IN REM proceeding is one against PROPERTY. The "marriage status" itself IS the property or "res". Thus the civil status of "spouse" under the family code civil franchise is PUBLIC property CREATED and OWNED by the legislature.]

"**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 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]

[EDITORIAL: A "public officer" is someone in charge of the PROPERTY of the public. In the case of the civil statutory code, that PROPERTY is the civil status (Form #13.008) created and granted legislatively by Congress, and the "aggregation of rights" that it represents as an "object of property".]

"But it was also contended in that court, and is insisted upon here, that the judgment in the State court against the plaintiff was void for want of personal service of process on him, or of his appearance in the action in which it was rendered, and that the premises in controversy could not be subjected to the payment of the demand 722*722 of a resident creditor except by a proceeding in rem; that is, by a direct proceeding against the property for that purpose. If these positions are sound, the ruling of the Circuit Court as to the invalidity of that judgment must be sustained, notwithstanding our dissent from the reasons upon which it was made. **And that they are sound would seem to follow from two well-established principles of public law respecting the jurisdiction of an independent State over persons and property. The several States of the Union are not, it is true, in every respect independent, many of the rights and powers which originally belonged to them being now vested in the government created by the Constitution. But, except as restrained and limited by that instrument, they possess and exercise the authority of independent States, and the principles of public law to which we have referred are applicable to them. One of these principles is, that**

[1] every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory. As a consequence, every State has the power to determine for itself the civil status and capacities of its inhabitants; to prescribe the subjects upon which they may contract, the forms and solemnities with which their contracts shall be executed, the rights and obligations arising from them, and the mode in which their validity shall be determined and their obligations enforced; and also to regulate the manner

> **and conditions upon which property situated within such territory, both personal and real, may be acquired, enjoyed, and transferred.**
>
> **[2] The other principle of public law referred to follows from the one mentioned; that is, that no State can exercise direct jurisdiction and authority over persons or property without its territory."**
> [Pennoyer v. Neff, 95 U.S. 714 (1878);
> *https://scholar.google.com/scholar_case?case=13333263776496540273*]

[EDITORIAL: When any state or the national Congress wants to reach outside its exclusive territory (extraterritorially), it may only do so by using property or rights WITHIN its territory. An action against a civil "person" within a constitutional state that is created and owned by the national government is an action against a public office domiciled in the District of Columbia as required by 4 U.S.C. §72 directly, and against its OWNER indirectly. It is an "in rem" proceeding against the legislatively but not constitutionally FOREIGN office with a FOREIGN civil domicile. The officer voluntarily filling and animating the FOREIGN office has a domicile independent of the office he or she represents. In that sense, a state national vindicating a NATIONAL public right or civil statutory right is acting as a "res"-"ident" agent for a foreign public office with a foreign domicile.]

10.2 The "Publici Juris" or "Public Rights" Scam[19]

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.

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

[19] Source: *Why the Federal Income Tax is a Privilege Tax Upon Government Property*, Form #04.404, Section 3; https://sedm.org/product/why-the-federal-income-tax-is-a-privilege-tax-on-government-property-form-04-404/

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 Constitutional Avoidance Doctrine 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, Michael Anthony Peroutka Townhall 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, Book XI, Section 6, 1758;*
> *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.* [20] *Such claims are sometimes spoken of as gratuitous in that they cannot be enforced by suit without statutory consent.* [21] ***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.***[22] ***If, for example, money or property of an 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.***[23]*"*
> *[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)]*

[20] 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).

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

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

[23] 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.

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

10.3 What is a "quasi-contract"[24]

Quasi-contracts between you and the government occur when you are in receipt, custody, or temporary control over property or rights granted to you by the government under a franchise. Here is description of that condition:

"It is only where some right or privilege [which are GOVERNMENT PROPERTY] is conferred by the government or municipality upon the owner, which he can use in connection with his property, or by means of which the use of his property is rendered more valuable to him, or he thereby enjoys an advantage over others, that the compensation to be received by him becomes a legitimate matter of regulation. Submission to the regulation of compensation in such cases is an implied condition of the grant, and the State, in exercising its power of prescribing the compensation, only determines the conditions upon which its concession shall be enjoyed. When the privilege ends, the power of regulation ceases."
[Munn v. Illinois, 94 U.S. 113 (1877)]

If they can't regulate it, then it's PRIVATE, constitutionally protected property. If they CAN, then it's PUBLIC property.

"The legislation in question is nothing less than a bold assertion of absolute power by the State to control at its discretion the property and business of the citizen, and fix the compensation he shall receive. The will of the legislature is made the condition upon which the owner shall receive the fruits of his property and the just reward of his labor, industry, and enterprise. "That government," says Story, "can scarcely be deemed to be free where the rights of property are left solely dependent upon the will of a legislative body without any restraint. The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred." Wilkeson v. Leland, 2 Pet. 657."
[Munn v. Illinois, 94 U.S. 113 (1877)]

And if you have or use that PUBLIC property, then you implicitly consent to be regulated. The civil STATUS of the owner of the PROPERTY or the owner establishes whether it is PUBLIC or PRIVATE.

All franchises involve the "grants" mentioned above. They too are privileges. You seldom see "grant" used in the context of anything OTHER than franchises.

Big red flags should come up whenever you see SCOTUS use the word "implied" as above. "implied"="grant" = legal strings=obligations. You see exactly that same language in U.S. v. Wong Kim Ark with aliens:

"The implied license, therefore, under which they enter, can never be construed to grant such exemption.' 7 Cranch, 144." Cranch, 144."
[United States v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898)]

[24] Source: *How to File Returns*, Form #09.074, Section 7.3; https://sedm.org/Forms/FormIndex.htm.

> *"It is only where some right or privilege [which are GOVERNMENT PROPERTY] is conferred by the government or municipality upon the owner, which he can use in connection with his property, or by means of which the use of his property is rendered more valuable to him, or he thereby enjoys an advantage over others, that the compensation to be received by him becomes a legitimate matter of regulation. Submission to the regulation of compensation in such cases is an IMPLIED CONDITION of the grant, and the State, in exercising its power of prescribing the compensation, only determines the conditions upon which its concession shall be enjoyed. When the privilege ends, the power of regulation ceases."*
> *[Munn v. Illinois, 94 U.S. 113 (1877)]*

Both cases involve PRIVILEGES. In the latter case they call it an "implied license". In the Munn case it also involves licensed activities. Applying for the license constitutes effective consent to be regulated and taxed.

In the case of the SSN, it too is what the Federal Trade Commission calls a "franchise mark", or evidence of the existence of a LICENSE. The USE of the SSN on an information return is evidence of the assent of the taxpayer (to whom the SSN is assigned) to the representations made on the information return as to taxable income

When the U.S. Supreme Court uses the word "implied", they are giving you notice of what you effectively consent to by engaging in the regulated or taxed activity.

"quasi contract"="implied license"="implied condition" of use=legal strings

They are EXACTLY the same thing. They certainly are subtle about it.

> *"The rich rules over the poor,*
> *And* **the borrower is servant to the lender.***"*
> *[*Prov. 22:7*, Bible, NKJV]*

> ***"The State in such cases exercises no greater right than an individual may exercise over the use of his own property when leased or loaned to others. The conditions upon which the privilege shall be enjoyed being stated or implied in the legislation authorizing its grant, no right is, of course, impaired by their enforcement. The recipient of the privilege, in effect, stipulates to comply with the conditions. It matters not how limited the privilege conferred, its acceptance implies an assent to the regulation of its use and the compensation for it."***
> *[*Munn v. Illinois, 94 U.S. 113 (1877) *]*

10.4 How did you CONSENT to the "Quasi-Contract"?[25]

The obligation to pay income taxes is "quasi-contractual", according to the U.S. Supreme Court:

> *"Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., 127 U.S. 265 , 292, et seq. 8 S.Ct. 1370, compare Fauntleroy v. Lum, 210 U.S. 230 , 28 S.Ct. 641,* ***still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or indebitatus assumpsit.*** ***United States v. Chamberlin, 219 U.S. 250, 31 S.Ct. 155; Price v. United States, 269 U.S. 492 , 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall. 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence.*** *Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272] 262; Attorney General v. _ _, 2 Ans.Rep. 558; see Comyn's Digest (Title 'Dett,' A, 9); 1 Chitty on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77. "*
> *[Milwaukee v. White, 296 U.S. 268 (1935)]*

The obligation to pay taxes and the consent to the "quasi-contract" is created by:

1. CHOOSING the privileged statuses of citizen or resident and receiving "income" or "gross income" from anyone worldwide. One can UNCONSENT to making worldwide earnings taxable by:

[25] Source: *Why the Federal Income Tax is a Privilege Tax Upon Government Property*, Form #04.404, Section 11.1; https://sedm.org/Forms/FormIndex.htm.

1.1. If a State National: Changing to "nonresident alien". More particularly, changing the STATUS of the SSN assigned to your legal person to "nonresident alien" pursuant to 26 C.F.R. §301.6109-1(g). This is done usually by filing a 1040NR return after previously Filing a 1040 form.

1.2. If a STATUTORY citizen: Changing your domicile to outside of federal territory to become a nonresident and a "nonresident alien". More particularly, changing the STATUS of the SSN assigned to your legal person to "nonresident alien" pursuant to 26 C.F.R. §301.6109-1(g). This is done usually by filing a 1040NR return after previously Filing a 1040 form.

1.3. If you are a "resident alien" or "alien": Leaving the country or naturalizing as an alien.

Thus, the PROPERTY being granted that creates the obligation is the USE of the status of citizen or resident, which has the condition that those using it must RENT it by paying tax on "income" or "gross income" received.

2. CHOOSING the non-privileged status of "nonresident alien" and receiving government payments of any kind called "income" or "gross income". One can unconsent by refusing to receive government payments. Thus, the PROPERTY being granted that creates the obligation is the government payment. Those receiving it agree or consent that the government retains a qualified interest in it which must be RETURNED. By "qualified interest" we mean a SHARED property interest.
3. Failing or refusing to rebut false information returns connecting your NON-TAXABLE earnings to the status of "gross income" and "trade or business" income. Information return reports such as the W-2 and 1099 can only be filed upon those engaged in a "trade or business", per 26 U.S.C. §6041(a). All such parties are either public officers or receiving government property. For details on how to rebut these usually false reports, see:

Correcting Erroneous Information Returns, Form #04.001 https://sedm.org/Forms/FormIndex.htm

It goes without saying that the REVERSE of the process of UNCONSENTING is how you effectively consented to the obligation to begin with.

All three of the above constitute either "IMPLIED consent" or "assent" to the income tax. Items 1 and 2 involve "IMPLIED consent" while item 3 involves "ASSENT". They must have one or the other to make their enforcement activities consistent with the Constitution and legitimate:

> *"Implied consent. That manifested by signs, actions, or facts, **or by inaction or silence**, which raise a presumption that the consent has been given. For example, when a corporation does business in a state it impliedly consents to be subject to the jurisdiction of that state's courts in the event of tortious conduct, even though it is not incorporated in that state. Most every state has a statute implying the consent of one who drives upon its highways to submit to some type of scientific test or tests measuring the alcoholic content of the driver's blood. In addition to implying consent, these statutes usually provide that if the result of the test shows that the alcohol content exceeds a specified percentage, then a rebuttable presumption of intoxication arises."*
> *[Black's Law Dictionary, Fifth Edition, pp. 276-277*
>
> _____
>
> *assent noun*
>
> *as·sent | \ ə-ˈsent , a- *
>
> *Definition of assent (Entry 2 of 2)*
>
> *: an act of agreeing to something especially after thoughtful consideration : an act of assenting : ACQUIESCENCE, AGREEMENT*
>
> *She gave her assent to the proposal.*
>
> *Other Words from assent*
>
> *[Merriam-Webster Dictionary: Assent, Downloaded 11/27/2020; https://www.merriam-webster.com/dictionary/assent]*

Because the taxpayer can be deemed to agree with 3rd party information by failing to disagree, his assent is more what is needed than his "consent"----one may consent to be a resident alien, and such person no longer has the option not to consent to be taxed on his worldwide income. One cannot be forced to work for federal government, so one consents to that; such person no longer has the option to "not consent" to the income tax on such income.

When it comes to assessing a tax, they need your assent to the tax---either via your self-assessment or tacitly if you refuse to file as you are apparently required to do, based on the evidence. "consent" at that point is no longer the issue---they do not need your consent to be taxed on what is determined to be your taxable income. but they also cannot just make up a tax assessment out of the blue without either your direct assent (via self-assessment) or via your tacit assent (based on available information and your failure to make a self-assessment).

As far as changing the status of either a STATUTORY "citizen" or a state national to that of "nonresident alien", the regulation authorizing that says:

> *26 C.F.R. §301.6109-1 Identifying numbers.*
>
> *(g)* Special rules for taxpayer identifying numbers issued to foreign persons—
>
> *(1)* General rule—
>
> ***(i)* Social security number.**
>
> ***A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.***
>
> *(ii)* Employer identification number.
>
> *An employer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. person. However, the Internal Revenue Service may establish a separate class of employer identification numbers solely dedicated to foreign persons which will be identified as such in the records and database of the Internal Revenue Service. A person may establish a different status for the number either at the time of application or subsequently by providing proof of U.S. or foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. The Internal Revenue Service may require a person to apply for the type of employer identification number that reflects the status of that person as a U.S. or foreign person.*
>
> ***2) Change of foreign status.***
>
> ***Once a taxpayer identifying number is identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. or foreign person, the status of the number is permanent until the circumstances of the taxpayer change. A taxpayer whose status changes (for example, a nonresident alien individual with a social security number becomes a U.S. resident alien) must notify the Internal Revenue Service of the change of status under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify.***

So if a "nonresident alien" files a Form 1040, he is deemed to be reporting to IRS that "the circumstances of the taxpayer" changed and that he is electing to be treated as a resident alien per 26 U.S.C. §7701(b)(1)(A). So "U.S. person" becomes the NEW "permanent"' status for the SSN. Now we can see why they call it a "first year election" in the sub-heading at 26 U.S.C. §7701(b)(4). It is a veiled warning that the taxpayer's SSN will be deemed to be assigned to a resident alien ("U.S. person" status) every year after that, as well. Unless/until you inform the IRS that, once again, the taxpayer's circumstances changed.

So the common thread is the grant and purchase of property, and that purchase gives the grantor the right to make rules or conditions for the use of the property under Article 4, Section 3, Clause 2, including the obligation to pay rent for the privilege of using the RIGHTS attached to the status in the case of STATUTORY citizen or STATUTORY resident or to return a portion of the property in the case of government payments.

In the case of citizen or resident, there is NO KICKBACK, because the property granted is NOT money, but a status.

> *kickback*
>
> *noun*
>
> *kick·back | \ ˈkik-ˌbak*

Definition of kickback

(Entry 1 of 2)

1:a return of a part of a sum received often because of confidential agreement or coercion

every city contract had been let with a ten percent kickback to city officials— D. K. Shipler

2: a sharp violent reaction
[Merriam-Webster Dictionary: Kickback, Downloaded 11/26/2020; https://www.merriam-webster.com/dictionary/kickback]

In the case of "nonresident aliens", there IS a kickback, because the property granted is MONEY in the case of government payments, a portion of which must be "RETURNED".

In both of the above cases, there is a grant of government property, however, which gives rise to the "quasi-contractual" obligation. Accepting the property or using it, therefore, constitutes effective consent or "implied consent", JUST as SCOTUS said:

> *"The conditions upon which the privilege shall be enjoyed being stated or implied in the legislation authorizing its grant, no right is, of course, impaired by their enforcement.* ***The recipient of the privilege, in effect, stipulates to comply with the conditions. It matters not how limited the privilege conferred, its acceptance implies an assent to the regulation of its use and the compensation for it.*** *"*
> *[Munn v. Illinois, 94 U.S. 113 (1877)]*

By "stipulates" the U.S. Supreme Court means "CONSENTS and agrees" to the "quasi contract". It's a quasi rather than actual contract because the ACT of accepting or using the property is TREATED AS an effective act of consent, even if the person accepting the property does not KNOW this is what is happening from a legal perspective. The legal dictionary has two names for this type of consent:

1. "tacit procuration"

> *"Procuration.. Agency; proxy; the act of constituting another one's attorney in fact. The act by which one person gives power to another to act in his place, as he could do himself. Action under a power of attorney or other constitution of agency. Indorsing a bill or note "by procuration" is doing it as proxy for another or by his authority. The use of the word procuration (usually, per procuratione, or abbreviated to per proc. or p. p.) on a promissory note by an agent is notice that the agent has but a limited authority to sign.*
>
> *An express procuration is one made by the express consent of the parties. An implied or tacit procuration takes place when an individual sees another managing his affairs and does not interfere to prevent it. Procurations are also divided into those which contain absolute power, or a general authority, and those which give only a limited power. Also, the act or offence of procuring women for lewd purposes. See also Proctor."*
> *[Black's Law Dictionary, Fifth Edition, pp. 1086-1087]*

2. "Sub silentio"

> *"SUB SILENTIO. Under silence; without any notice being taken. Passing a thing sub silentio may be evidence of consent"*
> *[Black's Law Dictionary, Fourth Edition, p. 1593]*

_____

> *"Qui tacet consentire videtur.*
>
> *He who is silent appears to consent. Jenk. Cent. 32."*
> *[Bouvier's Maxims of Law, 1856;*
> *SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]*

The above processes therefore are what we refer to as "invisible consent".

Further, note that in Munn v. Illinois above, the U.S. Supreme Court ALSO used the word "obviously". Tacit procuration is in no way OBVIOUS and operates very subtly. It may be obvious to THEM, but it's far from obvious to the VICTIMS of the "quasi-contractual scam". That's why they CLOAKED the process in legalese using a nebulous term to describe the

above process, which they will ABSOLUTELY refuse to disclose because they DON'T WANT YOU TO KNOW! It's the SECRET to leaving the system.

It is important that people understand they can't just argue their way out of an obligation by effectively saying "AHA! I know what this tax REALLY is!". We only discuss the quasi-contractual nature of the obligations to file and pay in the context of opposing the idea that these things are forced on everyone This is a matter of personal taste and sensibilities. We prefer to say that people are unknowingly opting into income tax liability.

With normal people, we just say as a shorthand that they can "opt out" because they are starting with the assumption that they are somehow already liable and that nothing can legally be done to avoid that. So that is a starting point----from there they can learn that they have actually been opting in, every time. So they don't need to opt out so much as refrain from opting IN

But since there are some different things you have to do; you could say it is changing the SSN to nonresident alien can definitely be seen as opting out of U.S. person status. But even then, you still have to refrain from opting into income tax liability----by not misapplying the law in your determinations of what your gross income is, and by understanding that you have the right to exclude non-federally sourced income from "gross income".

11 Making Law Through Statutory Interpretation or Implementation[26]

11.1 Abuse of language and the rules of statutory construction by judges originated with the Pharisees in the Bible[27]

> *"Judicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our government of laws with a judicial oligarchy."*
> *[Senator Sam Ervin, during Watergate hearing]*

> *"When words lose their meaning, people will lose their liberty."*
> *[Confucius, circa 500 B.C.]*

> *"If a word has an infinite number of meanings [or even a SUBJECTIVE meaning], it has no meaning, and our reasoning with one another has been annihilated."*
> *[Aristotle, Metaphysica Book IV]*

The abuse of the Rules of Statutory Construction and Interpretation by corrupt judges to undermine the Constitution or the intent of the law is not a new phenomenon. Throughout this document, the term "judge" and "Pharisee" are effectively equivalent in the case of those corrupt activist judges who abuse the Rules of Statutory Construction and Interpretation to "make law". The purpose of this section will be to prove this fact.

The first and most famous historical instance of the abuse of the Rules of Statutory Construction and Interpretation was described in the Bible, when Jesus criticized the Pharisees. The Pharisees were the interpreters of God's 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 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.*
>
> *[. . .]*

[26] Source: *What is "law"?*, Form #05.048, Section 12; https://sedm.org/Forms/FormIndex.htm.

[27] Adapted from: *Legal Deception, Propaganda, and Fraud*, Form #05.014, Section 3; https://sedm.org/Forms/FormIndex.htm.

> *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 Saducees, 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 Saducees 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 scripture below gives 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 Saducees 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 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 are 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 a 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 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 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 Saducees 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.*[28]

> *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"*[29]*). 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. **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***

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

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

> ***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

The reason so few of the modern Pharisee lawyers are willing to confront, expose, and prosecute the massive identity theft is because they don't want to risk their lucrative livelihood by pissing off a just as corrupted judge and end up disbarred. See the following authorities for proof that attorneys have a criminal conflict of interest and are destroyed if they speak up, and why they don't speak up about the corruption:

1. *Dare to Disagree*, Margaret Heffernan
   http://www.ted.com/talks/margaret_heffernan_dare_to_disagree
2. *Petition for Admission to Practice*, Family Guardian Fellowship
   http://famguardian.org/Subjects/LawAndGovt/LegalEthics/PetForAdmToPractice-USDC.pdf
3. *Why You Don't Want to Hire an Attorney*, Family Guardian Fellowship
   http://famguardian.org/Subjects/LawAndGovt/LegalEthics/Corruption/WhyYouDontWantAnAtty/WhyYouDontWantAnAttorney.htm

An entire sermon series has been developed which summarizes the sin of the Pharisees of "redefining the law of God" if you are interested:

Redefining Religion, Newbreak.org http://newbreak.org/resources/messages/redefining-religion/character-redescribed

Finally, if you would like to learn more about the subject of this section see:

Who Were the Pharisees and Saducees?, Form #05.047 http://sedm.org/Forms/FormIndex.htm

11.2 Antonin Scalia's efforts to define and END efforts by his Judicial colleagues to "make law"

Unfortunately, proponents of Originalism such as now deceased U.S. Supreme Court Justice Scalia are not very good at identifying EXACTLY HOW judges "make law". Scalia vainly attempted this task with his book on the subject but failed miserably as expected:

Reading Law: The Interpretation of Legal Texts, Antonin Scalia and Bryan A. Garner, ISBN: 978-0314275554 https://www.amazon.com/Reading-Law-Interpretation-Legal-Texts/dp/031427555X

Antonin Scalia mysteriously died during a hunting trip in Texas while he was still serving as a Supreme Court Justice. We believe it was because of his efforts using the above book to stop efforts by his judicial colleagues to "make law".

A much more detailed analysis of how judges corruptly and even unconstitutionally "make law" is needed because you won't EVER hear the truth about this subject coming from those in power such as Justice Scalia, who would have to piss in his own drinking water to do so. As we like to say:

> *Never ask a barber whether you need a haircut.*

Also, expecting a lawyer, and especially YOUR OWN lawyer to describe these tactics would also take away most of his/her power and render his or her services less useful or even irrelevant. Therefore, a disinterested, unprivileged, and unlicensed NON-MEMBER of the legal profession guild must perform this analysis to produce an objective and complete result. That is the focus of this section.

11.3 Adding things to statutory definitions that do not expressly appear is "making law"

Adding something to a statutory definition that does not appear could be considered "making law" because it involves changing the meaning of the statute. This violates the following Rules of Statutory Construction and Interpretation:

> *"**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."*
> *[Black's Law Dictionary, Sixth Edition, p. 581]*

> *"**When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.** Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated'"); Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
> *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

In general, judges do not make laws in the same way that legislators do. Rather, they interpret existing laws and apply them to specific cases. Their rulings can have broader implications for future cases and can set a precedent that other judges may follow. Judges can make law through common law or statutory interpretation.

When interpreting a statute, judges will often look to the text of the statute itself, as well as other sources such as legislative history and case law, to determine its meaning[30]. If a judge adds something to a statutory definition that does not appear in the text of the statute, he or she is effectively changing the meaning of the statute. This could be considered "making law" because it involves creating new legal rules that did not previously exist[31].

However, whether this is considered "making law" depends on the specific legal system in question. In some legal systems, judges are given more discretion to interpret statutes and create new legal rules. In others, judges are expected to adhere more closely to the text of the statute and are not given as much discretion to create new legal rules[32].

Adding things to existing statutory definitions is sometimes done through the ABUSE of the word "includes". See:

1. *Legal Deception, Propaganda, and Fraud*, Form #05.014, Section 16.2
   https://sedm.org/Forms/FormIndex.htm
2. *Government Identity Theft*, Form #05.046, Section 8.4
   https://sedm.org/Forms/FormIndex.htm

11.4 Abusing Equivocation to confuse contexts of terms

Abusing words that have multiple contexts as if both contexts are equivalent. This ultimately causes a civil franchise status to be imputed to those that it does not apply to and thus kidnaps their legal identity and compels them to be party to a franchise contract that they do not consent to and cannot even lawfully consent to as a party with "inalienable rights". This includes:

1. Confusing CONSTITUTIONAL and STATUTORY geographical terms. See:
   1.1. *Citizenship Status v. Tax Status*, Form #10.011, Section 15
   https://sedm.org/Forms/FormIndex.htm
   1.2. *Non-Resident Non-Person Position*, Form #05.020, Section 4
   https://sedm.org/Forms/FormIndex.htm
2. Confusing "United States" the legal person and corporation with "United States" the geography. See:
   2.1. *Foundations of Freedom Course*, Form #12.021, Video 4: Willful Government Deception and Propaganda
   https://sedm.org/Forms/FormIndex.htm
   2.2. *Government Identity Theft*, Form #05.046, Section 8.6.3
   https://sedm.org/Forms/FormIndex.htm
3. Confusing "State" in the Constitutional context with statutory term "this State", meaning federal enclaves within states of the Union. Nearly all statutory state franchises only apply within federal enclaves where state and federal jurisdictions overlap. See:
   3.1. *Corporatization and Privatization of the Government*, Form #05.024, Section 10.
   https://sedm.org/Forms/FormIndex.htm
   3.2. *State Income Taxes*, Form #05.031, Sections 4 and 12.6.
   https://sedm.org/Forms/FormIndex.htm
   3.3. *Sovereignty Forms and Instructions Online*, Form #10.004, Cites by Topic: "State"
   https://famguardian.org/TaxFreedom/CitesByTopic/State.htm
4. Confusing CONSTITUTIONAL citizens with STATUTORY citizens. They are NOT equivalent and DO NOT overlap. See:
   4.1. *Why You Are a Political Citizen but Civil Non-Citizen, National, and Nonresident Alien*, Form #05.006, Sections 4 and 5
   https://sedm.org/Forms/FormIndex.htm
   4.2. *Why the Fourteenth Amendment is Not a Threat to Your Freedom*, Form #08.015
   https://sedm.org/Forms/FormIndex.htm
   4.3. *Government Identity Theft*, Form #05.046, Section 10
   https://sedm.org/Forms/FormIndex.htm

[30] *The (Not So) Plain Meaning Rule*, University of Chicago Law Review, William Baude, Ryan D Doerfler, Article 84.2; https://lawreview.uchicago.edu/print-archive/not-so-plain-meaning-rule.

[31] *Statutory Interpretation: General Principles and Recent Trends*, Congressional Reseearch Service, Report 96-589; https://www.everycrsreport.com/reports/97-589.html.

[32] *Drafing Legislation*, House Office of the Legislative Counsel; https://legcounsel.house.gov/holc-guide-legislative-drafting

12 Making Or Selectively Repealing Law through Discretionary Judicial Practice (Common Law)

12.1 Enforcing obligations where there is no injury

If a judge enforces an obligation he created in which there was no injury to another, it could be argued that he is making law.

If a judge creates an obligation that did not previously exist in the law, he is effectively making new law. This is a BAD thing because it amounts to slavery if the obligation is against a litigant. This constitutes slavery in violation of the Thirteenth Amendment and a taking of private property in the form of labor and chattel property. This is because:

1. The Declaration of Independence says that all just powers derive from CONSENT in some form.
2. It also violates the principles of standing requiring a demonstrated injury traceable to the defendant before a judicial action can commence.

In the case of enforcing an obligation that he created in which there was no injury to another, it would depend on whether the obligation was consistent with existing legal norms and principles. If the obligation was consistent with existing legal norms and principles, then it would not necessarily be considered "making law." However, if the obligation was inconsistent with existing legal norms and principles, then it could be considered "making law"[33].

12.2 Enforcing a statute outside the territory it applies to

Enforcing a statute extraterritorially outside the territory it applies to could be considered "making law" because it involves changing the meaning of the statute.

The extraterritorial application of a statute is a complex issue that involves various legal principles and considerations. In some cases, courts have held that statutes can be applied extraterritorially if there is a clear indication of congressional intent to do so[34]. However, in other cases, courts have held that statutes cannot be applied extraterritorially unless there is a clear indication of congressional intent to do so.[35]

Any statute enforced against a nonresident party situated in a legislatively foreign jurisdiction who has a foreign domicile causes the judge to act in a POLITICAL rather than LEGAL capacity, which the Separation of Powers Doctrine forbids. For example, citing federal civil statutes applicable only to those domiciled on federal territory within the exclusive jurisdiction of Congress to a state domiciled party. This is identity theft. See:

1. *Federal Jurisdiction*, Form #05.018, Section 3
   https://sedm.org/Forms/FormIndex.htm
2. *Flawed Tax Arguments to Avoid*, Form #08.004, Section 3
   https://sedm.org/Forms/FormIndex.htm

12.3 Unconstitutional Judicially Created Doctrines not found in the Constitution or the written law that Completely Destroy the Separation of Powers and Your Constitutional Rights

[33] *When the Judge is Wrong*, American Bar Association (ABA); https://www.americanbar.org/groups/litigation/resources/newsletters/minority-trial/when-judge-wrong/

[34] *Extraterritorial Application of American Crimina Law: An Abbreviated Sketch*, Congressional Research Service, Report RS22497; https://crsreports.congress.gov/product/pdf/RS/RS22497

[35] *Wikipedia: Extraterritorial Operation*; https://en.wikipedia.org/wiki/Extraterritorial_operation.

Thomas Jefferson warned that the main source of corruption within our republic would be the judiciary. Below are his prophetic words on this subject:

> *"It has long been my opinion, and I have never shrunk from its expression,... that the germ of dissolution of our Federal Government is in the constitution of the Federal Judiciary--an irresponsible body (for impeachment is scarcely a scare-crow),* ***working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped from the States and the government be consolidated into one. To this I am opposed.****"*
> *[Thomas Jefferson to Charles Hammond, 1821. ME 15:331]*

> *"Contrary to all correct example, [the Federal judiciary] are in the habit of going out of the question before them, to throw an anchor ahead and grapple further hold for future advances of power.* ***They are then in fact the corps of sappers and miners, steadily working to undermine the independent rights of the States and to consolidate all power in the hands of that government in which they have so important a freehold estate.****"*
> *[Thomas Jefferson: Autobiography, 1821. ME 1:121]*

> *"The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone.* ***This will lay all things at their feet, and they are too well versed in English law to forget the maxim, 'boni judicis est ampliare jurisdictionem.****'"*
> *[Thomas Jefferson to Thomas Ritchie, 1820. ME 15:297]*

> *"****When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated.****"*
> *[Thomas Jefferson to Charles Hammond, 1821. ME 15:332]*

"What an augmentation of the field for jobbing, speculating, plundering, office-building ["trade or business" scam] and office-hunting would be produced by an assumption [PRESUMPTION] of all the State powers into the hands of the General Government!"
[Thomas Jefferson to Gideon Granger, 1800. ME 10:168]

The following subsection detail exactly how the above has been accomplished since the above was written. Every example given shows that judges are either legislating from the bench, adding states of the Union to territorial definitions, extending statutes beyond their intended territorial scope and thus "making law".

Everything documented in the following subsections is "judge made law" that judges have NO constitutional authority to make, which benefits them personally. The result is that they become leaders of an organized crime syndicate in which they are the organizers.

Corrupt governments like to identify the sovereignty community as the origin of "pseudolaw"[36].

Pseudolaw *(from the Greek "ψευδής" (pseudo); "false") consists of* ***pseudolegal*** *statements, beliefs, or practices that are claimed to be based on accepted law or legal doctrine but which deviate significantly from most conventional understandings of law and jurisprudence or which originate from non-existent statutes or legal principles the advocate or adherent incorrectly believes exist.*[1]
[Wikipedia: Pseudolaw, Downloaded 10/16/23; https://en.wikipedia.org/wiki/Pseudolaw]

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FOOTNOTES:

1. McRoberts, Colin (March 21, 2016). "Here comes pseudolaw, a weird little cousin of pseudoscience". Aeon. Retrieved January 4, 2018.

Well, corrupt judges in the instances documented here are also a source of "pseudolaw" because the doctrines described here have no constitutional origin, have the "force of law", create enforceable obligations, and yet have NO CONSTITUTIONAL AUTHORITY to exist other than that the judge says so.

12.3.1 Sovereign Immunity[37]

Although the Constitution does not expressly authorize sovereign immunity, courts have unilaterally imputed it to the government, themselves, and even people working in the government such that they only protect themselves and have no duty to protect any specific human being, even though that it what they were created for to begin with. This has turned a government of delegated powers on its head and made the servants into the masters.

Below is an excellent summary of the history of sovereign immunity provided by a federal district court. It is the best description of such history we have found after decades of searching:

1. Development of Sovereign Immunity Doctrine

a. Historical Background and Incorporation into American Law

The doctrine of sovereign immunity, which was recognized in English common law as early as the thirteenth century, appears to have its roots in England's feudal system, in which "each petty lord in England held or could hold his own court to settle the disputes of his vassals." David [*945] E. Engdahl, Immunity and Accountability for Positive Governmental Wrongs, 44 U. Colo. L. Rev. 1, 2 (1972)*. Although a lord's vassals were subject to the jurisdiction of his court, "as the court was the lord's own, it [**14] could hardly coerce him." Id. Indeed, the "trusted counsellors who constituted [a lord's] court" could "claim no power over him their lord without his consent." Id. That being said, each "petty lord ...was vassal in his turn, and subject to coercive suit in the court of his own lord." Id. In the organization of the feudal hierarchy, "[t]he king, who stood at the apex of the feudal pyramid" and was "not subject to suit in his own court," was wholly immune from suit because "there happened to be no higher lord's court in which he could be sued." Id. at 2-3; see also United States v. Lee, 106 U.S. 196, 206, 1 S.Ct. 240, 27 L.Ed. 171 (1882) (identifying "the absurdity of the King's sending a writ to himself to command the King to appear in the King's court" as a basis of sovereign immunity in England).*

With the rise of the nation-state, this "personal immunity of the king" transformed into "the immunity of the Crown." George W. Pugh, Historical Approach to the Doctrine of Sovereign Immunity, 13 La. L. Rev. 476, 478

[36] See: *Wikipedia: Sovereign citizen movement*; https://en.wikipedia.org/wiki/Sovereign_citizen_movement.

[37] Adapted from: *Rebutted False Argumetns About Sovereignty*, Form #08.018, Section 2.1; https://sedm.org/Forms/08-PolicyDocs/RebFalseArgSovereignty.pdf.

*(1953). Given the potential harshness of such a doctrine as attached to the Crown rather than the king, legal authorities developed procedures whereby victims could obtain redress for wrongs committed by the government without directly suing the Crown. For example, when a government agent [**15] committed a tort, "English courts permitted suit against the government official or employee who had actually committed the wrong complained of." Id. at 479-80. Indeed, in such situations, the doctrine of sovereign immunity, as embodied in the famous phrase "the king could do no wrong," ensured that the tort victim could obtain a judgment against the agent: theoretically, if "the king could do no wrong, it would be impossible for him to authorize a wrongful act, and therefore any wrongful command issued by him was to be considered as non-existent, and provided no defense for the dutiful" agent. Id. at 480.*

*Similarly, English law developed the "petition of right," which allowed subjects to petition the king for the ability to sue the Crown in the king's courts—in effect, asking the king to waive sovereign immunity with respect to a specific legal dispute. See James E. Pfander, Sovereign Immunity and the Right to Petition: Toward a First Amendment Right to Pursue Judicial Claims Against the Government, 91 Nw. U.L.Rev. 899, 900-08 (1997). As with tort suits against government agents, the notion that "the king could do no wrong" worked to ensure the availability of a remedy for victims of wrongdoing because the "king, as the fountain of justice and equity, [**16] could not refuse to redress wrongs when petitioned to do so by his subjects." Louis L. Jaffe, Suits Against Governments and Officers: Sovereign Immunity, 77 Harv. L. Rev. 1, 3 (1963) (citation omitted); see also Engdahl, supra at 3 (describing the "principle that the king could not rightfully refuse to grant a petition of right"). Moreover, because petitions of right and other "prerogative remedies" that allowed subjects to pursue a suit against the Crown "were invariably controlled by the King's justices rather than the King himself," the "rule of law, as opposed to royal whim, largely determined the availability of relief against the Crown." Pfander, supra, at 908. By the eighteenth century, such procedures were so ingrained in the common law that "[i]n the same paragraph in which William Blackstone proclaimed the immunity of the Crown, he also sketched the procedure on the 'petition of right.'" Id. at 901; see also Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163, 2 L.Ed. 60 (1803) [*946] ("The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment [**17] of his court."). As a result of these procedures for obtaining redress, although the formal immunity of the Crown was deeply rooted in the common law, by the eighteenth century, it operated primarily as merely a matter of formalism, with a variety of procedural work-arounds to ensure that victims could obtain redress for wrongs committed by the Crown's agents.5*

Given that sovereign immunity in England was rooted in the common law and linked to the personal immunity of the king, it is not surprising that "[a]t the time of the Constitution's adoption, the federal government's immunity from suit was a question—not a settled constitutional fact." Vicki C. Jackson, Suing the Federal Government: Sovereignty, Immunity, and Judicial Independence, 35 Geo. Wash. Int'l L.Rev. 521, 523 (2003). "The nature of the sovereignty created under the 1789 Constitution was something new and uncertain—it took the people and the institutions time to work out their relationships." Id. at 528. Mapping the old English doctrine of sovereign immunity onto this new system implicated many "[q]uestions of the form of government and of the nature of the sovereignties created" by the Constitution, including whether [**18] there was a sovereign in the new republic and, "[i]f so, where did that sovereignty reside under a system of separated powers" and "[w]hat were the roles of the national legislature, the executive, and the federal courts" in that sovereign system. Id. at 528-29. The answers to these questions were not immediately obvious and, indeed, the courts did not quickly adopt a theory of federal sovereign immunity. In fact, "[t]he first clear reference to the sovereign immunity of the United States in an opinion for the entire [Supreme] Court" did not appear until 1821, when the concept of federal sovereign immunity was discussed in dicta, and the first time sovereign immunity was invoked by the Supreme Court "as a basis to deny relief' occurred in 1846. Id. at 523 n.5.

Indeed, early discussions of federal sovereign immunity by the Supreme Court exhibit a sense that the doctrine may be incompatible with a republican form of government. *For example, in Chisholm v. Georgia, 2 U.S. (2 Dall.) 419, 1 L.Ed. 440, 2 Dall. 419 (1793), superseded by constitutional amendment, U.S. Const. amend XI, Chief Justice Jay wrote:*

> *It will be sufficient to observe briefly, that the sovereignties in Europe, and particularly in England, exist on feudal principles. That system considers the Prince as the sovereign, and the people as his [**19] subjects; it regards his person as the object of allegiance, and excludes the idea of his being on an equal footing [*947] with a subject, either in a Court of Justice or elsewhere. That system contemplates him as being the fountain of honor and authority; and from his grace and grant derives all franchises, immunities and privileges; it is easy to perceive that such a sovereign could not be amenable to a Court of Justice, or subjected to judicial controul and actual constraint. It was of necessity, therefore, that suability became incompatible with such sovereignty. Besides, the Prince having all the Executive powers, the judgment of the Courts would, in fact, be only monitory, not mandatory to him, and a capacity to be advised, is a distinct thing from a capacity to be sued. The same feudal ideas run through all their jurisprudence, and constantly remind us of the distinction between the Prince and the subject. No such ideas obtain here; at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects ...and have none to govern but themselves; the citizens of America are equal as fellow citizens, and as [**20] joint tenants in the sovereignty.*

Id. at 471-72 (opinion of Jay, C.J.) (emphasis omitted). Although the question was not directly presented in Chisholm, Chief Justice Jay argued that "fair reasoning" suggests that the Constitution permits "that the United States may be sued by any citizen, between whom and them there may be a controversy" by extending judicial power to "controversies to which the United States are a party." Id. at 478; see also Jackson, supra, at 532-33 (reading Justice Wilson's opinion in Chisholm to argue "that the absence of monarch, the role of a written constitution and the process of judicial review suggested that English approaches to sovereign immunity were inapposite to the suability of governments under the United States Constitution" (citing Chisholm, 2 U.S. (2 Dall.) at 453-66 (opinion of Wilson, J.))).

Early American courts were not generally forced to confront the question whether the federal government enjoyed sovereign immunity because, as in England, "many judicial remedies for governmental wrongdoing were available" that did not involve direct suit against the government. *Jackson, supra, at 523-24. For example, in the early days of the Republic, the usual remedy for torts committed by government officials was a damages suit directly against the official who [**21] committed the tort. Ann Woolhandler, Patterns of Official Immunity and Accountability, 37 Case W.Res.L.Rev. 396,414-16 (1987); see also Ann Woolhandler, Old Property, New Property, and Sovereign Immunity, 75 Notre Dame L.Rev. 919, 922 (2000) ("Individual officers remained liable for their torts under general agency law, even if they were working for a disclosed principal—the state."). In addition, under the Judiciary Act of 1789, "all federal courts could issue writs of habeas corpus," which are inherently directed to government custodians but "have never been regarded as barred by sovereign immunity." Jackson, supra, at 524. Similarly, "the writ of mandamus and the injunction have been available in actions against individual government officials" to address ongoing legal violations. Id. at 525.*

*Specifically with respect to torts committed by government agents, the Supreme Court confirmed as early as 1804 that, as in England, direct suits against government officers were not barred by sovereign immunity. In Little v. Barreme, 6 U.S. (2 Cranch) 170, 2 L.Ed. 243 (1804), the Court held that a damages suit could proceed against a naval officer who directed the seizure of a ship sailing from France to St. Thomas. Id. at 176-77, 179. Although the seizure conformed to orders [*948] given by the Secretary of the Navy, it was unlawful under the relevant statute, which authorized [**22] seizures of ships sailing to, but not from, French ports. Id. at 177-78. The Court recognized the apparent unfairness of holding a military officer personally liable for following orders but nevertheless concluded that instructions from the executive "cannot change the nature of the transaction, or legalize an act which without those instructions would have been a plain trespass" and, accordingly, the naval captain "must be answerable in damages to the owner of this neutral vessel." Id. at 179.*

*Although such suits were nominally brought against government officials rather than the government itself, in the early Republic there was a "practice of relatively routine, but not automatic, indemnification" by Congress where an official had been held liable in tort. James E. Pfander & Jonathan L. Hunt, Public Wrongs and Private Bills: Indemnification and Government Accountability in the Early Republic, 85 N.Y.U. L. Rev. 1862, 1868 (2010). "Following the imposition of liability on a government officer, Congress would decide whether to make good the officer's loss in the exercise of its legislative control of the appropriation process," thereby "preserv[ing] the formal doctrine of sovereign immunity while assigning the ultimate loss associated with [**23] wrongful conduct to the government." Id. For example, after the Supreme Court's decision in Little, Captain Little, the naval officer found liable for the unlawful seizure of the ship, submitted a petition for indemnity to Congress, and Congress passed a bill indemnifying him. Id. at 1902. Indeed, between 1789 and 1860, there were at least "57 cases of officers petitioning for indemnification and 11 cases of suitors petitioning for the payment of a judgment against an officer" and, of these cases, over 60% of the petitioners received some form of relief, such as a private bill appropriating money directly to the officer or the victim. Id. at 1904-05.*

*This two-part officer suit and indemnification system rendered sovereign immunity a formalism that barred suits directly against the government but did not bar recovery from the government, at least with respect to torts committed by government agents. Instead, the function of sovereign immunity was to divide responsibilities between the judiciary and the legislature: the judiciary determined, in a direct suit against the officer, whether the conduct was unlawful and, if so, the amount of damages; and in the case of unlawful conduct, Congress determined whether [**24] the circumstances were such that the government rather than the officer should ultimately bear the loss. See id. at 1868.*

Even after the concept of federal sovereign immunity had worked its way into our legal system to become "a familiar doctrine of the common law," The Siren, 74 U.S. (7 Wall.) 152, 153-54, 19 L.Ed. 129 (1869), the idea that the concept should be construed, to the extent possible, as a procedural doctrine rather than a substantive bar to recovery *led the Supreme Court to create work-arounds to allow recovery, as demonstrated by a pair of Reconstruction Era cases. In The "when the United States institute a suit, they waive their exemption so far as to allow a presentation by the defendant of set-offs, legal and equitable, to the extent of the demand made or property claimed, and when they proceed in rem, they open to consideration all claims and equities in regard to the property libelled." 74 U.S. (7 Wall.) at 154. In a similar vein, in The Davis, 77 U.S. (10 Wall.) 15, 19 L.Ed. 875 (1870), the Court held that sovereign immunity [*949] does not bar the enforcement of a lien against goods that are seized after the United States has contracted for their delivery but before they are in the possession of the government. Id. at 21-22. Although the seizure in question forced the United States "to the necessity of becoming claimant [**25] and actor in the court to assert [a] claim" to the goods, the Court determined that it technically did not infringe on the immunity of the federal government because the "marshal served his writ and obtained possession without interfering with that of any officer or agent of the government." Id. at 22.*

*In both of these cases, the Supreme Court relied on formal understandings of the nature of immunity from suit to allow injured parties to maintain claims—either as offset or in rem claims—even though doing so subjected the government's conduct or property rights to judicial review. Moreover, in both cases, the Court invoked the historical remedies available against the Crown in England as a reason for narrowly construing any claim of immunity. In The Siren, the Court observed that "[i]n England, when the damage is inflicted by a vessel belonging to the crown," the "present practice" is to file a suit in rem and have the court direct "the registrar to write to the lords of the admiralty requesting an appearance on behalf of the crown—which is generally given." 74 U.S. (7 Wall.) at 155. Similarly, in The Davis, the Court observed that in situations where "it is made to appear that property of the government ought, [**26] in justice, to contribute to a general average, or to salvage" in maritime cases, the "usual course of take jurisdiction of the matter." 77 U.S. (10 Wall.) at 20. Although these procedures, which were developed to "prevent [the] apprehension of gross injustice in such cases in England," id., could not be identically implemented in the United States given the government's structure, the Court attempted to prevent gross injustice by providing a procedural mechanism that allowed injured parties to obtain relief without directly suing the government.*

This formalistic approach to sovereign immunity was reinforced a decade later in United States v. Lee, 106 U.S. 196, 1 S.Ct. 240, 27 L.Ed. 171 (1882), which involved the question whether an ejectment action between private plaintiffs and federal officer defendants should be dismissed as barred by sovereign immunity when the United States asserted ownership of the land. Id. at 196-98. ***To help explain the limits of sovereign immunity, the Lee Court went through the justifications given in English common law for the immunity of the Crown, explaining how each justification did not serve to support the adoption of the doctrine into the quite different context of the American republican government.*** *According to the Lee Court, "one reason [**27] given by the old judges was the absurdity of the King's sending a writ to himself to command the King to appear in the King's court," but "[n]o such reason exists in our government." Id. at 206. Another reason advanced by English authorities was that "the government is degraded by appearing as a defendant in the courts of its own creation," but the Lee Court rejected this reason "because [the government] is constantly appearing as a party in such courts, and submitting its rights as against the citizen to their judgment." Id. The Lee Court also observed that another reason given for sovereign immunity—"that it would be inconsistent with the very idea of supreme executive power, and would endanger the performance of the public duties of the sovereign, to subject him to repeated suits as a matter of right"—did [*950] not apply to the United States because "no person in this government exercises supreme executive power, or performs the public duties of a sovereign," and it is therefore "difficult to see on what solid foundation of principle the exemption from liability to suit rests." Id. (citation omitted).*

*Indeed, the Lee Court explained that the differences between the English and American systems of [**28] government are such that English court decisions extending immunity in similar circumstances should be discounted in light of the uniquely American principle that no man is above the law:*

> *[L]ittle weight can be given to the decisions of the English courts on this branch of the subject, for two reasons: —*
>
> *1. In all cases where the title to property came into controversy between the crown and a subject, whether held in right of the person who was king or as representative of the nation, the petition of right presented a judicial remedy,—a remedy which this court, on full examination in a case which required it, held to be practical and efficient. There has been, therefore, no necessity for suing the officers or servants of the King who held possession of such property, when the issue could be made with the King himself as defendant.*
>
> *2. Another reason of much greater weight is found in the vast difference in the essential character of the two governments as regards the source and the depositaries of power. Notwithstanding the progress which has been made since the days of the Stuarts in stripping the crown of its powers and prerogatives, it remains true to-day that the monarch is looked [**29] upon with too much reverence to be subjected to the demands of the law as ordinary persons are, and the king-loving nation would be shocked at the spectacle of their Queen being turned out of her pleasure-garden by a writ of ejectment against the gardener. The crown remains the fountain of honor, and the surroundings which give dignity and majesty to its possessor are cherished and enforced all the more strictly because of the loss of real power in the government.*
>
> *It is not to be expected, therefore, that the courts will permit their process to disturb the possession of the crown by acting on its officers or agents.*
>
> ***Under our system the people, who are there called subjects, are the sovereign. Their rights, whether collective or individual, are not bound to give way to a sentiment of loyalty to the person of monarch. The citizen here knows no person, however near to those in power, or however powerful himself, to whom he need yield the rights which the law secures to him when it is well administered. When he, in one of the courts of competent jurisdiction, has established his right to property, there is no reason why deference to any person, natural or artificial, not even the United [**30] States, should prevent him from using the means which the law gives him for the protection and enforcement of that right.***

Id. at 208-09 (alterations in original); see also ***Langford v. United States, 101 U.S. 341, 342-43, 25 L.Ed. 1010, 15 Ct.Cl. 632 (1879)*** ***(unanimously rejecting the "maxim of English constitutional law that the king can do no wrong" because it does not "have any place in our system of government," where "[w]e have no king" and where it is obvious that "wrong may be done by the governing power"). Accordingly, the Lee Court interpreted the doctrine of sovereign immunity formalistically, barring suit directly against the government but allowing the plaintiffs to proceed with their ejectment action against the government [*951] officers despite the federal government's claim of ownership to the land.***

As these cases, together with the earlier cases allowing for direct suit against government officials, demonstrate, sovereign immunity was incorporated into American common law in the nineteenth century primarily as a procedural mechanism regulating the ways in which injured parties could obtain relief rather than as a substantive bar to recovery in the ordinary case. Indeed, well into the twentieth century, "[f]or tortious or otherwise wrongful action by a government official, [**31] in violation of or not authorized by law, ...officer suits—for mandamus, for ejectment, or other common law remedies—could serve as moderately effective vehicles for contesting claims of right as between governments and private individuals." Jackson, supra, at 554.

Although these procedural work-arounds reduced the need for federal courts to explore the contours of sovereign immunity doctrine by providing some avenues for recovery, by the late nineteenth century, the Supreme Court recognized that the "general doctrine" of federal sovereign immunity, which had first appeared in Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 5 L.Ed. 257 (1821), had "been repeatedly asserted" until it came to be "treated as an established doctrine" by the Court. Lee, 106 U.S. at 207. As the Lee Court observed, this entrenchment in the common law had happened sub silentio: to that point, the Supreme Court had never engaged in a detailed discussion of the doctrine or explained the reasons for it, but rather had implicitly incorporated it into American law. Id. Nevertheless, by the end of the Civil War, the Supreme Court, while narrowly construing the doctrine, invariably adhered to the principle that the federal government could not formally be sued without its consent.

b. Contemporary Sovereign Immunity Practice [**32]

*Despite these murky beginnings, it is today well established that the United States enjoys the benefit of sovereign immunity and cannot be sued absent a waiver of this immunity. Pornomo v. United States, 814 F.3d. 681, 687 (4th Cir. 2016).6 With respect to torts committed by [*952] federal government actors, Congress has "provid[ed] a limited waiver of sovereign immunity for injury or loss caused by the negligent or wrongful act of a Government employee acting within the scope of his or her employment" through the FTCA, which "renders the United States liable for such tort claims in the same manner and to the same extent as a private individual under like circumstances." Id. (internal quotation marks and citations omitted). At the same time, Congress has placed two relevant limitations on the ability of injured parties to recover under the FTCA. First, Congress has carved out multiple exceptions to its waiver of immunity, see 28 U.S.C. §2680, including, as previously discussed, any claim "arising in a foreign country," id. §2680(k).7 Second, the Westfall Act provides that the FTCA's remedies against the government itself are "exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave [**33] rise to the claim." Id. §2679(b)(1). Under this provision, if an injured party attempts to bring a tort suit directly against the government officer who caused the harm and the officer was acting within the scope of his employment at the time, the United States is substituted as a defendant, id. §2679(d), and enjoys all of the privileges of sovereign immunity. Accordingly, for torts committed by government employees, a direct suit against the wrongdoer is no longer available and, when the tort claim falls within an exception delineated in the FTCA, a suit directly against the government is ordinarily blocked by sovereign immunity. As a result, in the realm of [*953] torts committed by government agents, sovereign immunity has in many situations evolved into a substantive bar to relief, rather than merely a procedural device regulating how the injured party may recover.*

It was not inevitable that sovereign immunity would develop in this way. Indeed, in many other countries whose legal systems evolved from English common law, sovereign immunity is [**34] no longer a bar to suing the government in tort. For example, in the United Kingdom, the Crown Proceedings Act establishes that "the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject" in respect of, among other things, "torts committed by its servants or agents." Crown Proceedings Act 1947, 10 & 11 Geo. 6 c. 44, § 2(1); see also Crown Proceedings Act 1950, s 6 (N.Z.) (establishing the same rule for New Zealand). Similarly, in Canada, the "Crown is liable for the damages for which, if it were a person, it would be liable" for "a tort committed by a servant of the Crown" or "a breach of duty attaching to the ownership, occupation, possession or control of property." Crown Liability and Proceedings Act, R.S.C. 1985 c. c-50, s. 3. In Australia, government liability is even broader, as the Australian Constitution gives Parliament the power to "make laws conferring rights to proceed against the Commonwealth," Australian Constitution s 78, and the Judiciary Act of 1903 provides that any "person making a claim against the Commonwealth, whether in contract or in tort, may in respect of the claim bring a suit against [**35] the Commonwealth" in the High Court or various state or territorial courts, Judiciary Act 1903. Perhaps most relevant to the United States given the debates described above about the application of common law sovereign immunity to a republican government, the Irish Supreme Court has held that sovereign immunity did not survive the creation of the Irish Free State because "it is the People who are paramount and not the State" and this system is "inconsistent with any suggestion that the State is sovereign internally." Byrne v. Ireland [1972] IR 241, 295 (opinion of Budd, J.); see also id. at 266 (opinion of Walsh, J.) ("The fact that

this English theory of sovereign immunity, originally personal to the King and with its roots deep in feudalism, came to be applied in the United States where feudalism had never been known has been described as one of the mysteries of legal evolution. It appears to have been taken for granted by the American courts in the early years of the United States—though not without some question....").[8]

Given the experiences of other countries, as well as the way in which the doctrine of sovereign immunity was adopted into federal common law, it is not surprising that [**36] ***there is a long history of criticism of the notion that the federal government should be immune from suit. As early as 1953, academics were attacking "the very bases of this unwanted and unjust concept," Pugh, supra, at 476, and a decade later, professor Louis Jaffe succinctly described the basis of academic and judicial unease with the way in which sovereign immunity had developed into a bar to recovery:***

> ***The King cannot be sued without his consent. But at least in England this has*** [*954] ***not meant that the subject was without remedy .... By a magnificent irony, this body of doctrine and practice, at least in form so favorable to the subject, lost one-half of its efficacy when translated into our state and federal systems. Because the King had been abolished, the courts concluded that where in the past the procedure had been by petition of right there was now no one authorized to consent to suit!***

Jaffe, supra, at 1-2; see generally Edwin M. Borchard, Government Liability in Tort, 34 Yale L.J. 1, 4-5 (1924) (arguing that the basis of sovereign immunity is the location of absolute sovereignty in the king's person but that the doctrine makes little sense in a country where "sovereignty resides in the American electorate or the people" and that this problem [**37] ***is "heightened by the fact that whereas in England, to prevent the jurisdictional immunity resulting in too gross an injustice, the petition of right, whose origin has been traced back to the thirteenth century, was devised as a substitute for a formal action against the Crown, in America no substitute except an appeal to the generosity of the legislature has in most jurisdictions been afforded" (footnote omitted)); Erwin Chemerinsky, Against Sovereign Immunity, 53 Stan.L.Rev. 1201, 1201 (2001) ("Sovereign immunity is an anachronistic relic and the entire doctrine should be eliminated from American law."). This criticism of the doctrine has also made its way into the judiciary. Not only do the Supreme Court and other courts have a long history of expressing discomfort with the prospect of wielding sovereign immunity as a substantive shield to recovery, as discussed above, but at least one circuit judge has recently argued in favor of reconsidering the principle of sovereign immunity altogether:***

> *[T]he underpinning for this outcome is an anachronistic judicially invented legal theory that has no validity or place in American law-in this case, sovereign immunity. Two hundred and thirty-five years after we rid ourselves* [**38] *of King George III and his despotic ascendancy over colonial America, we cling to a doctrine that was originally based on the Medieval notion that "the King can do no wrong." This maxim was blindly accepted into American law under the assumption that it was incorporated as part of the common law in existence when our Nation separated from England. However, this assumption does not withstand historical scrutiny. Furthermore, the present case is the quintessential example of the fact that at times the government can, and does, do wrong.*
>
> *More importantly, the doctrine of sovereign immunity cannot be sustained in the face of our constitutional structure. Although its language is far from specific in many parts, the Constitution nevertheless contains nothing, specific or implied, adopting the absolutist princip[le] upon which sovereign immunity rests. Furthermore, the record of the debates preceding the adoption of the Constitution are bare of any language or asseveration that might serve as a basis for support of this monarchist anachronism. In fact, the establishment in this country of a republican form of government, in which sovereignty does not repose on any single individual or institution,* [**39] *made it clear that neither the government nor any part thereof could be considered as being in the same infallible position as the English king had been, and thus immune from responsibility for harm that it caused its citizens.*

Donahue v. United States, 660 F.3d. 523, 526 (1st Cir. 2011) (en banc) (Torruella, J., [*955] *concerning the denial of en banc review) (emphasis in original) (citations omitted).*[9]

Although this Court remains mindful of the binding nature of the determinations by the Supreme Court and the Fourth Circuit that the federal government may not be sued in tort without its consent, the deeper understanding of the history and development of sovereign immunity doctrine, as well as the contemporary practice in other countries and the academic and judicial criticism of the path the United States has taken, contextualizes the question presented by the government's motion to dismiss CACI's Third-Party Complaint.
[Najim v. CACI Premier Tech., Inc., 368 F.Supp.3d. 935 (2019)]

From the above, we can see:

1. Sovereignty resides in THE PEOPLE, both collectively and individually, who make up "the State", who are called "the body politic".

> *"The sovereignty of a state does not reside in the persons who fill the different departments of its government, but in the People, from whom the government emanated; and they may change it at their discretion. Sovereignty, then in this country, abides with the constituency, and not with the agent; and this remark is true, both in reference to the federal and state government."*
> *[Spooner v. McConnell, 22 F. 939 @ 943]*

> *"…at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects…with none to govern but themselves…"*
> *[Chisolm v. GEORGIA (US) 2 Dall 419, 454, 1 L.Ed. 440, 455 @DALL 1793 pp. 471-472]*

> *"The very meaning of 'sovereignty' is that the decree of the sovereign makes law."*
> *[American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047]*

> _____

> inherent Rights of Mankind
>
> Section 1.
>
> All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.
>
> Political Powers
>
> Section 2
>
> **All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness.** For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.
>
> [Pennsylvania Constitution]

> _____

> *CALIFORNIA GOVERNMENT CODE*
> *SECTION 11120 et seq.*
>
> *11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.*
>
> *"In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.*
>
> ***"The people of this state do not yield their sovereignty to the agencies which serve them.** The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. . ."*

2. Sovereignty does NOT reside in public servants or even in the "body corporate" or "government" that is created by the Constitution to SERVE "the State".

> *"There is no such thing as a power of inherent sovereignty in the government of the United States .... In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld."*
> *[Juilliard v. Greenman, 110 U.S. 421 (1884); SOURCE: http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=110&page=421]*

3. The constitution does not expressly authorize "sovereign immunity".

4. Sovereign immunity is incompatible with the notion of republican government, because it elevates COLLECTIVE rights above INDIVIDUAL rights recognized in the Bill of Rights.
5. Sovereignty immunity implies complete unaccountability and irresponsibility and even ANARCHY towards the VERY Sovereign People (called "the State") that the government (a body corporate or corporation) was created to serve and protect. Being ACCOUNTABLE and being INDEPENDENT are two mutually exclusive things that cannot overlap. Sovereign immunity as a concept therefore is at war with the very purpose of creating government to begin with. That may be why it was never added to the constitution.

> ***"Sovereignty.*** *The supreme, absolute, and uncontrollable power by which any independent state is governed; supreme political authority; paramount control of the constitution and frame of government and its administration; self sufficient source of political power, from which all specific political powers are derived; the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation; also a political society, or state, which is sovereign and independent.*
>
> *Chisholm v. Georgia, 2 Dall. 455, 1 L.Ed. 440; Union Bank v. Hill, 3 Cold., Tenn 325; Moore v. Shaw, 17 Cal. 218, 79 Am.Dec. 123; State v. Dixon, 66 Mont. 76, 213 P. 227. "*
> *[Black's Law Dictionary 4th Edition (1951), p. 1568]*

6. The concept of "sovereign immunity" was created by the courts and NOT by the constitution.
7. Courts have no authority to make or repeal law. That authority is the exclusive province of the Legislative Branch.
8. The act by the courts of imputing or enforcing sovereign immunity to a government has the practical effect of REPEALING or refusing to enforce statutory law, because in applying it, the government thereby has the alleged authority to REMOVE itself from obeying such law. Consequently, the courts in effect are REPEALING law by limiting its applicability so that it does not apply EQUALLY to ALL:

> *"In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it."*
> *[Wilson v. Omaha Indian Tribe, 442 U.S. 653, 667 (1979); SOURCE:*
> *http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=442&page=653]*
>
> *"Since in common usage the term `person' does not include the sovereign, statutes employing that term are ordinarily construed to exclude it."*
> *[U.S. v. Cooper, 312 U.S. 600,604, 61 S.Ct. 742 (1941); SOURCE:*
> *http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=312&page=600]*
>
> *"Decency, security, and liberty alike demand that* **government officials shall be subjected to the same rules of conduct that are commands to the citizen.** *In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously.* **Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.** *To declare that in the administration of the criminal law the end justifies the means-to declare that the government may commit crimes in order to secure the conviction of a private criminal-would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face."*
> *[*Olmstead v. United States, 277 U.S. 438 (1928)*]*

3. A refusal by any court, through inventing an extraconstitutional doctrine of sovereign immunity, to apply and enforce ALL LAW EQUALLY to all is a violation of the constitutional requirement for equality of treatment and is thus UNCONSTITUTIONAL.

Requirement for Equal Protection and Equal Treatment, Form #05.033 https://sedm.org/Forms/05-MemLaw/EqualProtection.pdf

12.3.2 EXTRATERRITORIAL application of Civil Franchises: Receipt of "Benefits" not expressly authorized by Statutory Law Create an Obligation to Pay

There is no provision in the constitution or within federal statutes that we have found which allows the any court to unilaterally declare that anyone situated outside of federal territory or in a constitutional state may either sign up for, or receive benefits, privileges, or payments available ONLY to territorial citizens, territorial residents, or federal territories called "the States" in 4 U.S.C. §110(d). Below are some examples of this phenomenon:

1. States of the Union:

> ***"We have repeatedly held that the Federal Government may impose appropriate conditions on the use of federal property or privileges and may require that state instrumentalities comply with conditions that are reasonably related to the federal interest in particular national projects or programs.*** *See, e. g., Ivanhoe Irrigation Dist. v. McCracken, 357 U.S. 275, 294 -296 (1958); Oklahoma v. Civil Service Comm'n, 330 U.S. 127, 142 -144 (1947); United States v. San Francisco, 310 U.S. 16 (1940); cf. National League of Cities v. Usery, 426 U.S. 833, 853 (1976); Fry v. United States, 421 U.S. 542 (1975).* ***A requirement that States, like all other users, pay a portion of the costs of the benefits they enjoy from federal programs is surely permissible since it is closely related to the [435 U.S. 444, 462] federal interest in recovering costs from those who benefit and since it effects no greater interference with state sovereignty than do the restrictions which this Court has approved."*** *[Massachusetts v. United States, 435 U.S. 444 (1978)]*

2. Humans: The Constitutional Avoidance Doctrine

> *"Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 292, et seq. 8 S.Ct. 1370, compare Fauntleroy v. Lum, 210 U.S. 230, 28 S.Ct. 641,* ***still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or indebitatus assumpsit.*** ***United States v. Chamberlin, 219 U.S. 250, 31 S.Ct. 155; Price v. United States, 269 U.S. 492, 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall. 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence.*** *Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272] 262; Attorney General v. _ _, 2 Ans.Rep. 558; see Comyn's Digest (Title 'Dett,' A, 9); 1 Chitty on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77. "*
> *[Milwaukee v. White, 296 U.S. 268 (1935)]*

> *"The principle is invoked that* ***one who accepts the benefit of a statute cannot be heard to question its constitutionality****. Great Falls Manufacturing 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, 37 S.Ct. 609, 61 L.Ed. 1229; St. Louis, etc., Co., v. George C. Prendergast Const. Co., 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351."*
> *[Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936)]*

In other words, to offer TERRITORIAL (federal territory) franchises EXTRATERRITORIALLY within the exclusive jurisdiction of constitutional states of the Union in violation of the separation of powers. And yet, the U.S. Supreme Court has unilaterally permitted this to happen and thus:

1. Sanctioned an unconstitutional commercial invasion of the states of the Union in violation of Article 4, Section 4 of the Constitution.
2. Economically incentivized states of the to make a profitable business out of alienating constitutional rights that the Declaration of Independence says are UNALIENABLE and which government was created EXCLUSIVELY to protect. Thus, it incentivizes the states of the Union to violate their fiduciary duty to protect private property and do the OPPOSITE of what governments are created to do, and thus to become an ANTI-government:

> *"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer.* [38] ***Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts****.* [39] ***That is, a public officer occupies a fiduciary relationship to the political***

[38] State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

[39] Georgia Dep't of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

entity on whose behalf he or she serves. [40] ***and owes a fiduciary duty to the public.*** [41] ***It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual.*** [42] ***Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual [PRIVATE] rights is against public policy.***[43]"
[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

3. Violate the Declaration of Independence and 4 U.S.C. §72 by invading the states with public officer franchisees:

"He [the tyrant King] has erected a multitude of New Offices, and sent hither swarms of Officers [public officer "taxpayers", Form #05.008] to harrass our people, and eat out their substance."
[Declaration of Independence, 1776; SOURCE: https://www.archives.gov/founding-docs/declaration-transcript]

TITLE 4 > CHAPTER 3 > § 72
§ 72. Public offices; at seat of Government

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

More on the above, at:

Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union, Form #05.052 https://sedm.org/Forms/05-MemLaw/ChallengeToIRSEnforcementAuth.pdf

4. Allowed the national government to in effect BRIBE the states with money to give up their sovereignty and rights to the national government. This is usually done with money that came from within these states through the illegal extraterritorial enforcement of the Internal Revenue Code.
5. Allowed the national government to violate the License Tax Cases by offering taxable franchises within the borders of constitutional states of the Union.

"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)]

The founders warned such efforts are unconstitutional.

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[40] Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

[41] United States v. Holzer (CA7 Ill), 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L.Ed. 2d 18, 108 S.Ct. 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L.Ed. 2d 608, 108 S.Ct. 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss) 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass), 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

[42] Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

[43] Indiana State Ethics Comm'n v. Nelson (Ind App), 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

"With respect to the words general welfare, I have always regarded them as qualified by the detail of powers connected with them. To take them in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creator."

*"**If Congress can employ money indefinitely to the general welfare, and are the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may appoint teachers in every State, county and parish and pay them out of their public treasury; they may take into their own hands the education of children, establishing in like manner schools throughout the Union; they may assume the provision of the poor; they may undertake the regulation of all roads other than post-roads; in short, every thing, from the highest object of state legislation down to the most minute object of police, would be thrown under the power of Congress…. Were the power of Congress to be established in the latitude contended for, it would subvert the very foundations, and transmute the very nature of the limited Government established by the people of America.**"*

"If Congress can do whatever in their discretion can be done by money, and will promote the general welfare, the government is no longer a limited one possessing enumerated powers, but an indefinite one subject to particular exceptions."
[James Madison. House of Representatives, February 7, 1792, On the Cod Fishery Bill, granting Bounties]

Congress has not unlimited powers to provide for the general welfare, but only those specifically enumerated.

They are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please which may be good for the Union, would render all the preceding and subsequent enumerations of power completely useless. It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please…. Certainly no such universal power was meant to be given them. It was intended to lace them up straightly within the enumerated powers and those without which, as means, these powers could not be carried into effect.

That of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please.
[Thomas Jefferson: Opinion on National Bank, 1791. ME 3:148; SOURCE: http://famguardian.org/Subjects/Politics/ThomasJefferson/jeff1020.htm and http://thefederalistpapers.org/founders/jefferson/thomas-jefferson-opinion-on-national-bank-1791]

We also wish to be very clear that this is NOT simply an attempt to by the courts to implement "comity", which is voluntary cooperation.

***comity**. Courtesy; complaisance; respect; a willingness to grant a privilege, not as a matter of right, but out of deference and good will. Recognition that one sovereignty allows within its territory to the legislative, executive, or judicial act of another sovereignty, having due regard to rights of its own citizens. Nowell v. Nowell, Tex.Civ.App., 408 S.W.2d. 550, 553. In general, principle of "comity" is that courts of one state or jurisdiction will give effect to laws and judicial decisions of another state or jurisdiction, not as a matter of obligation, but out of deference and mutual respect Brown v. Babbitt Ford, Inc., 117 Ariz. 192, 571 P.2d. 689, 695. See also Full faith and credit clause.*
[Black's Law Dictionary, Sixth Edition, p. 267]

Courts cannot, for instance, unilaterally decide to allow federal statutes that may only be enforced on federal territory to be enforced EXTRATERRITORIALLY against non-consenting parties, because the statutes don't expressly authorize it. An example of extraterritorial ILLEGAL and UNCONSTITUTIONAL enforcement sanctions and condoned by court include:

1. Allowing federal statutes to be enforced directly upon private members of the public domiciled outside of federal territory within the exclusive jurisdiction of Congress without implementing regulations or against those not lawfully serving in public offices. This violates the Federal Register Act, and the Administrative Procedures Act. For details, See:

   Federal Enforcement Authority Within States of the Union, Form #05.032
   https://sedm.org/product/federal-enforcement-authority-within-states-of-the-union-form-05-032/
2. Allowing the IRS to enforce outside of the ONLY remaining Internal Revenue District, which is the District of Columbia, in violation of 26 U.S.C. §7602.
3. Allowing federal tax liens to be filed within states of the Union and outside of the exclusive jurisdiction of the national government in the District of Columbia. This is criminal identity theft. See:

Identity Theft Affidavit, Form #14.020
https://sedm.org/Forms/14-PropProtection/Identity_Theft_Affidavit-f14039.pdf

4. Allowing federal notices of levy to be delivered to private companies instead of their only property audience per 26 U.S.C. §6331(a), which is the national government. This is criminal identity theft. See:

Identity Theft Affidavit, Form #14.020
https://sedm.org/Forms/14-PropProtection/Identity_Theft_Affidavit-f14039.pdf

For more on the subject of government "benefits" and how to fight the government's use of them to destroy the separation of powers and constitutional protections for private rights, see:

1. *Government Conspiracy to Destroy the Separation of Powers*, Form #05.023
   https://sedm.org/Forms/05-MemLaw/SeparationOfPowers.pdf
2. *Government Instituted Slavery Using Franchises*, Form #05.030
   https://sedm.org/Forms/05-MemLaw/Franchises.pdf

12.3.3 States of the Union can enforce their income tax Laws within Federal Enclaves[44]

It shouldn't surprise the reader that the U.S. Supreme Court corrupted the separation of powers between the states of the Union and federal enclaves by unilaterally declaring that state income tax laws could be enforced outside their territorial jurisdiction within federal enclaves, which are federal territory. Below is a summary of this corruption:

1. Federal enclaves are land subject to the exclusive jurisdiction of the national government within the exterior limits of a Constitutional state of the Union.
2. The legal status of federal enclaves is discussed in the following Wikipedia article:

   Wikipedia: Federal Enclave
   https://en.wikipedia.org/wiki/Federal_enclave
3. Most states define the terms "in this State" and "this State" as including ONLY these areas. See:

   State Income Taxes, Form #05.031, Section 12.6
   https://sedm.org/Forms/05-MemLaw/StateIncomeTax.pdf
4. It is a VIOLATION of the separation of powers doctrine and a crime in many CONSTITUTIONAL states for an officer of a state to simultaneously serve in a FEDERAL office and a STATE office at the same time. This is because it creates a conflict of interest. The I.R.C. Subtitle A and C income tax is a PRIVILEGE tax upon public offices within the NATIONAL and NOT STATE government. See:

   The "Trade or Business" Scam, Form #05.001
   https://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf
5. Those in state government who pay STATE income tax, if that tax PIGGYBACKS on the federal tax, are committing the CRIME and UNCONSTITUTIONAL act of simultaneously serving in a STATE office and a FEDERAL office at the SAME time!
6. The Buck Act, 4 U.S.C. §§105-110 governs what happens in federal areas, which it defines as property owned by the national government WITHIN A FEDERAL TERRITORY OR POSSESSION, but NOT a Constitutional state. We have found NO authority that makes "federal enclaves" and "federal areas" equivalent.
7. Application of the Bill of Rights to federal enclaves is discussed in:

   Catalog of U.S. Supreme Court Doctrines, Litigation Tool #10.020, Section 5.5
   https://sedm.org/Litigation/10-PracticeGuides/SCDoctrines.pdf
8. Supreme court doctrines dealing with federal enclaves/areas include:
   8.1. Friction not Fiction Doctrine, Howard v. Commissioners, 344 U.S. 624, 626, 73 S.Ct. 465, 97 L.Ed. 617 (1953).
9. Howard v. Commissioners, 344 U.S. 624, 626, 73 S.Ct. 465, 97 L.Ed. 617 (1953) is what authorized state income tax within federal enclaves.
   9.1. There is no actual LAW that allows this. Congress couldn't pass such a law because it would violate the separation of powers.
   9.2. The U.S. Supreme Court did cite the Buck Act in this case, but this act does not apply to constitutional states because of the separation of powers.
   9.3. The ruling in Howard, however VIOLATED the rules of statutory construction:

[44] Adapted from: *State Income Taxes*, Form #05.031, Section 5; https://sedm.org/Forms/05-MemLaw/StateIncomeTax.pdf.

> *"***Expressio unius est exclusio alterius**. *A maxim of statutory interpretation meaning that* **the expression of one thing is the exclusion of another.** *Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d. 1097, 1100.Mention of one thing implies exclusion of another.* **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** *Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."*
> *[Black's Law Dictionary, Sixth Edition, p. 581]*

> *"***When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.** *Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated'"); Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
> *[*Stenberg v. Carhart, 530 U.S. 914 (2000)*]*

9.4. By violating the rules of statutory construction in this case, the U.S. Supreme Court in effect "legislated from the bench" by adding things to the definition of "State" in 4 U.S.C. §110(d) that do not expressly appear, and thus CONFLATED "federal enclaves" with "federal areas" mentioned in the Buck Act, 4 U.S.C. §§105-110. Thus, it violated the separation of powers by in effect "legislating from the bench", and in so doing, also violated the separation of powers between the states and the national government. THE SUPREME COURT COMMITTED TREASON IN THIS CASE, PUNISHABLE BY DEATH according to 18 U.S.C. §2381!

9.5. On the subject of U.S. Supreme Court TREASON in expanding the definition of "State" found in 4 U.S.C. §110(d), the ChatGPT AI Chatbot said:

> *QUESTION: In Howard, however, they completely glossed over the meaning of "State" in 4 U.S.C. 110(d), so they SILENTLY and by PRESUMPTION "legislated from the bench".*

> *ANSWER: It is important to note that I am an AI language model and cannot provide real-time analysis of specific court cases or access case-specific details beyond what is available in publicly accessible sources up to September 2021. Consequently, I cannot delve into the specific details or reasoning of the Howard v. Commissioners case.*

> *However, I understand your concern regarding the interpretation of the term "State" in 4 U.S.C. 110(d) and the potential implications of the Court's ruling in Howard v. Commissioners. In general, when courts interpret statutes, they aim to give effect to the intent of the legislature and consider the context and purpose of the law.*

> *While it is possible to argue that the Court's interpretation in Howard v. Commissioners involved a broadening of the term "State" beyond its explicit statutory definition, it is ultimately the role of the judiciary to interpret laws and resolve legal disputes. Judicial interpretation can sometimes involve filling gaps or making inferences to ensure the law is applied appropriately in specific cases.*

> *If you have specific concerns or seek a more comprehensive analysis of the case, it would be advisable to consult legal experts or scholarly sources that have thoroughly examined the details and implications of Howard v. Commissioners. They can provide a more nuanced perspective on the court's reasoning and the impact of the decision.*

Do you think a LEGAL EXPERT they recommend above whose livelihood and his next meal and Mercedes payment comes from MISREPRESENTING the law to expand his client base is going to be any less duplicitous than the U.S. Supreme court on this issue? NOT! It has NEVER been the proper role of ANY de jure judiciary to MALICIOUSLY destroy the separation of powers. The Supreme Court is now a DE FACTO institution (Form #05.043) because of what it did in this case.

10. For more on the "separation of powers doctrine", see:

Government Conspiracy to Destroy the Separation of Powers, Form #05.023 https://sedm.org/Forms/05-MemLaw/SeparationOfPowers.pdf

The DE FACTO ruling in Howard v. Commissioners, 344 U.S. 624, 626, 73 S.Ct. 465, 97 L.Ed. 617 (1953) is HUGELY important, because:

1. This ruling is the basis of ALL state income taxation!

2. Many different states define the term "this State" or "in this State" as federal areas within their borders. For a list of them, see:

State Income Taxes, Form #05.031, Section 12.6 https://sedm.org/Forms/05-MemLaw/StateIncomeTax.pdf

3. The U.S. Supreme Court in Lawrence v. State Tax Commission, 286 U.S. 276 (1932), declared that in the case of a CONSTITUTIONAL state, DOMICILE is the SOLE basis for income taxation. See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002, Section 1 https://sedm.org/Forms/05-MemLaw/Domicile.pdf

4. You can only have ONE domicile at a SINGLE geographical place at a time.
5. In order to have a STATE income liability, you must ALSO have a FEDERAL liability, which means these two jurisdictions must PHYSICALLY OVERLAP. Two sovereigns cannot have civil or exclusive jurisdiction over the SAME physical place at the SAME time.
6. That GEOGRAPHICAL overlap is FORBIDDEN by the separation of powers. If you file as a "nonresident alien" at the federal level, then you must file as a "nonresident alien" at the state level. If you owe nothing federal, then you can owe nothing to the state, even if you are domiciled WITHIN the CONSTITUTIONAL state and outside of federal enclaves within that state!

So we have a LYING, DE FACTO government (Form #05.043), thanks to the U.S. Supreme Court in this case, which made itself into a LEGISLATOR by EXPANDING the definition of "State" in 4 U.S.C. §110(d). AND they did it because of the love of money. CRIMINALS! Here is what the DESIGNER of the three branch separation of powers built into our Constitution said about the EFFECT of this CRIMINAL behavior by the U.S. Supreme Court:

> *"**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, Book XI, Section 6, 1758; SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm]*

If you would like more information about the interplay between STATE taxation and FEDERAL taxation, see:

State Income Taxes, Form #05.031 https://sedm.org/Forms/05-MemLaw/StateIncomeTax.pdf

12.4 The U.S. Supreme Court "shadow docket"

The "shadow docket" refers to a set of emergency actions taken by the U.S. Supreme Court that do not follow the full briefing and hearing process typical of formal opinions. Recently, the shadow docket has grown progressively larger. This is of concern, because which types of cases are allowed on this docket are subjective, there is often no oral argument, and the reasons for the rulings are never explained. This results in a massive violation of due process that essentially turns the Supreme into an executive branch agency that is completely unaccountable to anyone else in violation of the separation of powers at the heart of the constitution. Since there is little to no explanation of the reason behind these rulings, then explaining, the obeying the written law is completely irrelevant and the Supreme Court becomes an anarchist rogue organ of the national government.

Below are some key points about the shadow docket:

1. Definition:
   1.1. The shadow docket includes orders and other miscellaneous rulings issued by the Supreme Court throughout the year.
   1.2. These rulings are distinct from the high-profile, oral-argument cases where the Court delivers detailed opinions in May and June.
2. Origins and Term:
   2.1. The term "shadow docket" was coined in 2015 by law professor Will Baude.
   2.2. It captures the obscurity and inscrutability of most of the Court's orders because, by tradition, these orders are unsigned and unexplained.
   2.3. While not inherently pejorative, the term highlights the lesser visibility of these rulings.
3. Controversy:
   3.1. Over the past few years, there has been a significant increase in a specific type of shadow docket ruling known as an "emergency application."
   3.2. An emergency application arises when the Court must decide what to do with a lower court ruling while an appeal challenging that ruling is ongoing.
   3.3. These orders can significantly impact people's lives, covering issues from vaccination rules to abortion bans and redistricting.
4. Changing Role:
   4.1. Previously, most emergency orders were related to death penalty cases, which had limited impact on daily life.
   4.2. However, recent shadow docket orders affect a broader range of people and issues.
   4.3. Despite the lack of detailed explanations, these orders alter the status quo while appeals are pending.

In summary, the shadow docket represents the Court's emergency actions, often issued without full briefing or oral arguments, and it plays a crucial role in shaping legal outcomes beyond the spotlight of major cases.

Below are some recent examples of cases decided through the shadow docket:

1. Gerrymandering:
   1.1. The Court has used the shadow docket to rule on issues related to gerrymandering, which involves the manipulation of electoral district boundaries for political advantage.
2. Pandemic Rules:
   2.1. During the COVID-19 pandemic, the shadow docket played a role in decisions related to pandemic rules, such as restrictions on gatherings, business operations, and public health measures.
3. Environmental Regulation:
   3.1. The Court has addressed environmental issues through the shadow docket, including cases related to regulations, permits, and environmental impact assessments.
4. Abortion:
   4.1. One of the most high-profile uses of the shadow docket has been in cases related to abortion. These rulings often involve emergency motions seeking to suspend or reverse lower court orders while abortion-related cases are still in progress.
5. Other Notable Cases:
   5.1. The shadow docket has also been invoked in matters such as President Donald Trump's travel ban and proposed changes to how the U.S. Census counts residents.

In summary, the shadow docket encompasses a range of urgent decisions that impact various aspects of law and policy, often without the detailed explanations typically associated with formal opinions.

12.5 What Justice is NOT or what is "injustice"[45]

On the opening page of our website, we define INJUSTICE in item 12 as follows:

SEDM Website Opening Page

[45] Source: *What is "Justice"?*, Form #05.050, Section 17; https://sedm.org/Forms/FormIndex.htm.

Welcome to our religious fellowship and ministry. We are a First Amendment, not-for-profit, unincorporated, unregistered, non-privileged, non-denominational religious fellowship and ministry. Our Mission is to honor, to love, and to obey our Lord and God by teaching, reading, learning, and obeying His Holy Law and Word, putting Him first, and loving our neighbor by keeping the government as our servant and His steward for truth and justice. As described in Heb. 4:12 and like Jesus in Rev. 1:16, we seek to use the word and law of God as a sharp sword to expose and cut off corruption wherever it is found, and ESPECIALLY in government. His word and law is also our armor and shield as we combat the corruption as described in Eph. 6:11-20 and Psalm 91. See the following for authorities on why we, and especially Christians, must learn law:

Authorities on why we must PERSONALLY learn, follow, and enforce man's law and God's law

Our goal is to inspire, empower, motivate, and educate mainly those born or naturalized in the USA (and NOT "U.S.") and who are Members in how to love, honor, obey, glorify, and lift up our Sovereign Lord above every king, ruler, government, and Earthly law at a personal and very practical level and in every area of our lives. This is the essence of our religious worship and the essence, according to the Bible, of how we love our God. Our ministry accomplishes the above goals by emphasizing:

1. *Legal education focused on both God's law and man's law.*
2. *Religious liberty, faith and worship.*
3. *Law enforcement and legal activism.*
4. *Self government: Internal rather than external government.*
5. *Personal responsibility, good citizenship, human sovereignty (as an agent of the only sovereign, who is God).*
6. *Nonviolent, lawful exercise of non-partisan activism in pursuit of ONLY religious goals.*
7. *A return of a lawful, limited, accountable, and Constitutional government which is God's servant, rather than His enemy or His competitor for the allegiance, obedience, affections and worship of the Sovereign People, "We the People"*
8. *Exposing, publicizing, and opposing socialism, corruption, and violations of the Constitution and the law by government employees and officials.*
9. *Exercising our First Amendment right of self-government exclusively under the civil laws of our God.*
10. *Protecting and expanding the separation of powers doctrine, and especially the separation of church, which is believers, from state, which is the unbelieving people and governments around them.*
11. *Emphasizing and restoring the role of PRIVATE property in the freedom of each individual and its use as a defense against government oppression or corruption.*
12. *The pursuit of legal "justice", which means absolutely owned private property, and equality of TREATMENT and OPPORTUNITY under REAL LAW (Form #05.048). The following would be INJUSTICE, not JUSTICE:*
    - *12.1 Outlawing or refusing to recognize or enforce absolutely owned private property (Form #12.025).*
    - *12.2 Imposing equality of OUTCOME by law, such as by abusing taxing powers to redistribute wealth. See Form #11.302.*
    - *12.3 Any attempt by government to use judicial process or administrative enforcement to enforce any civil obligation derived from any source OTHER than express written consent or to an injury against the equal rights of others demonstrated with court admissible evidence. See Form #05.003.*
    - *12.4 Implementing or enforcing any civil franchise (Form #05.030). This enforces superior powers on the part of the government as a form of inequality and results in religious idolatry. This includes making justice into a civil public privilege or turning CONSTITUTIONAL PRIVATE citizens into STATUTORY PUBLIC citizens engaged in a public office and a franchise (Form #05.006) .*

Not only would the above be INJUSTICE, it would outlaw HAPPINESS, because the right to absolutely own private property is equated with "the pursuit of happiness" in the Declaration of Independence, according to the U.S. Supreme Court. See Form #05.050 for the definition of "justice". Click here(https://youtu.be/xxmORnnP3WI) to view a video on why all franchises produce selfishness, unhappiness, inequality, and ingratitude.

All of our worship, educational materials, and classes focus on the above goals. This is a fulfillment of the commandments of the Lord governing the relationship of believers to the world available below:

Commandments About Relationship of Believers to the World

[SEDM Website, Opening Page; SOURCE: http://sedm.org]

For more on the main source of INJUSTICE, read the following referenced in item 12 above:

Government Instituted Slavery Using Franchises, Form #05.030 FORMS PAGE: https://sedm.org/Forms/FormIndex.htm DIRECT LINK: https://sedm.org/Forms/05-MemLaw/Franchises.pdf

12.6 The Criminality and Injustice of Turning Justice into a Statutory Franchise or Privilege[46]

> *"The **practice of law, sir, is a privilege, especially in Federal Court**. You're close to losing that privilege in this court, Mr. Stilley."*
> *[Great IRS Hoax, Form #11.302, Section 4.4.12 and 6.11.1. From the trial of Dr. Phil Roberts]*

This section will prove that it is not only unconstitutional but illegal and even criminal to turn "justice" into a statutory franchise or privilege. In any legal system of justice, the most important methods of ensuring the integrity and fairness of the process is:

1. Equality between the government and all litigants. See Form #05.033.
2. Impartial judges and juries free of conflict of interest.

These elements are the foundation of "due process", in fact, as we exhaustively explain in Form #05.045. Many legal, philosophical, and logical problems result from turning justice into a for-profit business because of the conflict of interest that it creates that can destroy due process. The main method of turning justice into a for-profit business is government franchises, so we must examine how franchises can cause "justice" to not only become "injustice", but to produce crime as well.

The main method of turning a PRIVATE right into a PUBLIC privilege is by imposing the ability to take it away from the party without their express consent free of coercion of any kind. Ownership, after all, is the right to EXCLUDE any and ALL others, including governments, from using or benefitting from the use of the property. Anyone in the legal profession or the government who insists that they have the ability to deny you the service or property you seek without denying it to everyone else equally is, in effect, STEALING the property and violating the constitutional requirement for equal protection and equal treatment. This kind of discrimination produces and encourages extortion and/or usury because if the thing needed is especially important and even essential to your survival or well-being, there is a limitless number of things they could demand from you in exchange for the right to restore the thing you seek or need. The thing the government demands in return to restore the thing they are threatening to take away is called a "benefit" in franchise parlance. The British Magna Carta recognizes the denial of justice and turning it into a profitable franchise as follows:

> *"**To no-one will we sell or deny of delay right or justice**."*
> *[Magna Carta, National Archives; SOURCE: https://www.archives.gov/exhibits/featured-documents/magna-carta/translation.html]*

We discuss franchises at length in the following memorandum of law:

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

As we point out in the above document over and over, all government franchises involve commercial loans of government property with conditions or strings attached. The "strings" attached require you to surrender some type of valuable property in order to procure the government property you seek. Under the Uniform Commercial Code (U.C.C.), government franchises turn the government into the "Merchant" (U.C.C. §2-104(1)) offering property and you become the "Buyer" (U.C.C. §2-103(1)(a)) seeking and "bidding" to exchange their otherwise private property for the property sought. Under such circumstances, the Merchant always prescribes the terms of the sale and has the right to refuse sale if the Buyer either does not accept the terms or wants to modify them.

In the case of "justice", the government property sought are "judicial services", "court services", "police protection", and "jails". The cost of delivering all of these forms of property must be paid for in a way that does not jeopardize or undermine the chief characteristics of justice itself. There are lots of ways that justice can be undermined or denied in the process of raising revenue to pay for administering it. The following list identifies a few these ways, but the list is in fact ENDLESS:

1. Denying justice as a service to specific classes or groups of people based on some arbitrary criteria such as ethnicity, sexual orientation, gender, religious beliefs, etc.
2. Charging so much for the service that the people at the bottom of the economic ladder can't afford it. Thus, the poor are discriminated against and can easily be abused by the rich without legal consequence.

[46] Source: *What is "Justice"?*, Form #05.050, Section 13; https://sedm.org/Forms/FormIndex.htm.

3. Prosecuting people for failing to pay taxes that pay for police protection, while not prosecuting officers who fail to render the protection paid for. See:

> *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002, Section 8
> https://sedm.org/Forms/FormIndex.htm

4. Appointing and paying a court-appointed and court-selected attorney who is licensed and therefore beholden to the court at the expense of the best interests of the client. See:

> *Petition for Admission to Practice*, Family Guardian Fellowship
> https://famguardian.org/Subjects/LawAndGovt/LegalEthics/PetForAdmToPractice-USDC.pdf

5. The judge orders the court reporter to withhold the court transcript and then orders the text changed to remove something that he said that would undermine the government, get him in trouble. That way, you as the litigant discriminated upon or treated illegally by the judge do not have proof that he is doing it. This is criminal obstruction of justice and also criminally tampers with the court reporter as a witness.
6. Allowing judges to serve over both CONSTITUTIONAL issues and FRANCHISE issues and to decide which of the two types of law to apply. That choice is called "choice of law" and it is discussed in Form #05.018, Section 3. Judges whose pay and benefit derives from franchises will always try to switch the choice of law from CONSTITUTIONAL to STATUTORY FRANCHISE as a way to increase their own revenues or lower the taxes they pay for those franchises. For instance, allowing a state criminal judge whose revenues or commissions derive from traffic tickets to preside over a case involving unlicensed driving against someone who is PRIVATE and not a franchisee and who has CONSTITUTIONAL rights but wants not STATUTORY PRIVILEGES. This causes the judge to PRETEND that the party is subject to the statute when they are not in order to unlawfully enlarge government revenue and his own pay and benefits.
7. Instituting a commission program to reward police officers for writing tickets that produce revenue. This is an illegal abuse of the police power for civil or revenue purposes. See:

> *Sovereignty for Police Officers Course*, Form #12.022
> https://sedm.org/Forms/FormIndex.htm

8. Censoring the court record by:
   8.1. Telling you what to say in a pleading.
   8.2. Denying the filing of specific types of pleadings.
   8.3. Rejecting the pleading because it is too long.
9. Hearing a case where one of the litigants before the court is a friend of the judge or has a commercial relationship with him/her. Judges are required to recuse themselves in such a case.
10. Sanctioning people OTHER than licensed attorneys for any of their activities in the court other than contempt relating to disobeying court orders. Court rules pertain only to officers of the court, including those relating to sanctions. Private humans are not officers of the court. See Federal Rules of Civil Procedure.
11. Causing a surrender of any right, and especially constitutional right, against the government or a specific government actor in exchange for the ability to file suit. Examples might include:
    11.1. Waiving the right of trial by jury in exchange for the PRIVILEGE of being able to file a suit. Traffic court, Tax Court, and Family Court don't have a jury or a jury box and you aren't even allowed to request one. You are presumed to have waived those rights when you signed up for the franchise, even though those rights are UNALIENABLE, according to the Declaration of Independence.
    11.2. Making the rules of court arbitrary or not publishing them. This deprives litigants of the constitutional requirement for "reasonable notice" of what is expected of them and allows court officers to arbitrarily discriminate. See Form #05.022.
12. Instituting a conflict of interest, usually financial, among those judging the case, acting as witnesses, or serving as jurists. This would include:
    12.1. Allowing judges or jurors to serve on trials involving taxes where they are either taxpayers or tax consumers.
    12.2. Allowing judges to preside over trials involving companies they invested in.
    12.3. Subsidizing judges with financial incentives for a specific outcome of the case, such as commissions for convictions.
    12.4. Subsidizing court witnesses to testify in a way that produces a specific outcome of the case. For instance, paying witnesses a money award if their testimony produces a conviction.
    12.5. Tampering with or bribing jurists by telling them, for instance, that they will or will not be audited by the IRS for testifying in a certain way.
    12.6. Telling juries hearing tax cases that their tax bill will go up if they don't convict the defendant and thereby FORCE him or her to "pay their fair share".
    12.7. Recruiting witnesses against you who are in jail and who are told they will be released if they testify in a certain way.

12.8. Telling a party among a group of people being convicted that they will get immunity and not be prosecuted if they testify against their cohorts.

13. Destroying all constitutional rights and replacing them with privileges by:
    13.1. Forcing you to invoke the statutory law in order to get a remedy INSTEAD of the Constitution. See Form #05.037.
    13.2. Dismissing or penalizing cases that invoke the Constitution as a remedy INSTEAD of the statutes. See Form #05.010.
    13.3. Refusing to hear cases of people present on land but not domiciled on that land. See Form #05.002.
14. Censoring people from filing future actions in court. This happens all the time with people who use arguments in court that the courts don't want to deal with and which expose and prosecute government corruption.
15. Making the ruling unpublished in cases against the government where the government loses. Thus, you and other litigants may not use the win as an authority to win in future cases. This prejudices all cases in favor of the government and usually involves criminal obstruction of justice by the judge who made his ruling unpublished. See: http://Nonpublication.com
16. Making presumptions about the litigant or his status without evidence on the record of the proceeding which prejudice the litigant and favor the government. For instance, PRESUMING that they are a statutory "U.S. citizen" instead of a non-resident state national, thus making them liable for every act of Congress instead of immune from acts of Congress. See:
    16.1. *Why You Are a Political Citizen but Civil Non-Citizen, National, and Nonresident Alien*, Form #05.006 https://sedm.org/Forms/FormIndex.htm
    16.2. *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017 https://sedm.org/Forms/FormIndex.htm
    16.3. *Non-Resident Non-Person Position*, Form #05.020 https://sedm.org/Forms/FormIndex.htm

All of the above examples involve interfering with justice or the ability to litigate of specific litigants to advantage usually the government at the expense of the litigant. The biblical term for the above tactics is "usury", and the Bible forbids it. The types of activities turn "justice" into a franchise and are often litigated in franchise courts:

> *"franchise court. Hist. A privately held court that (usu.) exists by virtue of a royal grant [privilege], with jurisdiction over a variety of matters, depending on the grant and whatever powers the court acquires over time. In 1274, Edward I abolished many of these feudal courts by forcing the nobility to demonstrate by what authority (quo warranto) they held court. If a lord could not produce a charter reflecting the franchise, the court was abolished. - Also termed courts of the franchise.*
>
> *Dispensing justice was profitable. Much revenue could come from the fees and dues, fines and amercements. This explains the growth of the second class of feudal courts, the Franchise Courts. They too were private courts held by feudal lords. Sometimes their claim to jurisdiction was based on old pre-Conquest grants ... But many of them were, in reality, only wrongful usurpations of private jurisdiction by powerful lords. These were put down after the famous Quo Warranto enquiry in the reign of Edward 1." W.J.V. Windeyer, Lectures on Legal History 56-57 (2d ed. 1949)."*
> *[Black's Law Dictionary, Seventh Edition, p. 668]*

Notice the above language: *"**private courts held by feudal lords**"*. Judges who enforce their own franchises within the courtroom by imputing a franchise status against those protected by the Constitution but who are not lawfully allowed to alienate their rights or give them away are acting in a *private capacity* to benefit themselves personally. That private capacity is associated with a de facto government in which greed is the only uniting factor. Contrast this with love for our neighbor, which is the foundation of a de jure government. When judges act in such a private, de facto capacity, the follow results:

1. The judge is the "feudal lord" and you become his/her personal serf.
2. Rights become privileges, and the transformation usually occurs at the point of a gun held by a corrupt officer of the government intent on enlarging his/her paycheck or retirement check. And he/she is a CRIMINAL for proceeding with such a financial conflict of interest:

> *TITLE 18 > PART I > CHAPTER 11 > § 208*
> *§ 208. Acts affecting a personal financial interest*
>
> *(a) Except as permitted by subsection (b) hereof, **whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States**, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, **participates personally and substantially as a Government officer or employee, through***

> ***decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial [or personal/private] interest***—
>
> *Shall be subject to the penalties set forth in section 216 of this title.*

3. Equality and equal protection are replaced with the following consequences under a franchise:
   3.1. Privilege.
   3.2. Partiality.
   3.3. Bribes.
   3.4. Servitude and slavery.
4. The franchise statutes are the "bible" of a pagan state-sponsored religion. The bible isn't "law" for non-believers, and franchise statutes aren't "law" for those who are not consensually occupying a public office in the government as a public officer representing statutory public offices such as "citizen", "resident", "taxpayer", "driver", etc. See:

Socialism: The New American Civil Religion, Form #05.016 http://sedm.org/Forms/FormIndex.htm

5. You join the religion by "worshipping", and therefore obeying what are actually voluntary franchises. The essence of "worship", in fact, is obedience to the dictates of a superior being. Franchises make your public servants into superior beings and replace a republic with a dulocracy. "Worship" and obedience becomes legal evidence of consent to the franchise.

> ***"And the Lord said to Samuel, "Heed the voice of the people in all that they say to you; for they have rejected Me [God], that I should not reign over them.*** *According to all the works which they have done since the day that I brought them up out of Egypt, even to this day—**with which they have forsaken Me and served [as PUBLIC OFFICERS/FRANCHISEES] other gods [Rulers or Kings, in this case]—so they are doing to you also** [government becoming idolatry]."*
> *[1 Sam 8:4-20, Bible, NKJV]*

6. "Presumption" serves as a substitute for religious "faith" and is employed to create an unequal relationship between you and your public servants. It turns the citizen/public servant relationship into the employer/employee relationship, where you are the employee of your public servant. See:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm

7. "Taxes" serve as a substitute for "tithes" to the state-sponsored church of socialism that worships civil rulers, men and creations of men instead of the true and living God.
8. The judge's bench becomes:
   8.1. An altar for human sacrifices, where YOU and your property are the sacrifice. All pagan religions are based on sacrifice of one kind or another.
   8.2. What the Bible calls a "throne of iniquity":

> *"**Shall the throne of iniquity, which devises evil by law, have fellowship with You?*** *They gather together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own wickedness; **the Lord our God shall cut them off.**"*
> *[Psalm 94:20-23, Bible, NKJV]*

9. All property belongs to this pagan god and you are just a custodian over it as a public officer. You have EQUITABLE title but not LEGAL title to the property you FALSELY BELIEVE belongs to you. The Bible franchise works the same way, because the Bible says the Heavens and the Earth belong the LORD and NOT to believers. Believers are "trustees" over God's property under the Bible trust indenture. Believers are the "trustees":

> *"Indeed heaven and the highest heavens belong to the LORD your God, also the earth with all that is in it."*
> *[Deut. 10:15, Bible, NKJV]*
>
> *"The ultimate ownership of all property is in the State; individual so-called "ownership" is only by virtue of Government, i.e., law, amounting to mere user; and use must be in accordance with law and subordinate to the necessities of the State."*
> *[Senate Document #43, Senate Resolution No. 62, p. 9, paragraph 2, 1933*
> *SOURCE: http://www.famguardian.org/Subjects/MoneyBanking/History/SenateDoc43.pdf]*

10. The court building is a "church" where you "worship", meaning obey, the pagan idol of government.

> *"Now, Mr. Speaker, **this Capitol is the civic temple of the people**, and we are here by direction of the people to reduce the tariff tax and enact a law in the interest of all the people. This was the expressed will of the people at the polls, and you promised to carry out that will, but **you have not kept faith with the American people**."*
> *[44 Cong.Rec. 4420, July 12, 1909; Congressman Heflin talking about the enactment of the Sixteenth Amendment]*

11. The licensed attorneys are the "deacons" of the state sponsored civil religion who conduct the "worship services" directed at the judge at his satanic altar/bench. They are even ordained by the "chief priests" of the state supreme court, who are the chief priests of the civil religion.
12. Pleadings are "prayers" to this pagan deity. Even the U.S. Supreme Court still calls pleadings "prayers", and this is no accident.
13. Like everything that SATAN does, the design of this state-sponsored satanic church of socialism that worships men instead of God is a cheap IMITATION of God's design for de jure government found throughout the Holy Bible.

NOW do you understand why in Britain, judges are called "your worship"? Because they are like gods:

> *"**worship** **1**. **chiefly Brit: a person of importance—used as a title for various officials (as magistrates and some mayors)** **2:** reverence offered a divine being or supernatural power; also: an act of expressing such reverence **3:** a form of religious practice with its creed and ritual **4:** extravagant respect or admiration for or devotion to an object of esteem <~ the dollar>."*
> *[Webster's Ninth New Collegiate Dictionary, 1983, ISBN 0-87779-510-X, p. 1361]*

> *Psalm 82 (Amplified Bible)*
> *A Psalm of Asaph.*
>
> ***GOD STANDS** in the assembly [of the representatives] of God; **in the midst of the magistrates or judges** He gives judgment [as] among the gods.*
>
> ***How long will you [magistrates or judges] judge unjustly and show partiality to the wicked?** Selah [pause, and calmly think of that]!*
>
> *Do justice to the weak (poor) and fatherless; maintain the rights of the afflicted and needy.*
>
> *Deliver the poor and needy; rescue them out of the hand of the wicked.*
>
> ***[The magistrates and judges] know not, neither will they understand; they walk on in the darkness [of complacent satisfaction]; all the foundations of the earth [the fundamental principles upon which rests the administration of justice] are shaking.***
>
> ***I said, You are gods [since you judge on My behalf, as My representatives]; indeed, all of you are children of the Most High.***
>
> *But you shall die as men and fall as one of the princes.*
>
> *Arise, O God, judge the earth! For to You belong all the nations.*
> *[Psalm 82, Amplified Bible]*

The above is not only unethical, but it has also been declared unconstitutional by the U.S. Supreme Court:

> *"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution." Frost & Frost Trucking Co. v. Railroad Comm'n of California, 271 U.S. 583. "Constitutional rights would be of little value if they could be indirectly denied,' Smith v. Allwright, 321 US. 649, 644, or manipulated out of existence,' Gomillion v. Lightfoot, 364 U.S. 339, 345."*
> *[Harman v. Forssenius, 380 U.S. 528 at 540, 85 S.Ct. 1177, 1185 (1965)]*

The above ruling recognizes what is called "The Unconstitutional Conditions Doctrine" of the U.S. Supreme Court. That doctrine is further explored in:

Government Instituted Slavery Using Franchises, Form #05.030, Section 28.2: Unconstitutional Conditions Doctrine
https://sedm.org/Forms/FormIndex.htm

If you would like to know more about legal ethics and how it can be used to prevent and prosecute the enfranchisement of "justice" itself, see:

Law and Government Page, Section 14, Family Guardian Fellowship
https://famguardian.org/Subjects/LawAndGovt/LawAndGovt.htm

12.7 Imputing the "force of law" to a statute that a litigant is not subject to

Imputing the force of law to a statute that a litigant is not subject to could be considered "making law" because it involves changing the meaning of the statute. This usually happens because:

1. Civil statutes are being enforced outside the territory they are limited to (extraterritorially) or against those not domiciled on said territory as required by Federal Rule of Civil Procedure 17(b). This is criminal identity theft as documented in Form #05.046. Domicile MUST be consensual and if no consent is given, then the common law rather than civil statutes apply.
2. A civil status and public office such as "taxpayer" is imputed or enforced against a party who does not lawfully occupy said office.[47] Such offices are limited to those lawfully elected or appointed and not to the public generally.
3. Franchises are being abused to CREATE new public offices or civil statuses extraterritorially. Franchises can ADD duties to EXISTING offices, but may not CREATE new public offices extraterritorially. Such an abuse constitutes an unconstitutional "invasion" within the meaning of Article 4, Section 4 when implemented by the national government within the exclusive jurisdiction of a constitutional state.

Government actors are NOT allowed to create "jurisdiction" that doesn't lawfully exist using any of the of the above methods. Jurisdiction should be forcefully challenged in such case using the following:

Challenging Federal Jurisdiction Course, Form #12.010
https://sedm.org/Forms/FormIndex.htm

When interpreting a statute, judges will often look to the text of the statute itself, as well as other sources such as legislative history and case law, to determine its meaning[48]. If a judge imputes the force of law to a statute that a litigant is not subject to, he or she is effectively changing the meaning of the statute. This could be considered "making law" because it involves creating new legal rules that did not previously exist[49].

However, whether this is considered "making law" depends on the specific legal system in question. In some legal systems, judges are given more discretion to interpret statutes and create new legal rules. In others, judges are expected to adhere more closely to the text of the statute and are not given as much discretion to create new legal rules.

13 How Judges abuse presumption to Destroy (Repeal) Your Constitutional Rights[50]

13.1 Overview of abusive techniques of courts and government prosecutors

The abuse of presumption to injure your rights and transfer them to the government unlawfully is accomplished by the following devious techniques by judges and lawyers in litigation against the government:

1. Making presumptions into evidence. Presumptions are NOT evidence and cannot serve as a substitute for evidence. This essentially turns the court into a religious body, whereby presumption serves as a substitute for religious faith.

[47] See: *Your Exclusive Right to Declare or Establish Your Civil Status*, Form #13.008; https://sedm.org/Forms/FormIndex.htm.

[48] *Procedural Due Process Civil*, Justia; https://law.justia.com/constitution/us/amendment-14/05-procedural-due-process-civil.html.

[49] *Due process and Personal Jurisdiction: Doctrine and Practice*, Cornell Legal Information Institute; https://www.law.cornell.edu/constitution-conan/amendment-5/due-process-and-personal-jurisdiction-doctrine-and-practice.

[50] Source: *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017, Section 5; https://sedm.org/Forms/05-MemLaw/Presumption.pdf.

2. Using "words of art" in combination with the word "includes" and then violating the rules of statutory construction to add things to definitions of words that aren't there in order to bring you within their jurisdiction. See:

Legal Deception, Propaganda, and Fraud, Form #05.014 http://sedm.org/Forms/FormIndex.htm

3. Presuming that you are engaged in some type of franchise based on the words they use to describe you. This violates the presumption which is the foundation of American jurisprudence, which is the presumption of innocence until proven guilty:
   3.1. Addressing you as a "person", "natural person", or "individual", all of whom are public officers in the government. See:

Proof That There Is a "Straw Man", Form #05.042 http://sedm.org/Forms/FormIndex.htm

   3.2. Addressing you as a franchisee called a "taxpayer". By doing this, they are presuming that you consented to the franchise agreement. See:

Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm

   3.3. Addressing you as a "citizen" or "resident" who is therefore participating in the "protection franchise" called domicile and who is therefore within their jurisdiction. See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/

4. Presuming that a statute is public law that applies equally to everyone, including nonresidents and those who do not consent to participate. Most federal law, in fact, is private law that only applies to those who consent to participate in writing. For instance, the entire Internal Revenue Code, Subtitle A is private law that only applies to those domiciled in the District of Columbia and engaged in a public office in the government. All others are identified as a "foreign estate", meaning not "exempt" but rather "not subject" to the franchise agreement.

> *TITLE 26 > Subtitle F > CHAPTER 79 > § 7701*
> *§ 7701. Definitions*
>
> *(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—*
>
> *(31) Foreign estate or trust*
>
> *(A) Foreign estate*
>
> *The term "foreign estate" means an estate the income of which, from sources without the United States which is* ***not effectively connected with the conduct of a*** *trade or business* ***within the*** *United States, is not includible in gross income under subtitle A.*

A judge or government prosecutor who cites or enforces any provision of a franchise agreement such as the Internal Revenue Code against a non-participant called a "nontaxpayer" is guilty of slavery and involuntary servitude.

> *"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)]*

5. Presuming that the status of "exempt" on a government form is the only method for avoiding the liability described. In fact, one can be "not subject" without being "exempt". A person in China would not be "exempt" but rather "not subject" to the Internal Revenue Code, Subtitle A if he was not domiciled in the "United States" and not doing business there.
6. Presuming that the fact that an appeal was denied means the higher court agreed with the lower court. Case cites that include the phrase "cert denied" fall in this category. There is absolutely no evidence to support the presumption that an appeal denied implies the higher court agreed. The higher court would have to say so if they did and few denied appeals do so. Denying an appeal simply and only means they chose to exercise their discretion not to hear the appeal. Chances are good that the reason they did so was because the issues raised would have compelled them to make a ruling that would jeopardize illegal enforcement activities which enlarge their jurisdiction and importance.
7. Not challenging the presumptions of the government as moving party in a case in court against you.
8. Interfering with your challenges to the presumptions of your opponent in litigation against the government.

13.2 How governments and courts EVADE fulfilling the requirement to PROVE their presumptions

Courts and government prosecutors routinely engage in prejudicial presumptions designed to DESTROY constitutional protections for your absolutely owned private property and private rights as follows:

1. They presume that you are in court because you want the protection of their civil statutory protection franchise as a man or woman.
2. They presume that you are entitled to claim the "benefit" of their civil statutory protection because you are domiciled within their exclusive jurisdiction on federal territory not protected by the Constitution and only protected by statutes.
3. They presume that as someone claiming their protection, you have to be a member of their "club" called a cviil statutory "U.S. citizen", "U.S. resident", "person", or "individual" fiction and public office. These offices have a domicile separate from you as a man or woman, and that domicile is the District of Columbia, per 4 U.S.C. §72.
4. They present no evidence upon which to base this usually false presumption and COUNT on the fact that you don't understand them and will never challenge them.
5. They will try to evade the burden of proving their presumption by calling you frivolous for challenging jurisdiction at the outset of the proceeding.

They do the above using the legal concept of "Fiction", and the beauty of this approach is that you cannot counter it because of what the maxim states in their law.

> ***FICTION***. *Derived from Fictio in Roman Law, a fiction is defined as a false averment on the part of the Plaintiff which the defendant is not allowed to traverse,* ***the object being to give the court jurisdiction.*** *In the case of "Willful failure to File,* ***"the Plaintiff and court invents the "fiction" that defendant is a "taxpayer." Motions and briefs which rely on precepts of law will thereafter be denied or found frivolous.*** *This point was made clear in Roberts v. Commissioner, 176 F.2d. 221, 225 (9 C.A., 1949).*
> *[Ballentine's Law Dictionary, 3rd Edition (1969), p. 468]*

So now you understand the reason why some patriots lose: Because the court they are in is an Article 4, Section 3, Clause 2 legislative franchise court within a private corporation that is a legal "fiction" and which forces the civil statutory status of a fictional "PERSON" upon you. That legal "person" is an officer and/or statutory "employee" of the private corporation. They win because:

1. You say you want the constitution enforced.
2. You are NOT party to the constitution, but rather the states are.
3. Only statutory franchisees called "persons" are parties to the constitution and you can't be a "person" unless you are PART of the private corporate "State" mentioned in the Constitution.
4. You contradict yourself by insisting on "PRIVATE rights, by claiming you are a statutory but not constitutional "person", which is a CONTRACT. Hence, you are a government contractor.
5. You FALSELY claim on your death bed to be a STATUTORY "U.S. citizen" per 8 U.S.C. §1401, 26 U.S.C. §3121(e), and 26 C.F.R. §1.1-1(c).
6. You sign any and everything locking you into their private corporation and Swear to it under penalties of perjury. See 28 U.S.C. §1746(2).
7. You submit to the jurisdiction of the court by making an "appearance", not knowing that what you are submitting to is not even a "court" within the constitutional sense and that the court is in the Executive rather than Legislative branch of the court.

The more correct approach is to attack the Plaintiff and his court on **jurisdiction ONLY** at the outset of the proceeding. If you do NOT, you will lose.

> ***2 "What constitutes "timely" objection?***
>
> *(a) Under state practice, D is usually required to file his motion to quash service of process before any other pleading If he instead files a demurrer or answer (or asks for any other relief--even a continuance),* ***he is deemed to have made a general appearance and submitted himself to the court's jurisdiction--even if he alleges lack of jurisdiction as a "defense" in his answer [84 Cal.App.2d. 229]***
>
> ***(b) In federal practice, D must raise lack of personal jurisdiction by his initial pleading--in a motion to dismiss, or, if no such motion is filed, in his answer to the complaint. [FRCP 12(h)]***
> *[Gilberts Law Summaries, p. 33, sections 207- 211]*

13.3 Purpose of Due Process: To completely remove "presumption" from legal proceedings

All presumption which prejudices a right guaranteed by the Constitution represents a violation of Constitutional Due Process. The only exception to this rule is if the Defendant is not covered by the Constitution because:

1. Domiciled in areas not covered by the Bill of Rights, such as federal territories, possessions, and the federal areas within the states. These areas are called the "federal zone" in this memorandum.
2. Exercising agency of a corporation that is domiciled in the federal zone.

The above is also confirmed by reading Federal Rule of Civil Procedure 17(b) , which says that the law to be applied in a civil case must derive either from the law of the parties' domicile or from the domicile of the corporation they are acting as an agent for.

According to the Bible, "presumption" also happens to be a Biblical sin in violation of God's law as well, which should result in the banishment of a person from his society, which in today's terms would mean a prison sentence:

> *"'But the person who does anything presumptuously, whether he is native-born or a stranger, that one brings reproach on the LORD, and he shall be cut off from among his people."*
> *[Numbers 15:30, Bible, NKJV]*
>
> ---
>
> *"Keep back Your servant also from **presumptuous** sins; Let them not have dominion over me. Then I shall be blameless, And I shall be innocent of great transgression."*
> *[Psalm 19:13, Bible, NKJV]*
>
> ---
>
> *"Now the man who acts presumptuously and will not heed the priest who stands to minister there before the LORD your God, or the judge, that man shall die. So you shall put away the evil from Israel. 13 And all the people shall hear and fear, and no longer act presumptuously."*
> *[Deut. 17:12-13, Bible, NKJV]*

We have therefore established that "presumption" which can injure others is something we should try very hard to avoid, because it is a violation of both man's law AND God's law. The chief purpose of Constitutional "due process" is therefore to completely remove injurious bias and the presumption that produces it from every legal proceeding in a court of law. This is done by:

1. Preventing the application of any "statutory presumptions" that might prejudice the rights of the Defendant.
2. Insisting that every conclusion is based on physical and non-presumptive (not "prima facie") evidence.
3. To apply the same rules of evidence equally against both parties.
4. Choosing jurists who are free from bias or prejudice during the voir dire (jury selection) process.
5. Choosing judges who are free from bias or prejudice during the voir dire process.
6. Counsel on both sides ensuring that all presumptions made by the opposing party are challenged in a timely manner at all phases of the litigation.

You can tell when presumptions are being prejudicially used in a legal proceeding in federal court, for instance, when:

1. The judge or either party uses any of the following phrases:
   1.1. "Everyone knows. . ."
   1.2. "You knew or should have known…"
   1.3. "A reasonable [presumptuous] person would have concluded otherwise…"
2. The judge does not *exclude* the I.R.C. from evidence in the case involving a person who:
   2.1. Is not domiciled in the federal zone.
   2.2. Has no employment, contracts, or agency with the federal government.
   2.3. Who has provided evidence of the same above.
3. The judge allows the Prosecutor to throw accusations at the Defendant in front of the jury without insisting on evidence to back it up.
4. The judge admits into evidence or cites a statutory presumption that prejudices your rights.

> *"It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions."*
> *[Heiner v. Donnan, 285 U.S. 312 (1932); Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.]*

5. A judge challenges your choice of domicile and/or citizenship. In such a case, the court is illegally involving itself in what actually are strictly political matters and what is called "political questions". One's choice of domicile is a political matter that may not be coerced or presumed to be anything other than what the subject himself has clearly and unambiguously stated, both orally and on government forms. See our free memorandum of law below:

Political Jurisdiction, Form #05.004 http://sedm.org/Forms/FormIndex.htm

Unscrupulous government prosecutors will frequently make use of false presumption as their chief means of winning a tax case as follows:

1. They will choose a jury that is misinformed or under-informed about the law and legal process. This makes them into sheep who will follow anyone.
2. They will use the ignorance and prejudices and the presumptions of the jury as a weapon to manipulate them into becoming an angry "lynch mob" with a vendetta against the Defendant. This was the same thing that they did to Jesus. See the free *Great IRS Hoax*, Form #11.302, Section 5.4.6.5 entitled "Modern Tax Trials are religious 'inquisitions' and not valid legal processes" available at: http://sedm.org/Forms/FormIndex.htm.
3. They will make frequent use of "words of art" to deceive the jury into making false presumptions that will prejudice the rights of the defendant.

> *"The power to create presumptions is not a means of escape from constitutional restrictions,"*
> *[New York Times v. Sullivan, 376 U.S. 254 (1964)]*

   Most of these "words of art" are identified in the free *Great IRS Hoax*, Form #11.302, Section 3.9.1 through 3.9.1.27 available at: http://sedm.org/Forms/FormIndex.htm
4. They will:
   4.1. Avoid defining the words they are using.
   4.2. Prevent evidence of the meaning of the words they are using from entering the court record or the deliberations. Federal judges will help them with this process by insisting that "law" may not be discussed in the courtroom.

A good judge will ensure that the above prejudice does not happen, because it is his primary duty to defend and protect the Constitutional rights of the parties consistent with his oath of office, which is as follows for federal judges:

> *"I, _____, do solemnly swear and affirm that I will administer justice without regard to persons and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all of the duties incumbent upon me as _____ under the Constitution and laws of the United States, and that I will support and defend the Constitution of the United States against all enemies foreign and domestic, that I will bear true faith and allegiance to the same, and that I take this obligation freely without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."*

Judges must be especially vigilant of the requirements of the Constitution where the matter involves taxation and where there is no jury or where anyone in the jury is either a "taxpayer" or a recipient of government benefits. He must do so in order to avoid violation of 18 U.S.C. §597, which forbids bribing of voters, since jurists are a type of voter. However, as a practical matter, we have observed that there are not have many good judges who will be this honorable in the context of a tax trial because their pay and retirement, they think, depends on a vigorous illegal enforcement of the Internal Revenue Code in violation of 28 U.S.C. §455.

> *TITLE 28 > PART I > CHAPTER 21 > § 455*
> *§ 455. Disqualification of justice, judge, or magistrate judge*
>
> *(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.*
>
> *(b) He shall also disqualify himself in the following circumstances:*

[. . .]

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

Most of the injustice that occurs in federal courtrooms across the country relating to income taxation occurs primarily because the above statute is violated. This statute wasn't always violated. It was only in the 1930's that federal judges became "taxpayers". Before that, they were completely independent, which is why most people were not "taxpayers" before that. For details on this corruption of our judiciary, see:

> *Great IRS Hoax*, Form #11.302, Sections 6.7.15, 6.7.18, 6.10.2 through 6.11.12
> http://sedm.org/Forms/FormIndex.htm

The U.S. Supreme Court has declared that judges must be alert to prevent such unconstitutional encroachments upon the sacred Constitutional Rights of those domiciled in the states of the Union, when it gave the following warning, which has gone largely unheeded by federal circuit and district courts since then:

"It may be that ***it…is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed.*** *A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance.* ***It is the duty of the courts to be watchful for the constitutional rights of the citizens, and against any stealthy encroachments thereon.*** *Their motto should be obsta prinicpalis," [Mr. Justice Brewer, dissenting, quoting Mr. Justice Bradley in Boyd v. United States, 116 U.S. 616, 29 L.Ed. 746, 6 Sup.Ct.Rep. 524]*
[Hale v. Henkel, 201 U.S. 43 (1906)]

13.4 The Worst Presumption Of All: That "private law" is "law" for those not subject to it

Among the types of evidence that may be introduced in a court setting to establish guilt include quoting the enacted law itself. Evidence-based upon "law" only becomes admissible when the law cited is "positive law".

"Positive law*. Law actually and specifically enacted or adopted by proper authority for the government of an organized jural society. See also Legislation."*
[Black's Law Dictionary, Sixth Edition, p. 1162]

Evidence that is NOT positive law, becomes "prima facie" evidence, which means that it is "presumed" to be evidence unless challenged or rebutted:

TITLE 1 > CHAPTER 3 > § 204
§204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—

(a) ***United States Code.—*** *The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included:* ***Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.***

The above statute, which is "positive law", establishes what is called a "statutory presumption" that courts are obligated to observe. The statute above creates the notion of "prima facie" evidence. "Prima facie evidence" is defined below:

*"****Prima facie evidence****. Evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence. State v. Haremza, 213 Kan. 201, 515 P.2d. 1217, 1222.*

> *That quantum of evidence that suffices for proof of a particular fact until the fact is contradicted by other evidence; once a trier of fact is faced with conflicting evidence, it must weigh the prima facie evidence with all the other probative evidence presented. Godesky v. Provo City Corp., Utah, 690 P.2d. 541, 547. Evidence which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support which it is introduced. An inference or presumption of law, affirmative or negative of a fact, in the absence of proof, or until proof can be obtained or produced to overcome the inference. See also Presumptive evidence."*
> *[Black's Law Dictionary, Sixth Edition, p. 1190]*

A "statutory presumption" is one that occurs in a court of law because it is mandated by a positive law statute. The U.S. Supreme Court has ruled that "statutory presumptions", such as 1 U.S.C. §204 above, which prejudice constitution rights are forbidden:

> ***"A rebuttable presumption clearly is a rule of evidence which has the effect of shifting the burden of proof,*** *Mobile, J. & K. C. R. Co. v. Turnipseed, 219 U.S. 35, 43 , 31 S.Ct. 136, 32 L. R. A. (N. S.) 226, Ann. Cas. 1912A, 463; and* ***it is hard to see how a statutory rebuttable presumptions is turned from a rule of evidence into a rule of substantive law as the result of a later statute making it conclusive. In both cases it is a substitute for proof; in the one open to challenge and disproof, and in the other conclusive. However, whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an attempt, by legislative fiat, to enact into existence a fact which here does not, and cannot be made to, exist in actuality,*** *and the result is the same, unless we are ready to overrule the Schlesinger Case, as we are not; for that case dealt with a conclusive presumption, and the court held it invalid without regard to the question of its technical characterization.* ***This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.*** *For example, Bailey v. Alabama, 219 U.S. 219, 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1, 5-6, 49 S.Ct. 215.*
>
> > ***'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'***
>
> *"If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law."*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

The U.S. Supreme Court has also ruled that statutes like 1 U.S.C. §204 impose the burden of proof upon the party who cites that which is not "positive law" or which is "prima facie" evidence of law as authority in a case, in cases where constitutional rights are at issue. To wit:

> ***"Legislation declaring that proof of one fact of group of facts shall constitute prima facie evidence of an ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process clause of the Fourteenth Amendment.*** *Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty, or property. Manley v. Georgia, 279 U.S. 1 , 49 S.Ct. 215, 73 L.Ed. -, and cases cited."*
> *[Western and Atlantic Railroad v. Henderson, 279 U.S. 639 (1929)]*

1 U.S.C. §204 lists the Titles of the U.S. Code that are positive law. The Internal Revenue Code (I.R.C.) is not listed, and therefore, it is simply "presumed" to be law until challenged or proven otherwise. That challenge has to come from you, because it will NEVER come from the government. Who would look a gift horse in the mouth? The statutory "presumption" that the I.R.C. is "law" may not be used to prejudice or undermine the Constitutional rights of a person, as shown above. Therefore, it may only be cited in the case of persons who are "taxpayers", which means persons who are subject to it. Those who are not subject to it because they are "nontaxpayers" may not have it cited against them without proof on the record that:

1. Proof appears on the record that the affected party performed some act that made them subject to it.
2. The section cited is "positive law". This would require going back to the Statutes At Large from which the section derives and showing that this section is "positive law".

Most people who are challenged by the government using a section of the I.R.C. as authority wrongfully "presume" that it is "law" or "positive law" without even challenging this fact. This has the effect of relieving the government from the burden of proving that the section they are citing is "positive law", thereby prejudicing and destroying their Constitutional rights. We must remember that the I.R.C. is:

1. "Private law" and "special law" that only applies to parties who consent individually to it, either in writing or based on their behavior. In that sense, it behaves as a contract, and not a public law.
2. NOT "law" for a "nontaxpayer" and may not be cited against a "nontaxpayer".

The I.R.C. is as "foreign" as the laws of China are to an American if the subject is a "nontaxpayer". It is just like the Criminal Laws in fact, which a party can only become subject to by committing a "crime" defined therein.

> *"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)]*

The Internal Revenue Code contains several statutory presumptions. Below is an example:

> *TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter E > § 7491*
> *§ 7491. Burden of proof*
>
> *(a) Burden shifts where taxpayer produces credible evidence*
>
> *(1) General rule*
>
> *If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.*
>
> *(2) Limitations*
>
> *Paragraph (1) shall apply with respect to an issue only if—*
>
> *(A) the taxpayer has complied with the requirements under this title to substantiate any item;*
>
> *(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and*
>
> *(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430 (c)(4)(A)(ii).*
>
> *Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645 (b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645 (b)(2)).*
>
> *(3) Coordination*
>
> *Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.*

If you would like to learn more about the subjects in this section, please refer to our free memorandum of law below:

Requirement for Consent, Form #05.003 http://sedm.org/Forms/FormIndex.htm

13.5 Unconstitutional Judicial Presumptions Commonly Used in Federal Court

The bedrock of our system of jurisprudence is the fundamental presumption of "innocent until proven guilty beyond a reasonable doubt".

> *The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice. Long ago this Court stated:*
>
> *The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.*
> *[Coffin v. United States, 156 U.S. 432, 453 (1895)]*

The Fifth Amendment to the U.S. Constitution then guarantees us a right of due process of law. Fundamental to the notion of due process of law is the ***absence of presumption*** of fact or law. Absolutely everything that is offered as proof or evidence of guilt must be ***demonstrated and revealed*** with evidence, and ***nothing*** can or should be based on presumption, or especially *false presumption*. ***The extent to which presumption is used to establish guilt absent evidence or as a substitute for evidence is therefore the extent to which our due process rights have been violated.*** Black's Law Dictionary, Sixth Edition, on page 500 under the term "due process" confirms these conclusions:

> *"If any question of fact or liability be conclusively **be presumed** [rather than proven] against him, this is **not** due process of law."*
> *[Black's Law Dictionary, Sixth Edition, p. 500 under "due process"]*

In our legal system, our Courts and judges go out of their way to create and perpetuate ***false presumptions*** to bias the legal system in their favor, and in so doing, based on the above, they commit a grave sin and violation of God's laws and stare decisis on the matter. The only reason they get away with this tyranny in most cases is because of our own legal ignorance along with corrupted government judges and lawyers who allow and encourage and facilitate this kind of abuse of our due process rights. Below are some examples of how they do this:

1. False presumptions that the Internal Revenue Code is law. The Internal Revenue Code has not been enacted into positive law. It says that at the beginning of the Title. Any title not enacted into "positive law" is described as "prima facie evidence" of law. That means it is "presumptive" evidence that is rebuttable:

> *"**Prima facie**. Lat. At first sight on the first appearance; on the face of it; so far as can be judged from the first disclosure; **presumably; a fact presumed to be true unless disproved by some evidence to the contrary.** State ex rel. Herbert v. Whims, 68 Ohio App. 39, 38 N.E.2d. 596, 499, 22 O.O. 110. See also Presumption."*
> *[Black's Law Dictionary, Sixth Edition, p. 1189]*

Since Christians are not allowed to presume anything, then they can't be allowed to presume that the Internal Revenue Code is "law" or that it even applies to them. Technically, the Internal Revenue Code can only be described as a "statute" or "code", but not as "law". Here is the way the Supreme Court describes it:

> *"To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. **This is not legislation. It is a decree under legislative forms.***
>
> ***Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.**"*
> *[Loan Association v. Topeka, 20 Wall. 655 (1874)]*

Law is evidence of explicit consent by the people. For a statute to be enacted into positive law, a majority of the people or their representatives must consent to it by voting in favor of it. When a statute is not enacted into positive law, this simply means that the people never collectively and explicitly consented to the enforcement of it. Consequently, they cannot be expected to accept any adverse impact on their rights that such legislation but not "law" might have on them. In a system of government based only on consent of the governed such as we have, such "legislation" and "presumptive evidence of law" is unenforceable and becomes mainly a political statement of public policy but ***not*** law. This is a polite way of saying that the Internal Revenue Code is simply an unenforceable, state-sponsored federal voluntary religion that has no force on the average American. Like the Bible itself, the Internal Revenue Code therefore only applies to people who volunteer or choose to "believe" in or accept its terms. To treat the I.R.C. any other way is essentially to hurt your neighbor and disrespect his sovereignty and his rights. Christians don't force things upon others who never consented. People in the legal profession and the tax profession will readily and frequently sin all the time by making false presumptions about the liability of people under Internal Revenue Code and they will falsely assume that the I.R.C. is "law". Indirectly, they are falsely "presuming" that the target of the IRS enforcement action "consented", which is a complete lie in most cases. This type of presumptuous behavior is forbidden to Christians under God's law because it violates the second great commandment to love our neighbor and not hurt him (see Bible, Gal. 5:14). Consequently, the Internal Revenue Code cannot be treated as "law" by Christians and shouldn't be treated as "law" by the courts either. To do so would constitute sin and idolatry toward any judge that might try to coerce either jurists or the accused to make such "presumptions". Since the I.R.C. is "presumptive evidence" of law, the easy way to disprove that it is law is to demand evidence that the people consented to it. The Supreme Court said the Sixteenth Amendment didn't constitute evidence of consent. The Congress cannot enact a law that applies in states of the Union without explicit evidence of

consent found in the Constitution, and there is none according to the Supreme Court. If you would like to know more about the subject of the Internal Revenue Code not being "law", see sections 5.4.1 through 5.4.1.4 later.

2. Court jurisdiction presumptions. If you appear in front of a federal court that has no jurisdiction over you and you make a "general appearance" and do not challenge jurisdiction, you are "presumed" to voluntarily consent to the jurisdiction of the court, even though that court in most cases doesn't have any jurisdiction whatsoever over you, including in personam or subject matter jurisdiction.

> ***appearance***. *A coming into court as a party to a suit, either in person or by attorney, whether as plaintiff or defendant. The formal proceeding by which a defendant submits himself to the jurisdiction of the court. The* ***voluntary submission*** *to a court's jurisdiction.*
>
> *In civil actions the parties do not normally actually appear in person, but rather through their attorneys (who enter their appearance by filing written pleadings, or a formal written entry of appearance). Also, at many stages of criminal proceedings, particularly involving minor offenses, the defendant's attorney appears on his behalf. See e.g., Federal Rule of Criminal Procedure 43.*
>
> *An appearance may be either* ***general*** *or* ***special****; the former is a simple and unqualified or unrestricted submission to the jurisdiction of the court, the latter is a submission to the jurisdiction for some specific purpose only, not for all the purposes of the suit. A special appearance is for the purpose of testing or objecting to the sufficiency of service or the jurisdiction of the court over defendant without submitting to such jurisdiction; a general appearance is made where the defendant waives defects of service and submits to the jurisdiction of court. Insurance Co. of North America v. Kunin, 175 Neb. 260, 121 N.W.2d. 372, 375, 376.*
> *[Black's Law Dictionary, Sixth Edition, p. 97]*

Your ignorant and/or greedy attorney won't even tell you that you have the option to make a *special* appearance instead of a general appearance or to challenge jurisdiction because it would threaten his profits and maybe even his license to practice law. You have to know this, and what you don't know will *definitely* hurt you! However, even some federal courts admit the real truth of this matter:

> *"There is a presumption against existence of federal jurisdiction; thus, party invoking federal court's jurisdiction bears the burden of proof. 28 U.S.C.A. §§ 1332, 1332(c); Fed.Rules.Civ.Proc. rule 12(h)(3), 28 U.S.C.A."*
>
> *"If parties do not raise question of lack of jurisdiction, it is the duty of the federal court to determine the matter sua sponte. 28 U.S.C.A. §1332."*
>
> *"Lack of jurisdiction cannot be waived and jurisdiction cannot be conferred upon a federal court by consent, inaction, or stipulation. 28 U.S.C.A. §1332."*
>
> *"Although defendant did not present evidence to support dismissal for lack of jurisdiction, burden rested with plaintiffs to prove affirmatively that jurisdiction did exist. 28 U.S.C.A. §1332."*
> *[Basso v. Utah Power and Light Company, 495 F.2d. 906 (1974)]*

3. Presumption of correctness of IRS assessments. The federal courts assume that the IRS' assessments are correct, but the IRS must provide facts to support the assessment and it must appear on a 23C assessment form that is signed and certified by an assessment officer.

> *"The tax collector's* ***presumption of correctness*** *has a Herculean mascularity of Goliathlike reach, but we strike an Achilles' heel when we find no muscles, no tendons, no ligaments of fact."*
> *[Portillo v. C.I.R., 932 F.2d. 1128 (5th Cir. 1991)]*
>
> *"Presumption of correctness which attends determination of Commissioner of Internal Revenue may be rebutted by showing that such determination is arbitrary or erroneous."*
> *[United States v. Hover, 268 F.2d. 657 (1959)]*

However, the presumption of correctness is easily overcome by looking at the government's own audits of the IRS. There are several documents on the Family Guardian website from the General Accounting Office (GAO) showing that the IRS is unable to properly account for its revenues or protect the security of its taxpayer records. Presenting these reports in court is a sure way to derail the presumption of correctness of any alleged assessment the IRS may say they have on you. You can examine these reports for yourself on the website at:

http://famguardian.org/PublishedAuthors/Govt/GAO/GAO.htm

4. U.S. Supreme Court "cert denied" presumptions. When a case is lost at the federal district or circuit court level, frequently it is appealed to the U.S. Supreme Court on what is called a "writ of certiorari". When the Supreme Court doesn't want to hear the case, they will "deny the cert", which is often abbreviated "cert denied". A famous and evil and unethical tactic by the IRS and DOJ is to cite as an authority a "cert denied" and then "presume" or "assume" that because the Supreme Court wouldn't hear the appeal, then they agree with the findings of the lower court. An example of that tactic is found in the IRS' famous document on their website entitled *The Truth About Frivolous Tax Arguments*, for instance, which is rebutted on the website at: http://famguardian.org/PublishedAuthors/Govt/IRS/friv_tax_rebuts.pdf. However, this fallacious logic simply is *not* a valid *presumption* or inference to make absent a detailed explanation from the Supreme Court *itself* of why they denied the cert, and frequently they won't explain why they denied the appeal because it would be a public embarrassment for the government to do so! For instance, if a person declares themselves to be a "nontaxpayer" and a "nonresident alien", does not file a return, and challenges the authority of the IRS and litigates his case all the way up to the Supreme Court to prove that the IRS has no assessment authority on him, do you think the Supreme Court is going to want most Americans to hear the truth by ruling in his favor and causing our income tax system to self-destruct? U.S. Supreme Court Rule 10 reveals ***some***, but not ***all*** of the reasons why they might deny a cert., but there are a lot more reasons they don't list, and the rule even admits that the reasons listed are incomplete. The bold-faced type emphasizes the point we are trying to make here:

> *Rule 10. Considerations Governing Review on Writ of Certiorari*
>
> *Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following,* ***although neither controlling nor fully measuring the Court's discretion****, indicate the character of the reasons the Court considers:*
>
> > *(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;*
> >
> > *(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;*
> >
> > *(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.*
>
> ***A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.***

In the above, DISCRETION=REASON. The above list of reasons, by the court's own admission, is *incomplete*. Furthermore, there is no Supreme Court rule that says they have to list ALL their reasons for not granting a writ. This very defect, in fact, is how the government has transformed us into a society of men and no laws, in conflict with the intent of the founding fathers expressed in *Marbury v. Madison*, 5 U.S. 137 (1803):

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

So don't let the IRS trick you into "assuming" that the supreme court agreed with them if an appeal was denied to it from a lower court that was ruled in the IRS' favor. The lower courts are obligated to follow the precedents established by the Supreme Court but frequently they don't. Rulings against gun ownership and the pledge of allegiance in 2002 coming from the radical and socialist Ninth Circuit Court of Appeals are good examples that contradict such a conclusion.

5. "U.S. citizen" presumptions. There is a very common misconception that we are all "U.S. citizens". In most cases, judges will insist that the only way that you cannot be one is if you meet the burden of proving that you *aren't*. This

presumption is *completely false* and is undertaken to illegally pull you inside the corrupt jurisdiction of the federal courts in order to rape and pillage your liberty and your property.

> *"Unless the defendant can prove he is **not** a citizen of the United States, the IRS has the right to inquire and determine a tax liability."*
> *[U.S. v. Slater, 545 Fed.Supp. 179,182 (1982)]*

6. Burden of proof presumptions. Internal Revenue Code section 7491 places the burden of proving nonliability on the "taxpayer". Note that this section of the code never requires the government to first prove that a human being is a "taxpayer" BEFORE the burden of proof is shifted to the taxpayer. Here is the content of that section:

> *"If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue."*
> *[26 U.S.C. §7491]*

There are many other similar "presumptions" like those above that we haven't documented. We include these here only as examples so you can see how the scandal and violation of your rights and liberties is perpetrated by evil tyrants in our government who have transformed it into a socialist beast. Whatever the case, the Bible is very explicit about what we should do with those who act presumptuously: *Rebuke and banish them from society*. What does this mean in the case of juries and during court trials? It means that during the voir dire process of interviewing the jurors and the judges, they must both be asked about their presumptions and biases, and those who have such biases and presumptions should be banished from the jury and the case. If the judge has a bias or presumption in favor of the government's position, such as those listed above, then he too should be removed for conflict of interest under 28 U.S.C. §455 and bias and prejudice under 28 U.S.C. §144. Likewise, if you ever hear a government prosecutor use the phrase "everyone knows", then a BIG red flag should go up in your mind's eye because you are dealing with a presumption. When this happens in a courtroom, you ought to stand up and object to such nonsense immediately because your WICKED opponent is trying to frame you with presumptions and thereby violate your due process rights under the Fifth Amendment!

The reason this memorandum of law is so large and extensive in its research and authorities is because we have made a disciplined effort to *avoid* presumptions. We have, in fact, used evidence derived from the government's own laws, spokespersons, and courts to prove nearly every point we make in this book. This ensures that you don't have to "assume" anything and can examine the facts and evidence for yourself and reach your own independent conclusions about the truth of what we are saying. In effect, we have pretended that we are the prosecuting attorney and you are the jury and the "court" is the "court of public opinion". This provides excellent practice and preparation for a real trial, because we assume these materials will also be used in a real court to prosecute specific government servants for wrongdoing.

13.6 How corrupted judges encourage and reward presumptions by jurists in the courtroom

Federal judges have developed some rather effective and prevalent techniques for encouraging and rewarding the use of prejudicial presumption in federal courtrooms in the context of taxation so as to turn a legal proceeding essentially into a political proceeding, whereby the jury does the illegal lynching for him. Below are a few of the more common techniques:

1. Refusing to allow "law" to be discussed in the courtroom in front of a jury.
2. Refusing to allow jurists serving on jury duty to read the law.
3. Sanctioning and penalizing counsel who discuss the law during trials, under Federal Rule of Civil Procedure 11.

If you would like to read a real-life trial transcript whereby a judge did exactly the above, see:

http://famguardian.org/Subjects/Taxes/CaseStudies/PhilRoberts/PhilRoberts.htm

After law is removed from tax trials, the only thing that remains is presumption and ignorance as the means of decision, which will always produce injustice, prejudice, and unlawful decisions from jurists. In that scenario, the jury becomes putty in the hands of the judge as a "weapon of mass destruction" to take away your sacred Constitutional rights and private property. Judges who do this are THIEVES.

> *"One who turns his ear from hearing the law [God's law or man's law], even his prayer is an abomination."*
> *[Prov. 28:9, Bible, NKJV]*

13.7 How Presumption turns Courts into Federal Churches in violation of the First Amendment

"Presumption", when it is left to operate unchecked in a federal court proceeding:

1. Has all the attributes of religious "faith". Religious faith is simply a belief in anything that can't be demonstrated with physical evidence absent presumption.
2. Turns the courtroom into a federal "church", and the judge into a "priest".
3. Produces a "political religion" when exercised in the courtroom.
4. Corrupts the court and makes it essentially into a political, and not a legal tribunal.
5. Violates the separation of powers doctrine, which was put in place to protect our rights from such encroachments.

If you would like to investigate the fascinating matter further of how the abuse of presumption in federal courtrooms has the effect of creating a state-sponsored religion in violation of the First Amendment Establishment Clause, please consult:

1. Our free memorandum of law below:
   Socialism: The New American Civil Religion, Form #05.016
   http://sedm.org/Forms/FormIndex.htm
2. The free book below:
   Great IRS Hoax, Form #11.302, Section 5.10
   http://sedm.org/Forms/FormIndex.htm

We strongly encourage you to rebut the evidence contained in the above references and send us the rebuttal along with court-admissible evidence upon which it is based.

14 Disciplining tyrannical judges who make law

In order to supervise judges in the proper execution of their duties as a vigilant American, you must therefore intimately understand all the above tactics and file criminal complaints against the judge immediately into the court record every time they are attempted. You can't do this as an attorney without pissing off the judge and ILLEGALLY losing your license if you are litigating against a government actor. You MUST therefore be a private American when you do it. The tactics for dealing with the above abuses mostly appear in the following documents:

1. *Government Identity Theft*, Form #05.046
   https://sedm.org/Forms/FormIndex.htm
2. *Tax Form Attachment*, Form #04.201
   https://sedm.org/Forms/FormIndex.htm
3. *Rules of Presumption and Statutory Interpretation*, Litigation Tool #01.006
   https://sedm.org/Litigation/LitIndex.htm
4. *Citizenship, Domicile, and Tax Status Options*, Form #10.003
   https://sedm.org/Forms/FormIndex.htm
5. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001
   https://sedm.org/Forms/FormIndex.htm
6. *Citizenship Status v. Tax Status*, Form #10.011
   https://sedm.org/Forms/FormIndex.htm
7. *Federal Pleading, Motion, and Petition Attachment*, Litigation Tool #01.002
   https://sedm.org/Litigation/LitIndex.htm

For an entertaining video on the subject of this section, we highly recommend the following video:

Courts Cannot Make Law, Michael Anthony Peroutka Townhall
https://sedm.org/courts-cannot-make-law/

15 Too much law causes crime![51]

[51] Source: *What is "law"?*, Form #05.048, Section 11; https://sedm.org/Forms/FormIndex.htm.

"The more corrupt the state, the more numerous the laws."
[Tacitus, Roman historian 55-117 A.D.]

Yes, that's right. I, being of sound mind and aging body, do solemnly acclaim and justly affirm that I am a criminal. And, if I do my job correctly, by the time you finish reading this you will realize that not only are you a criminal also, but that it is almost impossible NOT to be a criminal in modern society; and, what you should do about it.

My premise is simply that government, not only at the federal level but in particular at the state and local level, has grown so gorged and bloated that it has become virtually impossible for any of us to remain "law-abiding citizens." In order to be law-abiding, one must first know and understand the law.

> *"**All persons in the United States are chargeable with knowledge of the Statutes-at-Large**....[I]t is well established that anyone who deals with the government assumes the risk that the agent acting in the government's behalf has exceeded the bounds of his authority,"*
> *[Bollow v. Federal Reserve Bank of San Francisco, 650 F.2d. 1093 (9th Cir. 1981)]*

Now I ask you, in today's society how many people really know, let alone understand or even READ, "the law?" Moreover, how many policemen really know or, more importantly, understand the law? Do the lawyers and judges, who are charged with the protection of America's most sacred document, even understand the law? Judging from the number of appealed judgments these days, it would appear that even these "protectors of justice" are unable to effectively untangle the thicket of jurisprudence created by the endless loads of fertilizer produced by the various legislatures.

Just the number of laws one would have to read and familiarize themselves with in order to become adequately knowledgeable makes the task near to impossible. It would literally be a full time and lifetime job to read and learn ALL laws and there would be no time left to have a REAL life! Why, we would all have to go to law school just to get to a proper starting point of understanding the law. Last year, in North Carolina alone, 519 new laws were passed by the General ASSembly. Sixty new laws took affect in the Old North State on January 1st of this year. Add these to the tens of thousands of laws already on the books and you begin to see the enormity of the endeavor to properly understand justice and how its principles are to be applied. And that is just in one state, folks. I wonder how many "new" laws have been instituted where you live this year?

Still skeptical? Take an afternoon and go to the nearest law library. Even the name "law library" should send a chill down any thinking person's spine. I am not talking about a corner of your local public library where you'll find a shelf or two stocked with reference books about a particular subject. No, I mean a ***whole library*** devoted to cataloging all the things you and I are not allowed to do. Whole rooms filled wall-to-wall and floor-to-ceiling with a seemingly endless array of laws, statutes, and regulations. Shelf next to shelf, volume upon volume, and page after page, creating a twisting, turning maze of decisions, rulings and appeals. This is where you go when you seek comprehension of the chains that fetter your pursuit of happiness. Have a seat and look around at what you must learn if you really want to be an honest, up-standing, law-abiding citizen.

> ***"It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?***
>
> *"It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. **To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them**; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them."*
> *[Federalist Paper No. 78, Alexander Hamilton]*

Government has simply made it too easy to break the law for us not to be criminals. I mean, you are required to have a license or permit to do practically everything. That means that you must go to a bureaucrat somewhere and ask their permission before you proceed or you become a criminal. If you want to drive to work, you must first have a paper from the State that says you are allowed to operate a statutory "motor vehicle", meaning a vehicle used in interstate commerce to effect transportation for hire. If you want to improve your home, you are required to go downtown and stand before your elected rulers and beg their indulgence and literally pay them a bribe so that you can add that patio or finish your basement. If you want to get a job to support your family, you cannot do so without a number supplied by the benevolent nannies that soil the

seats of CONgress. How long does this list have to be before you realize that if you have to ask permission to do everything, not only will you eventually slip up and become a criminal, but you have also ceased to be free? With every new law enacted another little piece of liberty dies.

The Thirteenth Amendment outlaws INVOLUNTARY servitude, meaning slavery. That means you own yourself.

> *"Every man has a natural right to the fruits of his own labor, is generally admitted; and no other person can rightfully deprive him of those fruits, and appropriate them against his will…"*
> *[The Antelope, 23 U.S. 66, 10 Wheat 66, 6 L.Ed. 268 (1825)]*

If in fact you own your own body and all the fruits of your labor, then they are PRIVATE property that cannot be licensed or regulated by the government without THEM getting YOUR permission. That is the legal definition of "ownership" itself. The fact that they DON'T ask for such permission can only be explained by the fact that you must have volunteered. But how?

> *Ownership. Collection of rights to use and enjoy property, including right to transmit it to others. Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473, 33 A.2d. 665, 673. The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal allowed by law.*
>
> *The right of one or more persons to possess and use a thing to the exclusion of others. The right by which a thing belongs to someone in particular, to the exclusion of all other persons. The exclusive right of possession, enjoyment, and disposal; involving as an essential attribute the right to control, handle, and dispose.*
>
> ***Ownership of property is either absolute or qualified. The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws. The ownership is qualified when it is shared with one or more persons, when the time of enjoyment is deferred or limited, or when the use is restricted. Calif. Civil Code, §§678-680.***
>
> *There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trademarks and signs, and of rights created or granted by statute. Calif. Civil Code, §655.*
>
> *In connection with burglary, "ownership" means any possession which is rightful as against the burglar.*
>
> *See also Equitable ownership; Exclusive ownership; Hold; Incident of ownership; Interest; Interval ownership; Ostensible ownership; Owner; Possession; Title.*
> *[Black's Law Dictionary, Sixth Edition, p. 1106]*
>
> _____
>
> ***"PROPERTY**. Rightful dominion over external objects; ownership; the **unrestricted and exclusive right to a thing; the right to dispose of the substance of a thing in every legal way, to possess it, to use it and to exclude every one else from interfering with it. Mackeld. Rom. Law, § 265.***
>
> *Property is the highest right a man can have to anything; being used for that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy. Jackson ex dem. Pearson v. Housel, 17 Johns. 281, 283.*
>
> *A right imparting to the owner a power of indefinite user, capable of being transmitted to universal successors by way of descent, and imparting to the owner the power of disposition, from himself and his successors per universitatem, and from all other persons who have a spes successions under any existing concession or disposition, in favor of such person or series of persons as he may choose, with the like capacities and powers as he had himself, and under such conditions as the municipal or particular law allows to be annexed to the dispositions of private persons. Aust. Jur. (Campbell's Ed.) § 1103.*
>
> ***The right of property is that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe. It consists in the free use, enjoyment and disposal of all a person's acquisitions, without any control or diminution save only by the laws of the land. 1 Bl. Comm. 138; 2 Bl.Comm. 2, 15.***
>
> *The word is also commonly used to denote any external object over which, the right of property is exercised. In this sense i t is a very wide term, and includes every class of acquisitions which a man can own or have an interest in. See Scranton v. Wheeler, 179 D.S. 141, 21 Sup.Ct. 48, 45 L.Ed. 126; Lawrence v. Hennessey, 165 Mo. 659, 65 S.W. 717; Boston & L. R. Corp. v. Salem & L. R. Co., 2 Gray (Mass.), 35; National Tel. News Co. v. Western*

Union Tel. Co., 119 Fed. 294, 56 C. C. A. 198, 60 L.R.A. 805; Hamilton v. Rathbone, 175 U.S. 414, 20 Sup.Ct. 155, 44 L.Ed. 219; Stanton v. Lewis, 26 Conn. 449;Wilson v. Ward Lumber Co. (C. C.) 67 Fed. 674.

—Absolute property . In respect to chattels personal property is said to be "absolute" where a man has, solely and exclusively, the right and also the occupation of any movable chattels, so permanent, but may at some times subsist and not at other times; such for example, as the property a man may have in wild animals which he has caught and keeps, and which are his only so long as he retains possession of them. 2 Bl.Comm. 389.—Real property . A general term for lands, tenements, and hereditaments; property which, on the death of the owner intestate, passes to his heir. Real property is either corporeal or incorporeal. See Code N. Y. § 462 — Separate property . The separate property of a married woman is that which she owns in her own right, which is liable only for her own debts, and which she can incumber and dispose of at her own will.—Special property. Property of a qualified, temporary, or limited nature; as distinguished from absolute, general, or unconditional property. Such is the property of a bailee in the article bailed, of a sheriff in goods temporarily in his hands under a levy, of the finder of lost goods while looking for the owner, of a person in wild animals which he has caught. Stief v. Hart, 1 N.Y. 24; Moulton v. Witherell, 52 Me. 242; Eisendrath v. Knauer, 64 111. 402; Phelps v. People, 72 N.Y. 357.
[Black's Law Dictionary, Second Edition, p. 955]

Why, then, do you need "permission" from anyone, including a government, to use property and exclude all others from using, controlling, or benefitting from the property, if you have absolute ownership over it? The answer is you don't, unless you are physically present **AND** domiciled where there are no constitutional rights, which means either abroad or on federal territory not within any constitutional state. See:

Unalienable Rights Course, Form #12.038 FORMS PAGE: https://sedm.org/Forms/FormIndex.htm DIRECT LINK: https://sedm.org/LibertyU/UnalienableRights.pdf

Perhaps nothing exemplifies my point more so than a personal experience I had several years ago. I was invited by a friend to accompany him on a fishing expedition to one of the local lakes owned by the county where we both reside. Being the careful individual that I am, I researched the laws concerning wildlife management, as well as, the regulations adopted by the county. I found that if I only fished using live bait, the law did not require that I obtain a fishing license as long as I remained in the county of my residence. I was very pleased with myself that I had found a way to save a few bucks on what promised to be an enjoyable outing.

However, the day was not to go unspoiled. Not long after we had launched our boat and found what we thought looked like a promising spot, we were approached by a game warden. I remained unconcerned as we chatted and I proudly showed him that I was only using live bait and therefore required no state sanction. He asked for proof of my residence, which I supplied via business cards and a recent tax bill that I was going to pay on my way home. It was then that he informed me that I was in violation of state law. I was beginning to protest that I was in full compliance of the wildlife management code when the warden told me he was not referring to the wildlife code. It was then that I learned I was in violation of state law for appearing in public and not possessing a picture ID. At that moment, the veil was lifted from my eyes as my day of personal enlightenment dawned.

I realized that every time I set foot off of my own property, I became a criminal. I violate the law each and every time I take a leisurely stroll around my neighborhood. In almost half a century on this earth, I have never been arrested, much less convicted of a crime; and yet, all I have to do to become a criminal in the eyes of the State is leave home! Why? Because I do not have a snapshot of myself, taken by a state-sanctioned bureaucrat, in my pocket when I go out in public. I must ask you, am I really free? Are you really free? Are your papers in order? Are you a criminal? And even if you have such papers, don't they really evidence a public office that you don't lawfully serve in ANYWAY, so why do you need them? See:

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037 FORMS PAGE: https://sedm.org/Forms/FormIndex.htm DIRECT LINK: https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf

There are laws regulating everything from what color you can and cannot paint your house to what kind of sex in which two consenting adults are allowed to engage. Why is it like this? Crime is big business, that's why. In fact, **crime is government's biggest industry!**

Surprised to see me say that? It really isn't all that odd when you consider that the State derives revenue on both sides of the law. Remember, all those licenses and permits you are required to obtain are accompanied by fees. While on the flip side,

every breech of the never-ending, self-perpetuating, always-growing bureaucracy carries a fine. You are forced to pay in order to abide by the law so you can avoid having to pay for breaking the law.

Therefore, as the beast has grown, it has become the State's own self interest that drives legislators to constantly search for new sources of revenue. That's why 519 laws were passed in my home state last year. That is why 500 new laws will probably be passed this year, and again next year, and again the year after that. The only way a government can realize greater income than it does today is either by accelerating tax increases; or, by creating new ways for us to become criminals and providing the appropriately-priced bounties required to avoid becoming criminals. THAT, in FACT, is why they call every new "law" they pass a "bill": They want more money from you! That is also why, when they want to "accuse" you of a crime, they call it "charging you" with a crime: They want to "charge" you more money. Why not just call it "alleging" or "accusing" rather than "charging"? It's not a coincidence! So you see, every new law not only nibbles away at your freedom while further gorging an already bloated beast Bureaucracy, it also becomes a new source of revenue for the State.

So, we are left with the question, "What can be done about it?" Take my advice, do yourself a favor and educate yourself. Do a little digging and find out all the different options made available to you, by your friends in government, for becoming a criminal. Then perhaps we will see the emergence of what is needed to reverse the encroachment of the law: Remove your domicile and politically and legally DISASSOCIATE with the state. Thomas Jefferson talked about why this is necessary and even made it your DUTY to do so in his famous Declaration of Independence:

> *"But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, **it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.**"*
> *[Declaration of Independence, Thomas Jefferson, 1776]*

The procedure for LAWFULLY disassociating are found in:

Path to Freedom, Form #09.015, Section 2 DIRECT LINK: https://sedm.org/Forms/09-Procs/PathToFreedom.pdf FORMS PAGE: https://sedm.org/Forms/FormIndex.htm

After you have legally and politically disassociated, you are absolved of:

1. Any and all attempts to enforce civil statutes against you.
2. The need to have a "residence".
3. The need to subsidize the state with income taxes or fines.
4. The need to carry FAKE permission from the state called an "ID" to leave your home as a public officer and do business as such state civil officer.

Those who exercise their First Amendment right to civilly, legally, and politically disassociate from "the collective" called "the state" are referred to in this capacity as any one of the following:

1. "non-resident non-persons"
2. "nonresidents".
3. "transient foreigners".
4. "stateless persons".
5. "in transitu".
6. "transient".
7. "sojourner".
8. "civilly dead".

After you civilly disassociate, then maybe they will begin to treat you with respect as the "customer" that you really are who has a right to NOT "do business" with them. That customer is called a STATUTORY "citizen" or "resident". For more details on "non-resident non-persons", see:

1. *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002
   DIRECT LINK: https://sedm.org/Forms/05-MemLaw/Domicile.pdf
   FORMS PAGE: https://sedm.org/Forms/FormIndex.htm
2. *Non-Resident Non-Person Position*, Form #05.020

DIRECT LINK: https://sedm.org/Forms/05-MemLaw/NonresidentNonPersonPosition.pdf
FORMS PAGE: https://sedm.org/Forms/FormIndex.htm

Finally, remember that the solution to this conundrum is NOT to run for political office and become further enfranchised in order to reform the system. This would only further expand the power of the state over you beyond the franchises you ALREADY ILLEGALLY participate in. See:

Government Instituted Slavery Using Franchises, Form #05.030 FORMS PAGE: https://sedm.org/Forms/FormIndex.htm DIRECT LINK: https://sedm.org/Forms/05-MemLaw/Franchises.pdf

16 Summary of Criteria for determining whether an enactment is "law" or merely a private law franchise[52]

Based on the previous discussion, below is a list that readers can use to determine whether an enactment being enforced against them is "law" or merely a private law franchise created by a corrupt covetous judge. If you find any of the characteristics below apply to the statute being enforced, then it is voluntary and private law and you can use it to circumvent enforcement:

Table 1: Characteristics that make an enactment private law

#	Characteristic	Reason	Example(s)
1	The government exempts itself from enforcement	Equal protection and equal treatment requirement. Statutes that don't apply equally to all are called "class legislation" and franchises are the main method to implement class legislation. See Form #05.030.	Can assert sovereign immunity to exempt self or has done so in the past.
2	The enactment only pertains to a specific class or group of people such as "taxpayers", "public officers", "citizens", "residents"	Equal protection and equal treatment requirement. Statutes that don't apply equally to all are called "class legislation" and franchises are the main method to implement class legislation. See Form #05.030.	The Internal Revenue Code only pertains to "taxpayers" per 26 U.S.C. §7701(a)(14) and not everyone is a statutory "taxpayer". Vehicle Code only pertains to "drivers" and you have to volunteer to become a "driver" to be subject to it.
3	Enforcement authority depends on civil domicile	Equal protection and equal treatment requirement. Domicile is voluntary and cannot be compelled. See Form #05.002.	Court cases involving the enactment are dismissed against nonresident parties who are physically present in the territory protected by the court.
4	The enactment generates revenues that the government redistributes to other private parties	Taxing powers cannot authorize wealth redistribution. Taxing authority requires tax revenues to be paid ONLY to the government and not private citizens or ordinary people. See Loan Association v. Topeka, 87 U.S. (20 Wall.) 655 (1874).	Social Security, Medicare, and the Income Tax all transfer wealth between people.
5	The enactment punishes an activity for which there is no injured party.	Law cannot punish innocence as a crime. Innocence means no injured party.	Seat belt tickets under the Vehicle Code. IRS penalties.
6	The statute abuses the police force to collect revenue.	Policemen cannot engage in civil enforcement, including penalty enforcement. All penalties are civil/penal. Revenue Collection or profiting from crime gives the police a criminal financial conflict of interest. See Form #12.022.	Speeding tickets.
7	Parties have unequal rights or privileges against each other under the terms of the enactment.	Equal protection and equal treatment requirement.	Government can collect "taxes" but citizens cannot collect fees for their services to the government that they also call "taxes" by the same enforcement mechanisms such as liens, levies, penalties, etc. They are put in jail if they attempt imitating the government's revenue collection techniques even if they follow the government's same procedures.
8	The enactment compels a surrender of some constitutionally protected right	Constitutional rights are unalienable, which means you ARE NOT ALLOWED by law to give them up, even with your consent. The is called the Unconstitutional Condition Doctrine by the U.S. Supreme Court. See Form #05.030.	State Department or Department of Motor Vehicles (DMV) compel you to obtain a Social Security Number to get a USA Passport or Driver License respectively. DMV penalizes those not engaged in the use of the public roadways for hire to obtain a driver license. See Form #10.012 and Form #06.010 respectively

[52] Source: *What is "law"?*, Form #05.048, Section 14; https://sedm.org/Forms/FormIndex.htm.

#	Characteristic	Reason	Example(s)
9	The enactment interferes with the right to contract of two parties by inserting the government into the middle of the contract or assigning a civil status to one or more of the parties that carries obligations.	Governments are established to protect your right to contract or not contract. If you can't remove the government from the contract or from involvement with EITHER or BOTH parties, then you don't have a right to contract.	Federal Investment in Real Property Transfer Act (FIRPTA) rules that turn the Buyer against the Seller for real estate sales. See Form #05.028. Financial institutes that compel you to choose a civil status under the tax code such as "U.S. person" or "foreign person" in order to open a PRIVATE account as a PRIVATE human. See Form #09.001.
10	The statute claims the right to compel you to do anything.	The Thirteenth Amendment prohibits involuntary servitude. Therefore, they must procure your consent and you must be physically located in a place NOT protected by the Constitution so that you were able to alienate an otherwise INALIENABLE right. See Form #12.038.	IRS fraudulently claims the authority to compel you to file a tax return or puts you in jail. See Form #05.009. The only place they can do this is on federal territory not protected by the Constitution.

On a bigger scale, remember that according to the Declaration of Independence all JUST powers derive from the CONSENT of the governed.

> *"We hold these truths to be self-evident, that* ***all men are created equal, that they are endowed by their Creator with certain unalienable Rights****, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -"*
> *[Declaration of Independence]*

> *"Unalienable. Inalienable; incapable of being aliened, that is, sold and transferred."*
> *[Black's Law Dictionary, Fourth Edition, p. 1693]*

This means that:

1. You must FIRST consent to be CIVILLY governed by choosing a CIVIL domicile. See:
   Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002
   FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
   DIRECT LINK: https://sedm.org/Forms/05-MemLaw/Domicile.pdf
2. Even those consenting to be civilly governed by choosing a civil domicile cannot alienate constitutionally protected rights that are unalienable. Hence, the waiver of constitutional rights cannot result from choice of civil domicile.[53]
3. If the government claims that you alienated a constitutional right, then they have the burden of proving that:
   3.1. You were physically present where constitutional rights DO NOT apply, because all such rights attach to LAND, and not the status of the people ON the land.[54]
   3.2. You were either abroad or on federal territory not protected by the constitution at the time you consented.
4. Every instance where consent is procured, it must be done LAWFULLY. The presence of duress renders any attempt to procure consent INVALID. For details on what constitutes lawfully procured consent, see:
   Requirement for Consent, Form #05.003
   FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
   DIRECT LINK: https://sedm.org/Forms/05-MemLaw/Consent.pdf
5. If you indicate the existence of duress every time they try to enforce in your administrative record, then they have no enforcement authority and are usually committing crime as a consequence. See:
   Affidavit of Duress: Illegal Tax Enforcement by De Facto Officers, Form #02.005
   FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
   DIRECT LINK: https://sedm.org/Forms/02-Affidavits/AffOfDuress-Tax.pdf
6. In the presence of duress, they are acting outside the lawful delegated authority, and as such:
   6.1. They are Buyers of your private property and your time.
   6.2. As the Merchant SELLING your private property to them, you can place any condition and any price upon the sale.
   6.3. To regulate THEIR conduct during the STEALING or procurement of your private property, all you have to do is produce legal evidence that they were noticed of the terms and conditions, and they instantly become enforceable

[53] See: *Requirement for Consent*, Form #05.003, Section 6: Things you CANNOT Lawfully Consent To; https://sedm.org/Forms/05-MemLaw/Consent.pdf.

[54] "It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it." [Balzac v. Porto Rico, 258 U.S. 298 (1922)]

under the U.C.C. against them as the BUYER.[55]

6.4. To give them notice of the obligations attaching to the use or possession of your private property, you can use the following as an example:

> *Injury Defense Franchise and Agreement*, Form #06.027
> FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
> DIRECT LINK: https://sedm.org/Forms/06-AvoidingFranch/InjuryDefenseFranchise.pdf

7. If they claim that you can't impose duties upon them by the method in the previous step, then under the concept of equal protection and equal treatment, then THEY can't offer or enforce their franchises EITHER. This mechanism is the SAME mechanism they use to recruit franchisees to begin with! Fight fire with fire! See:

> *Government Instituted Slavery Using Franchises*, Form #05.030
> FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
> DIRECT LINK: https://sedm.org/Forms/05-MemLaw/Franchises.pdf

The presence of duress, penalties, or coercion renders any consent invalid and conveys no rights to the government. Likewise, any attempt to procure consent to alienate any inalienable right is unlawful and conveys no rights to the government. See:

1. *Unalienable Rights Course*, Form #12.038
   http://sedm.org/Forms/FormIndex.htm
2. *Enumeration of Inalienable Rights*, Form #10.002
   http://sedm.org/Forms/FormIndex.htm

It constitutes criminal financial conflict of interest for the government to do anything for profit, or to profit financially from crime. Any attempt to do so turns the government into a thief and a Robinhood and transforms the PUBLIC trust into a SHAM trust. The following video powerfully explains why:

> How Much Criminalization Will You Tolerate From Your Government-Freedom Taker
> https://youtu.be/EZTMKfTP6P0

17 Summary and Conclusions

The following itemized list is intended to succinctly summarize when and how judges make law:

1. The first duty of a judge is to produce "justice" as legally defined. Justice is defined as the RIGHT TO BE LEFT ALONE, and ESPECIALLY by the government. This is an important thing to remember when you are the target of illegal government enforcement:

> *"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. **They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men.**"*
> *[Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting); see also Washington v. Harper, 494 U.S. 210 (1990)]*

> *"With all [our] blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens--**a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.**"*
> *[Thomas Jefferson: 1st Inaugural, 1801. ME 3:320]*

> *"Do not strive with [or try to regulate or control or enslave] a man without cause, **if he has done you no harm**."*
> *[Prov. 3:30, Bible, NKJV]*

   For more on the definition of "justice", see:

> *What is "Justice"?*, Form #05.050
> https://sedm.org/Forms/FormIndex.htm

2. If a judge protects the GOVERNMENT'S right to be left alone by dismissing your case against a government actor

[55] See: *Path to Freedom*, Form #09.015, Section 5.6: Merchant or Buyer?; https://sedm.org/Forms/09-Procs/PathToFreedom.pdf.

whose illegal enforcement actions VIOLATE your right to be left alone, he or she is:

2.1. Working an INJUSTICE.

2.2. Depriving you of equal protection and equal treatment. See:

Requirement for Equal Protection and Equal Treatment, Form #05.033 https://sedm.org/Forms/FormIndex.htm

2.3. In effect, practicing both hate speech and hate crime, by discriminating against you and making the government into a pagan idol that you have to bow down and worship. See:

Government Establishment of Religion, Form #05.038 https://sedm.org/Forms/FormIndex.htm

3. Under the Separation of Powers Doctrine, Legislative powers are reserved to the Legislative Branch of the Government.
4. The power to legislate CANNOT be delegated by the Legislative Branch to another branch of government, such as the Executive or Judicial Branches.
5. When legislative powers are shared with judges or delegated to judges, here is the result:

> *"**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, Book XI, Section 6, 1758;*
> *SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm]*

6. The following activities by judges are legislative functions that violate the Separation of Powers:

6.1. Add things to statutory definitions that do not expressly appear. This violates the following Rules of Statutory Construction and Interpretation:

> *"**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."*
> *[Black's Law Dictionary, Sixth Edition, p. 581]*
>
> *"**When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.** Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated'"); Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
> *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

6.2. Refuse to enforce or dismiss efforts to enforce either the constitution or a statute, and thus to repeal it for a specific case.

6.3. Impute the "force of law" to that which has no force in the specific case at issue. This usually happens because:

6.3.1. Statutes are being enforced outside the territory they are limited to (extraterritorially) or against those not

domiciled on said territory as required by Federal Rule of Civil Procedure 17(b).

6.3.2. A civil status and public office such as "taxpayer" is imputed or enforced against a party who does not lawfully occupy said office and especially who does not consent.[56]

Government actors are NOT allowed to create "jurisdiction" that doesn't lawfully exist. Jurisdiction should be forcefully challenged in such case using the following:

Challenging Federal Jurisdiction Course, Form #12.010 https://sedm.org/Forms/FormIndex.htm

6.4. Impair the constitutional rights of a party protected by the constitution, but to refuse to describe or even acknowledge WHEN or HOW those rights were voluntarily surrendered. This effectively repeals the Constitution. We cover this in:

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

6.5. Make presumptions about what the law requires that do not appear in the statutes. All presumptions violate due process of law and are unconstitutional.

> *"**When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed 370*370 to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power**. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true, that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion or by means of the suffrage. **But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.**"*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

6.6. Disregard or not enforce the domicile prerequisite for the enforcement of the civil statute as required by Federal Rule of Civil Procedure 17(b). This:

6.6.1. Causes the statute being enforced to be a purely private law or contract matter.

6.6.2. Makes the activity NON-GOVERNMENTAL in character and subject to the Clearfield Doctrine.

6.6.3. Results in criminal identity theft and compelled contracting, as described in *Government Identity Theft*, Form #05.046.

7. It is unconstitutional to enforce civil statutes against other than public officers on official business. When this is done, a judge is unconstitutionally imputing "the force of law" to that which is NOT PUBLIC law, but PRIVATE law. He is also engaging in criminal identity theft as described in Form #05.046. See:

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

7.2. *Proof That There Is a "Straw Man"*, Form #05.042 https://sedm.org/Forms/FormIndex.htm

8. When a judge "makes law", he is:

8.1. Acting in a purely political capacity.

8.2. Entertaining "political questions".

8.3. Violating the Separation of Powers Doctrine.

8.4. Infringing on your Constitutional rights.

Judges are not allowed to act as such politicians:[57]

> *"**But, fortunately for our freedom from political excitements in judicial duties, this court [the U.S. Supreme Court] can never with propriety be called on officially to be the umpire in questions merely political. The adjustment of these questions belongs to the people and their political representatives, either in the State or general government. These questions relate to matters not to be settled on strict legal principles.** They are adjusted rather by inclination, or prejudice or compromise, often.*

[56] See: *Your Exclusive Right to Declare or Establish Your Civil Status*, Form #13.008; https://sedm.org/Forms/FormIndex.htm.

[57] See: *Political Jurisdiction*, Form #05.004; https://sedm.org/Forms/FormIndex.htm.

[. . .]

> ***Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament of judges would be that, in such an event, all political privileges and rights would, in a dispute among the people, depend on our decision finally. We would possess the power to decide against, as well as for, them, and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much perverted, if not entirely prostrated.*** *But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself.* ***Our power begins after theirs [the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed rules; they are per se questions of law, and are well suited to the education and habits of the bench.*** *But the other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a class of men who are so far removed from them as the judiciary, a class also who might decide them erroneously, as well as right, and if in the former way,* ***the consequences might not be able to be averted except by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new elections or instructions in a single month; and if the people, in the distribution of powers under the constitution, should ever think of making judges supreme arbiters in political controversies when not selected by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs, the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching, or to defend them, on the other, under the Constitution and the laws, when they are encroached upon.*** *And if the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate both the laws and Constitution, than on the people themselves in their primary capacity as makers and amenders of constitutions."*
> *[Luther v. Borden, 48 U.S. 1 (1849)]*

9. Those litigating especially against the government who are victimized by judges unconstitutionally "making law" should:
   9.1. File a criminal complaint against the judge in the court record.
   9.2. File a judicial complaint with the Chief Justice of the court in which the judge serves under the local rules applicable to that court.
   9.3. Challenge the bond of the judge for judicial misconduct.
   9.4. Approach the Grand Jury and get the judge indicated for criminal identity theft using Form #05.046.

18 Resources for Further Research

1. *The Laws of God*, SEDM -detailed explanation and even codification of God's law. This allows you to pinpoint the means by which judges become Pharisees and thereby distort the law for their own personal gain or the gain of their government employer.
   https://sedm.org/the-laws-of-god/
2. *Who Were the Pharisees and Saducees?*, Form #05.047-explains how lawyers and judges in the Bible distorted or misinterpreted God's law to benefit themselves or their group instead of God or the people they were supposed to be protecting.
   FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
   DIRECT LINK: https://sedm.org/Forms/05-MemLaw/WhoWerePharisees.pdf
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   FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
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   https://sedm.org/Forms/05-MemLaw/YourIrresponsibleLawlessGov.pdf
8. *Legal Deception, Propaganda, and Fraud*, Form #05.014-how malicious judges and prosecutors use sophistry and abuse of language to deceive and enslave people prosecuting government corruption
   FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
   DIRECT LINK: https://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf
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   https://sedm.org/an-introduction-to-sophistry/
10. *Why All Man-Made Law is Religious in Nature* (OFFSITE LINK) -Family Guardian Fellowship
    http://famguardian.org/Subjects/LawAndGovt/ChurchVState/WhyAllManmadeLawRelig.htm
11. *What is "Justice"?*, Form #05.050 -the purpose of law is to effect "justice" as legally defined. Do YOU know what justice means?
    FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
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12. *The Purpose of Law*-Family Guardian Fellowship
    https://famguardian.org/Subjects/LawAndGovt/Articles/PurposeOfLaw.htm
13. *The Institutes of Biblical Law*, Rousas John Rushdoony-the most authoritative book ever written on the significance and impact of biblical law upon modern society. This is our FAVORITE book.
    https://chalcedon.edu/store/42255-the-institutes-of-biblical-law-set
14. *Sovereignty*, Rousas John Rushdoony-describes the impact that God's sovereignty and God's law was intended to have on the daily affairs of the Christian and of modern society. This was the last book ever written by Rushdoony and he was writing it on the day he died. His son published it posthumously in 2007, six years after his death in 2001 and 4 years after SEDM was established in 2003. We found this book in 2017, and we find it AMAZING and even prophetic that the conclusions of this book follow EXACTLY the theme and mission of this ministry, which we forged 2 years after Rushdoony's death and four years before the book was first published.
    ORDER: https://chalcedon.edu/store/39925-sovereignty
    READ FREE: https://www.scribd.com/document/54737934/Sovereignty
    ORDER FOR LOGOS BIBLE SOFTWARE: https://www.logos.com/product/22871/sovereignty
15. *Famous Quotes About Rights and Liberty*, Form #08.001, Sections 4 and 16
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    FORMS PAGE: http://sedm.org/Forms/FormIndex.htm
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