Un-Common Sense

The real truth of knowledge will set you free!

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Dedication to my fellow Constitutional Supporters I know who you are.

For all others who have given prayer, advice, research and material, assistance, an open ear, protection, a shoulder to lean on and maybe just a hard time. I say thanks!

Dedication To My Special Family of Friends:

I would like to say thank you to a few special people in my life who changed my direction in life from an early age. To Mrs. Moncour my speech teacher, who always allowed me to talk even when I disrupted the class and freely gave me her knowledge of life. To Mrs. Price, my scout leader who taught all the kids the finer parts of growing up and loved us like her own. To my grandmothers who shared their unconditional love and taught me how to love others unconditionally. To Mrs. Mead the only teacher that pushed me to get A's. To Mr. Dudley who always knew when I was sad and took me fishing. To my mother and father who gave me life and taught me to speak out against unfairness. To the universe for allowing me to see my true self. To my good friends Gary and Mary Lou, MJA, Neal, Jeff, Venita and Myles, JJ, Jerry and Kathy, Rick, David and Teena, Mike, Junkie Jim, Tom, Don and Sonja, Marcella and Bear and especially Carla and Ralph for the love and support for assisting me and in all our venues. Finally, to the community of Cassia County, who showed me the real meaning of fighting for a just cause. With apathy there is no change and believe me, Idaho needs change.

Viva La Revolution of changes to come.

Give Peace to Others

When I recall your name it isn't as often as when I recall your gestures. The things that give you substance run over my thoughts. I'm lonely and wish comfort, a feeling of a time forgotten. I shared with you my emotions of living in a world of disbelief at a time held still by the memories of faith, family and education. I recall no pain or sorrow just calmness in the beat of my broken heart as I write the past and present memories of corruption in a Community, County and State of shadows and darkness.

As I sit here listening to the soft sound of rainfall from the misty sky, I think of memories, the things you and I have in common but wish to be healed from such thoughts, creating an open book for all to see. Just as water cleanses all it touches, the dirt washes away to become brighter, just as the light of eternal life is promised to those who have faith. The written word can relieve emotional damage to alleviate the flesh of negative memories that react as boils bursting the skin of toxic memories. Not all our differences should separate the trial of commitment to humanity but allow us to spread our hands out to touch beneath and fill in the crevasses of our humanities unjust behaviors that leave permanent damage to ourselves, others and our planet.

The pain around me I feel, is just like a thorn on a rose as it cuts you my friend. Just as you begin to bleed, do we cover it with a bandaid or allow the wound to bleed as it cleans the infection from the uneducated and educated mind? Infection of greed, values and morals is what most of humankind has achieved. While the true outcome is simply a change of heart where we all live in PEACE. The Peacemakers will one day unite. The change will be overwhelming to the youth of today due to the experience of the old not allowing our society to continue down a path of extinction due to corruption pushed by greed and control.

When you walk around the corner of a wall, do you see what's around the blind side? Some of us put on steel toed boots and prepare for what is going to happen. Then others make mistakes by stubbing the inner soul that allows education creation for their personal purpose.

My lifetime began many years ago and through all my mistakes as well as good fortune, I continue to learn why others attack the LIGHT of Justice and the purpose of disguising the attack to the general public as our constitutional rights slip away in doctrine. Individually, we are not shallow people, deep are the thoughts of humanity. The action one takes from such thoughts can and will change the moment of time forever in ones bubble of being free, having liberties and the pursuit of happiness. How far do we have to go as free people? While allowing others to dictate our present and future while leaving destruction in the past. Belief is learned by personal thought first then experienced hand in hand with fate. Faith is part of the idea too. However there are three things people or government cannot take from you, the real person made in his image.

1) Faith: In God or Supreme Being. In other words your belief is your belief and no one can change that.

2) Family: You love them hate them. They always remain blood of your blood. You cannot change this nor can anyone else.

3) Education: If you know how to read, nobody may change the understanding of a word. Degree Smart University (DSU) or Street Smart University (SSU) if you know the meaning no one can change that.

Corruption has many sides to be able to fool the American Dream that our constitution has set aside for “We the People”. Many have died to preserve all our rights as a FREE PEOPLE. Free to speak out against tyranny and defend the Constitution from thieves in the night who hide within the local, county, state and federal government. I remember the death of JFK as a young boy and saw the effects afterward as I grew up in rural America. A cover-up is and always has been one of the biggest faults in our society. The impact it has chisels away at every Citizen’s Constitutional rights from a federal standpoint and the State Constitutional aspect as well. “We The People” is said more than any other phrase in the Constitution of this great country. AMERICA has multiple color fabrics within all cultures including but not limited to Native Americans, Mexicans, Asians and European people of all ancestry.

My family's story begins in New Mexico near the Colorado border. My dads grandparents and parents were full blooded Piwweltha Indian located in the Sangre De Cristo "Blood of Christ" Mountains of New Mexico near Taos. My mothers grandparents and parents were of Spanish, German and Native American decent.

My father and mother were introduced in 1956 and were married in 1958. My father, Agustin "Gus" D. Esquibel, grew up in Wagon Mound located in Mora County, New Mexico while my mother Gladys B. Montoya grew up in another town in New Mexico called Chacon. My dad grew up during the Great Depression. Dad grew up under extreme conditions. Not many could survive, let alone take care of the entire family at the age of 12. My Dad's father Joe, who I never met, died early in life due to injuries sustained while breaking horses. Grandpa Joe was one of the best bronco riders in the state of New Mexico. It's a story of pride that I heard from Grandma Vera, Joe's wife. Grandma was telling me the story of what happened on a summer day while I was visiting her in the old adobe home she lived in with my great uncle Tio Melquiades. Grandma Vera was a large women in size which was a blessing. Grandma was over 6 foot tall and had a blue eye and a green eye which helped her keep the kids in line with the ojo. Grandpa Joe had been challenged by a neighbor to ride a horse that had never been ridden. Due to pride, after riding him for the agreed upon time, he continued to ride the horse to show man was in control. The horse disagreed with that theory and reared up and crushed him along the fence rail which caused injuries then death.

Pride is a powerful thing, it can overcome negativity with vengeance at the same time it can cause hardship for life. A positive life in our neighborhood was something that few had. Teachers of life were hard to find.

All at a time when the country was at war. My Brothers; Manual, Anthony, Russell as well my father all served our country. I was asked by them not go to war without proper reason. Our human rights as humanity expressed must have been lost in the economic shuffle of the world as we know it today. The war I'm willing to die for is to be Free. Dealing with our constitutional rights as they were designed to give liberties to all without prejudice. You read in the news daily of terrorists among other countries, here we have economic terrorists among the U. S. Global economy that

live and work around you daily. Terrorists which attack the communities in cities, small towns and rural communities known as Commissioners, Prosecuting Attorneys, Sheriff or Law Enforcement Agencies, City Council members and more that pretend to hold the scales of justice equally for all who they cross paths with. The biggest problem with pride is greed, and how such power among the corrupt can cause scars deep into the fiber of Americas heartland. From the West coast to the East coast, Citizens may be dealt injustice due to the Laws within this state. Don't support Freedumb, support being free!

Idaho has ONE LAW that must be changed IC 31-2227. If you are a victim of a crime and the county is corrupt such as Cassia County then you add the element of corruption within the Sheriffs department and Prosecuting Attorneys office. What is the outcome? Crimes that become legal in the eyes of criminals. In Idaho, if you have a crime committed against you and don't have proper justice served, you have nowhere to turn. The Prosecutor and the Sheriff are the ONLY ones able to ask for outside state assistance in a crime committed in the county. So if they decide to not follow the laws of the state or this state, you are screwed, shit out of luck or just plain railroaded. I call this CORRUPTION! No Citizen of the state may ask the State Police or the Attorney General to step in, if Laws of the

State were broken within a given county. Due to a case that allowed corruption to be created which goes against the Pursuit of Happiness which all Citizens are guaranteed by the United States Constitution. The case is Newman vs Lance, 129 Idaho 98,922 P. 2d 395 (1996) where the Idaho Supreme Court reiterated that the Prosecutor and the Sheriff have exclusive jurisdiction. In my belief as well others, the law is not unconstitutional but nonconstitutional and does not provide justice to crime victims, if a county is corrupt. Cassia County is the area of the state I was raised in for most of my life. I also spent time in New Mexico with my two grandmothers and grandfather. I recall the difficult times growing up in an area of Mormonism and Discrimination. Corruption, in this state for the most part have these two elements that contributed to unfair practices in both the private and non-private sectors. It is my belief that some things have gotten better, but for the most part, Corruption has grabbed a stronger hold in small and rural communities due to Newman vs Lance.

Cassia County Corruption is a sewing needle piercing Citizens and Non-Citizens Constitutional rights using the thread of ignorance and greed, determining who or when you can speak at a public meeting, write and be published in local editorials, drive down the road and be pulled over by local or State enforcement agency because you are of color or a protector of the Constitution and more.

This is what was posted on the Idaho State Police website as of 1-1-09.

The "profiling" issue is much larger than stopping and searching individuals because they are of a particular ethnic group. The broader and real issue is treating any person or group differently because of their color, religion, gender, or any other factor. Each employee in the department is responsible to act in alignment with the department conduct expectations and values, which include performing all duties with fairness, impartiality, and support of the law and the constitutions..These are words with no truth

Cassia County Values

This is what was posted on the Cassia County Sheriffs website as of 1-1-09

Every County Employee will take the initiative to demonstrate and support these values. Integrity, Trust, Dignity and Respect for the Individual, Teamwork, Continuous improvement, Respect for Cultural and Ethnic diversity, seek Citizen input and involvement. Bla Bla Bla the lie continues.

Now, I will be touching on the negative effect corruption has had in my life and the general life of others. When life deals you the lemons of life and the cherry pie of gratitude it all becomes a part of who you are. What you will become due to your personal experience and the outcome on any given day depends on your values. Destiny, Proverbs, Fate all play an important part in your daily life The area we tend to forget is when any individual uses his or her power to influence others not to prosecute when a crime is being or has been committed. This is Corruption of values. Values are given to you by the belief system in which you were taught by the people who raised you as well as what you have decided is important. The importance of values and ones individual beliefs assist us in our daily routines. Think about what you want to accomplish and how you will achieve your plan. If

you can overcome obstacles due to what you think and not the experience, life truly becomes what you made of it. I have gone through many obstacles in life. I have experienced death, physical abuse, mental abuse, discrimination, persecution due to personal belief and more all on a personal level, all within the State of Idaho. In my situation, I have had negative as well positive outcomes due to the obstacles placed in front of me. I also have experienced much pain, suffering and difficulty in understanding the lesson from which I was given to learn. I'm sure many of you have been dealt hardship as well a kindred spirit from time to time. I hope by speaking out against corruption more of you will take a stance and win back our liberties and human rights that continue to be lost due to the politicians who maintain a belief system that has been bought at a very high price. Millions of dollars are spent on lobbyists to achieve a better economic goal which at times have hurt our economy, ecology and our liberties as free people.

Let us speak of honesty about the situation one goes thru within the nonjudicial system, judiciary problems and the solution which currently exits. I believe we can correct what happens once you, the Citizen of the state of Idaho, return back to the fundamental principles of life as a dejure individual protected by the supreme law of the land. The supreme law of land is the United States Constitution first, then followed by the Constitution of the great state of Idaho. What would you like to see done? Explain! Which State are you presumed to live in? Idaho, organized and incorporated "to do the peoples business" in 1863 as a territory, such was continued in 1890 as a state of the American union.

"the" state of Idaho "Constitutional = Lawful" Citizens with proper status duly recorded are guaranteed a republic form of government, prosecution by criminal action by the people of the state of Idaho, civil remedy by civil action, and feigned issues are prohibited. Trial by jury of peers with due process of law, innocent until guilty.

"this" State of Idaho "Hybrid = Lawful and Legal" Applies to individuals and entities enfranchised by State law, corporations, associations, ie etc. Citizens with proper status duly recorded are guaranteed a republic form of government, prosecution by criminal action by the people of the state of

Idaho, civil remedy by civil action, and feigned issues are prohibited. Trial by jury of peers with due process of law, innocent until proven guilty.

Trial by jury of the same status with due process, innocent till proven guilty with criminal sanction.

“that” STATE OF IDAHO "CORPORATE CAPACITY AGENCY= IDAPA = IDAHO ADMINISTRATIVE PROCEDURE ACT, RULES AND POLICY" You are under administrative corporate law regulated by the legislative branch, administrative courts implementing interpretive rule making which does not have the force of law. You are guilty till proven innocent, jury of Corporate status, jury tampering, racketeering, fines, fees and mandates of political correctness known as color of law. This is all brought forth under presumption (Title 4 Sec 112 USC), by your CORPORATE NAME and the STATE OF IDAHO including its "PUBLIC AGENCY" subdivisions do not have to follow the Constitution if not registered with the Secretary of the State of Idaho.

SPELLING CREATES MEANING AND JURISDICTIONAL AUTHORITY. HOW WOULD YOU SPELL YOUR AREA OF JURISDICTION? TAKE A LOOK AT YOUR GOVERNMENT BILLING STATEMENTS. THEN WRITE THEM BELOW.

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Constitutional Protection

NO Constitutional Protection

ALL Counties are working outside the municipal corporation in full CORPORATE CAPACITY.

UNDERSTANDING THE CORPORATE NAME BY PULLING OUT YOUR GOVERNMENT ISSUED DRIVERS LICENSE, ID, REGISTRATION,

CONTRACTS OR ANY OTHER FORM AND WRITE YOUR NAME EXACTLY AS SHOWN

WHEN YOU SEE YOUR NAME WRITTEN IN ALL CAPITOL LETTERS WHAT DOES THAT MEAN DEFINITION BELOW

CORPORATE NAME AVAILABILITY

IDAHO ADMINISTRATIVE PROCEDURE ACT IDAPA 34 TITLE 04 CHAPTER 02

000. LEGAL AUTHORITY.

The Secretary of State is authorized under Section 67-903, Idaho Code, to adopt rules. (7-1-93)

001. -- 010. (RESERVED).

011. GENERAL.

01. Characters of Print Acceptable in Names. Names may consist of letters of the English Alphabet, Arabic Numerals and certain symbols capable of being reproduced on a standard English language typewriter, or combination thereof. (7-1-93)

a. Letters of the English Alphabet includes only upper case, or capital letters; no distinction as to type face or font is recognized. (7-1-93)

b. Arabic Numerals includes 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9. (7-1-93)

c. The symbols recognized as part of a name may include ! " $ % ( ) * @ ?, and -. A space or spaces after words, letters, numerals or symbols may be considered as part of the name. (7-1-93)

YOU ARE NOW PRESUMED TO BE A MEMBER OF THE DE FACTO CORPORATE FORM OF GOVERNMENT

OUTSIDE CONSTITUTIONAL PROTECTION

WAIT A MINUTE ... YES I AM SAYING THERE ARE 2 FORMS OF GOVERNMENT! FOR THOSE WHO THINK I'M JUST MAKING IT UP, HERE IS THE PROOF.

TITLE 7 SPECIAL PROCEEDINGS CHAPTER 13 JUDICIAL CONFIRMATION 7-1303. Definitions. Except where the context otherwise requires, the definitions in this section govern the construction of the judicial confirmation law. All other words should be given their ordinary and customary meaning.

(1) "Agreement" means any agreement or contract between a political subdivision and individuals, corporations, or any other political subdivision or public agency as authorized by section 67-2328, Idaho Code, relating to bonds or obligations of the political subdivision.

(2) "Bond" means any agreement, which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of any political subdivision or a fund thereof, where the political subdivision agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers.

(3) "Executive officer" means the de jure or de facto governor of this state, mayor, chairman, president or other titular head or chief official of the political subdivision proceeding under this chapter, but "executive officer" does not include a city manager, county manager or other chief administrator of a political subdivision who is not its elected head.

(4) "Governing body" means:

(a) The state commission or state board responsible for the exercise of a power by the state or responsible for an instrument, act or project of the state to which court proceedings authorized by this chapter and initiated by the state pertain; and

(b) The city council, board of commissioners, board of trustees, board of directors, board of regents or other legislative body of a political subdivision under this chapter.

Governing body does not include the legislature of the state of Idaho if the political subdivision is the state or any corporation, instrumentality or other agency thereof.

(5) "Obligation" means an agreement that evidences an indebtedness of any political subdivision, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(6) "Political subdivision" means the state of Idaho, or any corporation, instrumentality or other agency thereof, or any incorporated city, or any county, school district, water and/or sewer district, drainage district, special purpose district or other corporate district constituting a political subdivision of this state, any quasi-municipal corporation, housing authority, urban renewal authority, other type of authority, any college or university, or any other body corporate and politic of the state of Idaho, but excluding the federal government.

(7) "Security instrument" means any contract, deed or other security or other document of any kind, proposed, or executed or otherwise made as security for bonds or obligations issued by a political subdivision.

So I congratulate you on the first step of the educational process and how we as De Facto CORPORATE citizens can return to De Jure Constitutional Citizens. And now you KNOW THERE IS 2 FORMS OF GOVERNMENT THAT EXIST AT ALL TIMES.

The question is, how does that help you understand the principals of taking back your city, county, state and country from the unsustainable De Facto direction we are at.

Education is the first step in securing our founding fathers dedication to a republic form of government and the free will of mankind / womankind.

So this is your responsibility ... not the government ... remember this statement, I'm from the government and I'm here to help you! It takes less responsibility as a De Facto CORPORATE citizen then a De Jure Constitutional Citizen.

SO LETS LOOK AT WHAT TOOK PLACE BY UNDERSTANDING A FEW TERMS.

Political "isms" Defined as words have meaning"

Agency: Is the form of De Facto government that combines all 3 branches in one and is under the ADMINISTRATIVE PROCEDURE ACT which is outside Constitutional protection.

Anarchy: Absence of government or governmental restraint; a state of society without government or law; political social disorder due to absence of governmental control; in general, disorder due to want of a controlling and regulating agency.

Authoritarianism: Favoring the principle of authority as opposed to that of individual freedom.

Capitalism: An economic system in which the means of production and distribution are for the most part privately owned and operated for private profit.

Citizen: The real party of interest, not a corporation, True Name binds him or her.

citizen: The fictitious party of interest, Is presumed a corporation, CORPORATE NAME binds him or her to administrative and statutory policy fees and mandates, plus rules and regulations.

Communism: A theory of system of social organization based on the holding of property in common, actual ownership being ascribed to the community as a whole or to the state; a theory or system by which the state controls the means of production and the distribution and consumption of industrial products.

Constructionist: 1) One who construes laws, etc., or one who advocates a particular construction. 2) One who interprets literally a law or body of writings, especially the U.S. Constitution or the Bible.

CORPORATE NAME: The name recommended by the AGENCY in charge OF VITAL STATISTICS, which places you under CORPORATE RULES inapposite of the Constitutional rights, privileges and immunities which you are guaranteed.

De Facto: A government of fact. A government actually exercising power and control in the state, as opposed to the true and lawful government; a government not established according to the constitution of the state, or not lawfully entitled to recognition or supremacy, but has displaced the government de jure. A government deemed unlawful or deemed wrongful or unjust, which, nevertheless receives presently habitual obedience from the bulk of the community.

Today in society the court system described above is known as color of law, defined below.

The appearance without the substance of a legal right. The misuse of power because the wrongdoer is clothed with the authority of the state. Black Law Dictionary Vol 2, 1910

De Jure: A government of right; the true and lawful government; a government established according to the constitution of the state, and lawfully entitled to recognition and supremacy and the administration of the state, but which is actually cut off from power or control. A government deemed lawful, or deemed rightful or just, which nevertheless has been displaced.

Today in society the court system described above is known as Common Law defined below.

A system of principles and rules of human conduct. Black Law Dictionary Vol 1, 1891

Clearfield Doctrine

"Governments descend to the Level of a mere private corporation, and take on the characteristics of a mere private citizen...where private corporate commercial paper [Federal Reserve Notes] and securities [checks] is concerned. ... For purposes of suit, such corporations and individuals are regarded as entities entirely separate from government." -
Clearfield Trust Co. v. United States 318 U.S. 363-371 (1942)

Today is an opportunity for you to see the truth and to stand up and take back our country from the agenda of politicians and the corrupt system of color of law and return to the rule of law.

Democracy: 1) Government by the people; a form of government in which the supreme power is vested in the people and exercised by them or their elected agents. 2) A state in which the supreme power is vested in the people and exercised directly by them rather than by elected representatives. 3) The common people of a community as distinguished from any privileged class.

Dualism: The state of being dual or consisting of two parts; division into two; also, any system or theory based on a dual principle or involving a duality of principles.

Equalitarianism: The opinions or principles of equality among men.

Fascism: Any authoritarian, anti-democratic, anti-communist system of government in which economic control by the state, militaristic nationalism, propaganda, and the crushing of opposition by means of secret police emphasize the supremacy of the state over the individual.

Fatalism: The doctrine that all things are subject to fate or inevitable predetermination; also the acceptance of all things and events as inevitable.

Hedonism: The doctrine that pleasure or happiness is the highest good.

Hegemonic: Leadership; predominance; especially leadership or predominant influence exercised by one state over others, as in a confederation.

Libertarianism: One who maintains the doctrine of the freedom of the will (opposed to necessitarianism); also, one who advocates liberty, especially with regard to thought or conduct.

Materialism: The philosophical theory which regards matter and its motions, as constituting the universe, and all phenomena including those of mind, as due to material agencies; also, any opinion or tendency based on purely material interests; devotion to material rather than spiritual objects, needs, and considerations.

Matriarchy: A form of social organization, as in certain primitive tribes, in which the mother (not the father) is head of the family, and in which descent is reckoned in the female line, the children belonging to the mother's clan.

Monarchy: Supreme power or sovereignty wielded by a single person; also, a government or state in which the supreme power is actually or nominally lodged in a monarch (being known as an absolute or despotic monarchy when the monarch’s authority is not limited by the laws or a constitution of the realm, and as a limited or constitutional monarchy when the monarch's authority is so limited).

Monism: The doctrine of one ultimate substance or principle, as mind (idealism) or matter (materialism) or something that is neither mind nor matter but the substantial ground of both.

Necessitarianism: The doctrine of the inevitable determination of the will by antecedent causes, as opposed to that of the freedom of the will. The action of the will is a necessary effect of antecedent causes; will not a causative agent.

Oligarchy: A form of government in which the power is vested in a few; also, a state so governed; also, the ruling few collectively.

Plutocracy: The rule or power of wealth or of the wealthy; a government or state in which the wealthy class rules; also, a class or group ruling, or exercising power or influence, by virtue of its wealth.

Republicanism: The commonwealth or state; also a state in which the supreme power rests in the body of Citizens guaranteed to vote and is exercised by representatives chosen directly or indirectly by them; also, any body of persons, etc., viewed as a commonwealth.

Unalienable: God given rights that cannot be transferred.

Socialism: A theory or system of social organization which aims at securing better distribution and more effective production of wealth by the vesting of the ownership and control of the means of production, capital, land, etc., in the community as a whole; also, a system of measures of socialistic character, especially for the benefit of the working class, established and directed by the existing state or government.

Inalienable: Right that can be sold or transferred under presumption.

True Name: The original spelling of your name that binds you to any obligation you agree to. This is the name Courts of Justice use to bring forth actions.

Redress of Grievances

We The People, in order to establish a more perfect, peaceful and harmonious society in which We live, petition our city, county, state and federal governments for redress of the following negative conditions in which We now find ourselves. The power of our government is derived from, by and for Us, The People and it is We The People who wish compliance to our will, by all levels of our government in all things lawfully its duty, as We The People, determine that duty to be. We are our government and We do recognize and choose to uphold the following as constitutional de jure Citizens :

1) Our local and city, state and federal agency police act without humane concern and in complete disregard of the nation's Constitution and our

rights under the Constitution and with disrespect and inconsideration of ourselves.

2) Our city, county, state and federal employees have forgotten they actually and in truth work for us, The People and not for an authoritarian boss or imposed set of rules under color of law, non-constitutional laws, regulations or guidelines. Nor are our governing agencies separate and distinct from us, The People but We are in actuality those same, governing ourselves, through those of us who are employed in our behalf.

3) Our city, county, state and federal employees now act and have their very existence within the Administrative Procedure Act of the Agency combination of Civil and Equity Law which is totally outside of the provisions of our nation's Constitution and amended Bill of Rights.

4) Our city, county, state and federal employees now act as though the color of law is greater than God, country or us the People and they impose and force, in an inhumane way, these self created policies upon us, the People, in a way in which we have little or no recourse of corrective actions in our current Administrative Judiciary System.

Our city, county, state and federal employees have allowed themselves to be manipulated by specially interested parties to encourage statutes passed in their favor which have nearly always been to the detriment the rest of us, the people and our planet. Example “Those who work within government are immune to being sued is stated over and over in paperwork from judges in all courts.”

6) Our city, county, state and federal employees have caused us, the People, to support them and their actions even when these actions have been contrary to our own benefit such as hiring and maintaining on the payroll criminals, protecting and harboring criminals, engaging in wars without consent of us, the People, creating and forcing upon us laws / policies / fees / mandates and situations contrary to our desires and in short behaving in a totalitarian manner contrary to any accepted form of representative government in a republic form in which we are guaranteed.

7) Our city, county, state and federal employees(1) have failed to protect and enforce our Constitution in their own actions and behaviors and that of others when proposing and in acting in CORPORATE CAPACITY in Civil or Equity cases under Color of Law which is nothing other than slavery or blind adherence to a centralized authority that does not recognize the sovereign individuality of each of us, the People.

Thus we can also see that the state of affairs in our beloved society has degenerated to a point where We The People deem it necessary to correct all of our government sectors for redress and proper constitutional measures be adopted. These being:

1) All of our local, state and federal employees must swear upon penalty of perjury an oath to know, support and protect our United States for America Constitution as well to eliminate oaths to the CORPORATE STATE, COUNTIES AND CITIES AND CONSTITUTION “UNITED STATES OF AMERICA CONSTITUTION”.

2) All of our local, state and federal employees must swear upon penalty of perjury an oath to know, support and protect We The People in our persons, rights and property.

3) All of our local, state and federal employees must swear upon penalty of perjury an oath to eliminate, in every way possible, the CORPORATE Civil or Equity Color of Law now employed throughout our corrupt judiciary society.

4) The Federal Reserve Act of 1913 was illegally adopted and shall be made null and void and all actions taken because of such evil villainy be made as though they never were and all of our property taken from us because of this law be returned to us by the way of cashing in the hidden monies located in the CAFR or known as the Comprehensive Annual Financial Report. Our federal government shall reassume forthwith its rightful duty and responsibilities under the original Constitution, Article I, Section 8, Paragraph 5, as stated therein.

5) All of our local, state and federal employees must swear upon penalty of perjury an oath to god, not to the best of my ability.

6) All of our local, state and federal employees must swear upon penalty of perjury an oath to henceforth refer to all police as "Peace Officers" or "Keepers of the Peace" and never again as "Law Enforcers" or "Enforcers of the Law" because We The People desire to live in a lawful and peaceful society and not one in which Political Correctness is forced upon us.

7) All of our local, state and federal employees must swear upon penalty of perjury an oath to henceforth refer to all our elected officials as "Representatives" and never as "Law Makers" because it is not they who make the law but We The People make the laws through them, acting as our agents.

8) All of our city, or local police forces not operating or existing directly under the locally elected county sheriff shall be caused to be brought under the elected sheriffs authority and never again shall a police force be created or maintained that is not directly responsible and responsive to Us, The People.

9) All of our federal military personnel and associated properties shall cease to be under the federal authority, except in case of war. Our military personnel and properties shall be brought under the authority of our respective states in which it finds itself and made part of that states' militia.

10) That any violation of our Constitution be classified as a misdemeanor in the first instance and a felony in subsequent instances.

11) That all of our federal agencies which have activities throughout the nation's states be broken up into individual and sovereign parts within each of our states equally. These separate authorities of our's must then learn to work together respecting such sovereignty and authority of themselves and ourselves in each state. This act is to re-establish the original sovereignty of our states and our peoples free of coercion from centralized power structures which are in reality too far removed from us, the People.

12) That the current form of our income tax be abolished altogether. In its place shall be a flat tax of 4% of total gross income per person without deductions of any kind. This 4% tax shall be paid directly to our local

county government to use as We The People deem fit for our benefit. These county revenues shall be equally distributed: one fourth to support our local county government; one fourth to support our state governments; one fourth to support our much smaller federal government and one fourth to be invested so that one day We The People shall eliminate taxing ourselves altogether.

13) That all of our administrative courts of Color of Law shall be, by default, Constitutional courts, and not Administrative courts as is now the case. Judges of said courts shall administer the Constitutional law and never again the Color of Law which is now being done.

14) That the current and unacceptable practice of our federal government to blackmail our state and our local governments, through the threat of withholding our funds in order to establish compliance in any action, cease. The power of our federal government is derived from us, the People and it is We The People who wish compliance to our will, by our federal government in all things lawfully its duty, as We The People, determine that duty to be.

(1) Employees herein is understood to be any employee, agent, contractor, hire, appointee or elected person or legal special purpose entity.

(2) Local is herein understood to be village, city (incorporated or not) and county.

(3) God being defined as those creative and universal forces which have made and maintain all that there is in the universe.

(4) Criminals are those who behave contrary to accepted standards of common law. The color of law has become contrary to standards of Common Sense / Common Law and thus few people can decipher the meaning or intent. Thus what may be legal is not necessarily lawful. Simply stated if there is no injury to property or a living entity it is a feigned issue and NO court will be open to hear such a case of presumption with no injury.

Individual Rights of Common Law

Another Constitutional issue that each of us needs to understand is the issue of Individual Common Law Rights of We the People of the United States of America. This directly concerns the limits of authority of all branches of government over each of us as individuals: the Authority of the Executive, Legislative and Judicial Branches of Government.

As stated in the Declaration of Independence, we are endowed by our Creator with certain Unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.

Thomas Jefferson placed great emphasis on the concept of Rights. He said we did not bring the English Common Law, as such, to this continent; we brought the Rights of Man. The reason why he said that is that it is from the Common Law controversies, all of which involved property, that all of our Rights have come to be recognized in the Law.

In a legal sense, Property is a bundle of Rights, a bundle of Powers, wherein one claimant to these Rights possesses these Rights to the exclusion of all other claimants to these Rights, as these Rights pertain to the possession, occupancy and use of a specific piece of property.

So, at Common Law, Rights is the name of the game.

The Bill of Rights was added to the Constitution of the United States of America because the Founding Fathers believed these Amendments should be added to avoid misconstruction of the provisions of the Constitution of the United States of America by Judges and to avoid an abuse of powers by Judges of the sort that had already, at that time, taken place in England and from which abuse of powers we had just fought, and won, a revolution to be free. (See the Preamble to the Bill of Rights. The original Constitution has it, and in some sources which print the Constitution, this Preamble is included.) This abuse had been committed by Judges who were not tied down by any written Constitution in England, and who had started to whittle away at the Common Law Rights in England and the Colonies, by their decisions, with the cooperation of the statutes passed by the Parliament and enforced by the Crown. This is precisely the

combination of Executive and Legislative Equity (otherwise known as Roman Civil Law) which our Bill of Rights prevents and protects us from.

The Constitution of the State of Idaho has its Bill of Rights, comprising Article 1. The first two sections deserve special emphasis:

Section 1. All men are by nature free and equal, and have certain inalienable rights -among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuit of happiness and securing safety.

Section 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter, reform or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature.

The Constitution of the State of Idaho in comprising Article 5. The first two sections deserve special emphasis:

Section 1. Forms of action abolished. The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, are hereby prohibited; and there shall be in this state but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the state as a party, against a person charged with a public offense, for the punishment of the same, shall be termed a criminal action. Feigned issues are prohibited, and the fact at issue shall be tried by order of court before a jury.

Section 2. Judicial power -- Where vested. The judicial power of the state shall be vested in a court for the trial of impeachments, a Supreme Court, district courts, and such other courts inferior to the Supreme Court as established by the legislature. The courts shall constitute a unified and integrated judicial system for administration and supervision by the Supreme Court. The jurisdiction of such inferior courts shall be as prescribed by the legislature. Until provided by law, no changes shall be

made in the jurisdiction or in the manner of the selection of judges of existing inferior courts.

So the Constitution of the State of Idaho expressly includes the Right of acquiring, possessing and protecting Property, although it is high on the Priority List of Common

Law Rights. Inferior courts are regulated by Administrative Color of Law. This is an example of a Constitution securing Rights which come from the Common Law.

Idaho Statute 73-116 states; Common law in force. The common law of England, so far as it is not repugnant to, or inconsistent with, the constitution or laws of the United States, in all cases not provided for in these compiled laws, is the rule of decision in all courts of this state.

Back in 1921 someone wrote:

"It is not the Right of property which is protected, but the Right to property. Property, as such, has no rights; but the individual -- the man -- has three great Rights, equally sacred from interference: the Right to his LIFE; the Right to his LIBERTY; the Right to his PROPERTY. ...

The three Rights are so bound together as to be essentially one Right. To give a man his life but deny him his liberty, is to take from him all that makes life worth living. To give him his liberty but take from him the property which is the fruit and badge of his liberty, is to still leave him a slave."

Idaho Statute 19-202A reads: Legal jeopardy in cases of self-defense and defense of other threatened parties. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting himself or his family by reasonable means necessary, or when coming to the aid of another whom he reasonably believes to be in imminent danger of or the victim of aggravated assault, robbery, rape, murder or other heinous crime.

Idaho Statute 55-401 reads: Conflict of laws. If there is no law to the contrary in the place where personal property is situated, it is deemed to follow the person of its owner and is governed by the law of his domicil.

Thomas Jefferson said:

"Our rulers can have no authority over [our] natural rights, only as we have submitted to them. The rights of conscience we never submitted. We are answerable for them to our God. The legitimate powers of government extend to such acts only as are injurious to others."

This points up the significance of the requirement of the procedures of the Common Law that there be an injured party, that the injured party make a sworn complaint as to the injury that has been done to him by the alleged Defendant. That unless this is done, the Court does not have jurisdiction over the Defendant.

We have been told, from childhood, that we have unalienable Rights, and we do! Unalienable means that they cannot be taken from us, and that we cannot be forced to give them up. There are those who point out that, strictly speaking, we cannot even give them up voluntarily. However, if we submit to those who would rule over us, it is true that our Rights were not taken from us -- as Thomas Jefferson said, -- we have submitted to their rule. We have allowed ourselves to become their slaves. There is one important fact concerning slavery, of any sort, the institution of slavery depends upon the cooperation and CONSENT of the slaves! Without the cooperation of the slaves, there can be no slavery.

In Common Law Courts our Rights are protected. The Rules and Procedures of the Common Law Courts were established to protect our Property Rights -- to make it difficult for Property to be taken from someone without Due Process of Law. The Right to require that an injured party swear under oath as to damage or injury that he claims that you caused to him; the Right to a Corpus Delicti : The body of the offense: " the essence of the crime." : Under the Common Law, the Courts do not have an automatic jurisdiction. The Common Law Rules and Procedures specify certain steps, or procedures, which must be done. and certain things which must not be done -- all as a protection to the Rights of the Accused. As we

have pointed out previously, Rights are inherent in Property, and Property is inherent in Rights. We have the Right to have our controversy, once the Common Law Court has acquired jurisdiction, tried before a Common Law Jury of our Peers, wherein the Jury has the authority to hear and decide questions of both Law and Fact. There is no monkey business of pretending that arguments involving the Law must be held outside of the hearing of the Jury and that their supposed only function is to hear and decide questions of Fact presented in evidence and that the Judge will tell them what the Law is!

As evidence that the Founding Fathers operated under the Common Law, in addition to the wording of the Constitution of the United States of America, the following was included in the instructions to the Jury in the first case ever tried before the United States Supreme Court, as a court of original jurisdiction, which means that a Trial by Jury was held in front of the Supreme Court, with Chief Justice John Jay presiding:

"It is presumed, that juries are the best judges of facts; it is, on the other hand, presumably, that the courts are the best judges of law. But still both objects are within your power of decision. You have a right to take upon yourselves to judge both, and to determine the law as well as the fact in controversy. "

STATE OF GEORGIA vs. BRAILSFORD ,3 Dall I (1794)

Our Property Rights are inseparable from our individual Rights and our individual Rights are inseparable from our Property Rights. Both types of Rights are protected in the Procedures and Due Process of the Courts of Common Law.

The Bill of Rights in both Constitutions have to do with matters that the governments, both of the United States and of the State. Any matters of the government, and its agencies, have no authority over the people of the state to enact statutes against the Constitutions, or to issue rules and regulations, binding an individual to contract or dealing with violations against the Bill of Rights. It should be emphasized that the Ninth Amendment includes all of the Common Law Rights which are not listed, or

enumerated, anywhere else. In other words, the Bill of Rights are prohibitions against government at any level over the individual.

The Constitution authorizes Courts of Law and Courts of Equity. When the Constitution says Law, it means Common Law, because that's what the Founding Fathers meant when they said Law. In Courts of Law your Rights are protected by the Constitution and the Rules and Procedures of the Common Law, known as Due Process of Law; and the Bill of Rights was adopted to avoid misconstruction and abuse of powers, by the Judges; but in Courts of Equity, by the nature of Equity jurisdiction, you don't have any Rights.

Status of Citizens

The most significant identity an individual can have is his status in the world of law. From his position and standing in relation to the state flows his entire capacity to do, create, and exist at his highest level.

In the United States, a Citizen has rights which are constitutionally guaranteed, not to be restricted by government.

But there are natural rights and there are rights created by government, the difference being manifested in the status of the person in question. The natural rights, or rights at the common Law, are those belonging to natural persons -- those people who are Citizens in the United States and who possess the power of political action. These Unalienable rights of men, as the Declaration of Independence calls them, are absolute in our governmental system, not to be infringed or abridged by any office or process of the governing powers. Only natural persons or mortal man has political rights. These "institutory" powers are where we shall focus; the created rights held by subjects of franchise, or other privileges granted by the state, are of another nature and not in the same class with the rights of men.

All law in America is based on the status of the individual. All legislation, judicial actions, and administrative policy is based on status, for there are different classes of citizens and subjects. (For example, under the 14th Amendment, "equal protection" is applied to corporate "persons" as

"citizens," even though, strictly speaking, they are simply subjects.) Though a law be termed "general" and not special, it must be decided by the court as to whom it will apply. The application of laws, or statutes (as they really are only expressions of the law) is basically unknown as to the fullest extent of their range. Only in individual cases can it truly be determined according to the facts surrounding the respective case.

Therefore, the status of the party must be determined before the Court Clerk and should proceed before the Court can make an intelligent decision. How can status be determined if it is not pleaded? How can it be pleaded except by statements of fact, and of the constitutional application and intent of the particular statute in the case? The way to determining law is to plead all the facts in a case in such a way as to show the status of the parties, and therefore, the rightful scope of the statute.

Idaho Statute 9-303 states Statutes -- Classification -- Public or Private. Statutes are public or private. A private statute is one which concerns only certain designated individuals, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting corporations.

John Doe known as “True Name” is lawfully and legally domiciled within the territorial boundaries for which the right of concept is being used. No person has more then one domicil at a time. Restatement Second, Conflict of Laws.

John Doe(s) may change his or her domicil at will, the intent to sustain that residency coexist. One must have intent to adopt locality is sufficient which STATE OF IDAHO OR OTHER PLAINTIFF fail to address. 25 Am Jur 2d Domicil

John Doe(s) established a new domicil must intend not simply to acquire the legal status of a domiciliary in the new jurisdiction but must intend to make the new place home in fact. 25 Am Jur 2d Domicil

John Doe(s) acquired the intent first by Solemn Declaration and all personal property “automobile(s) and misc materials” is protected

according to Idaho Statutes 55-401 Conflict of Laws which personal property is governed by the law of domicil.

The effect of John Doe(s) motives of a change in domicile is immaterial, even when in fact you may secure lower taxes, have your estate settled in one county rather than the other. 25 Am Jur 2d Domicil

John Doe(s) domicil in a state does not depend on a continuous presence in the state and is not dissolved by a mere absence from the state. 25 Am Jur 2d Domicil

John Doe(s) conduct has greater evidential value then does a declaration alone, however when used as “other instrument” constitutes some evidence as to domicil of choice. 25 Am Jur 2d Domicil

STATE OF IDAHO OR OTHER CORPORATE PLAINTIFF never addressed the domicil of choice of John Doe(s) with a sworn affidavit controverted statement inapposite of John Doe(s) claim of domicil within the territorial boundaries of the state of Idaho. State of Idaho Constitution & Statutes

Idaho Constitution under Article 1 Section 18 states “JUSTICE TO BE FREELY... Courts of Justice shall be open to every person, and a speedy remedy ... person, property or character, and right and justice shall be administrated without sale, denial, delay, or prejudice.

Idaho Constitution under Article 1 Section 21 states “ RESERVED RIGHTS NOT IMPAIRED. This enumeration of rights shall not be construed to impair or deny other rights retained by the people.

This is a connection to the United States Constitution, known as a compact of the people.

Idaho Statute 73-106. Accrued rights and pending actions not affected. No action or proceeding commenced before the compiled laws take effect, and no right accrued, is affected by their provisions, but the proceedings therein must conform to the requirements of the compiled laws as far as applicable.

Idaho Constitution under Article 1 Section 22 states (10) Nothing in this section shall be construed, “meaning shall not be interpreted.” any and all statutes which protect the people is conferred by statute.

Idaho Statute 1-2213. Appeals -- Powers of district judge. (1) Appeals from final judgments of the magistrate's division shall be taken and heard in the manner prescribed by law or rule.

Idaho Constitution under Article III Section 19 states Local and Special Laws Prohibited line 6, Changing the names of persons. Defendants imposed the CORPORATE NAME through administrative interpretive rule making.

Idaho APA 34:04:02 Clearly defines the CORPORATE NAME definition All letters of the english alphabet only include UPPERCASE LETTERS. By committing the fraud under the inducement is a violation of the people of the state and the John Doe(s) standing.

Where fundamental rights are in question, there shall be no rule making or legislation which would abrogate them." (Miranda vs. Arizona) Among the most important rights the people hold are those protected by the Bill of Rights, but these are only a scant few of all the capacities, abilities and potentials of anyone human being. The Bill of Rights was only a statement, brief and definite, that the Founders considered the Constitution to be a strictly expressed grant of political power by the people to a governmental structure designed to protect their rights first and foremost, and never, under any pretense, to violate any right held by the people.

Perhaps the right of greatest importance, of greatest value to the free Citizen of these United States in his association with his fellow man and his government, is the absolute ownership of property. From this absolute dominion, said Thomas Jefferson, flows all free society, and without it, of course, comes dictatorship and oppression. If the owner of the property shall not have unconditional control and use of it ... who shall? If the owner shall not reap the profits of the use of property, who shall? Who shall have the fruits of labor? Should it be the man whose right it is to labor? Who, but a free person, can claim this right?

America was founded on this principle; that no taking of property could occur without just compensation. That is, if government should proceed to demand from the Citizen some of his wealth, it shall be only in return for a just service, duly warranted, that was rendered him by government.

As the constitutional protection of rights is a joint effort between the Citizen and his government, this protection is a voluntary one, arising from the consent of the individual, and he must pay for his own government, to whatever extent it serves him.

Whereas a corporation holds its wealth in franchise, or at the grace of government, it can therefore be taxed on the holding or the profits of that property. However, a natural person has an inalienable right to acquire and possess all the subjects of property, land, goods, etc. (Art. I, Sec. I, Idaho Constitution), and not be hindered nor have his rights regulated by his government. A tax on an act is regulation of that act.

A tax which is based on the supposed value of a property specie, is a tax on the holding of the property. While taxation to pay for constitutional government is a demand on the possessions of a Citizen, the just tax can only be for the services rendered to that citizen / Citizen according to his particular status in law or rule. To put it in general terms, the natural person has the least taxation upon him, while the corporation must bear the most. "For the natural person owes nothing to the state except for the protection he receives therefrom." (Hale v. Henkel) As Rights of property are natural rights, the Natural Person does not owe his government the returns or benefits of his possessions; the CORPORATE AGENCY or structure does.

Contingent to the right to possess is the right to acquire. Acquiring property in a thing is often done with lawful money; a medium of exchange for all transactions. Without money, men would be severely hampered in their right to acquire.

Fundamental rights of property, therefore, include the right to have and use a lawful medium of exchange.

But what if the medium has no purchasing power? What if it will not pay debts? How can a man buy when he cannot pay the debt in the transaction?

The basic question in property rights is Quid pro quo, or something for something. This is the basic principle of all transactions of the market place, or between private parties. If a man give nothing and receive something, he has robbed his neighbor, and still owes him.

Money must convey property in something, else it is only a mutual debt. Debt is not a satisfactory proposition to everyone, so debt cannot be a medium of exchange. Article I, Section 10, of the Constitution states: "No state shall make any Thing but gold and silver coin a tender in payment of debt." (Roger Sherman's addition). The founders intended this to be the end of the question of money: gold and silver coin. At the state level, taxation is for duly constituted government, process in the courts, and all other legal transactions of the government. The protection of property rights are also secured in the states, by guaranteeing that no state can enforce collection of taxes or any discharge of debt in anything but gold or silver coin; that is, payment with specie which transfers legal title to property. This clause binds the states down. They are bound to operate at the Common Law as stated in Idaho Code IC- 73-116:

Common law in force. The common law of England, so far as it is not repugnant to, or inconsistent with, the constitution or laws of the United States, in all cases not provided for in these compiled laws, is the rule of decision in all courts of this state.

History is rife with examples of the subterfuges and resulting oppression and slavery from paper "money". The Founding Fathers wished, once and for all, to bar the door against this oft repeated debauchery of the people's wealth. They knew that no surer way to destroy a nation and the quality of life for all its people exists than the insidious horror of paper money, for it drives out the gold, and gives the power of government into the hands of the few (George Bancroft). Such, though, has been the situation in the United States since 1933. In fact, the door that opened on the economics of totalitarianism, was with the founding of the Federal Reserve System in 1913.

The results of leaving behind the monetary system established by the Constitution have been disastrous, as could be expected. Jefferson warned against paper money and central banks. Washington considered it crime of the first water to allow a printing of bills of credit. The results have been far reaching and insidious, reaching into every facet of life, and overturning, in due time, the very relationship of citizen and government!

For the overturning of the monetary system from one of specie to one of irredeemable paper has brought about the replacement of the Common Law by custom. It is well known that the merchant traditionally dealt in bills and notes, based upon customs called Law Merchant. He had his own "law" because he dealt not in substance (coin), but in promises, or "the potentiality of substance". Therefore, he was barred from the process of the Common Law courts.

Today, however, as there is no constitutional economic system, everyone is deemed a merchant in equity, or in the custom of merchants; this newer status brought on by his dealings of a mercantile nature. What happened to the Common Law? It went out with the gold standard. Why, Congress bragged of "suspending" the Constitution itself in 1933 when they repudiated the gold standard dollar and all such obligations in House Joint Resolution 192 (now 31 USC 463).

Is it possible that there was a plan, or several plans, as to the kind of laws which could be promulgated upon this "new society" where supposedly no one operated at the Common Law any more?

Of course it is possible, for HJR 192 opened the door for infinite application of the Law Merchant at the Federal level, and the regulatory Roman civil law at the state level. And with the bounds of the Common Law removed from all business transactions, all business fell into the class of privilege, just as merchants had always operated. The incredible growth of regulatory law, taxes, and bureaus has been based upon the new "status" created by Congress in a statement of policy, to the end that all persons operate under corporate capacity and, therefore, can be taxed and regulated as such.

And true enough, the natural person who does not deal in banks and credit is rare today; almost everyone has given up the status of Citizen in Law for the "convenience" of transacting business in credit. This citizen is essentially the privilege of limited liability for the payment of debts. This is a corporate citizen privilege not existing at the Common Law; therefore the jurisdiction over these acts is one of a commercial nature.

But does this mean that there are no Citizens who can and do operate at law? This leads to the question of the Constitution and law of Domicil.

Is the Constitution a statute enacted by Congress? Or is the Constitution the people's government and the Supreme Law of the Land? It is the Supreme Law of the Land as stated in Marbury v. Madison 5 US 137 “The Constitution of the United States is the Supreme law of the land repugnant to the Constitution is null and void of general law of the country.”

If a statute, then it pertains to only a class of persons, who, by reason that there is no lawful money today, are, in fact, extinct.

If the Constitution be the Supreme Law of the people, by the people, and for the people, then it is the birthright of all Citizens of the United States, never to be repealed or undermined by Congress. If a birthright, then it is recoverable at any time, for like the Prodigal Son, a citizen may choose to leave behind a life of the alien and return home to the law of his fatherland the Constitution.

In this day of economic strife and destruction, the proposition of changing one's economic status might be increasingly desirable to a Citizen. How is he to do this? Through the establishment of a central bank and the repudiation of payment of debts by Congress, the American people were placed upon credit of the Federal Reserve System. As credit does not pay debts at Law, and because there is no lawful money in circulation today with which to pay debts, the citizen is, in fact, an insolvent upon bank credit, using credit to transact business. Not even the Federal Reserve Note can pay a debt, for it is legal tender for debts and not in payment of debts. (Note: Article I, Section 10, says "No state shall make any Thing but gold and silver coin a tender in payment of debts. to)

Yet acts of congress cannot violate the Constitution. And the fact is that congress has attempted to overthrow the Bill of Rights and negate the property rights of every American by removing from the people their sovereign medium of exchange mandated by the Constitution itself.

The Congress, on June 5, 1933, bragged of "suspending the Constitution" itself by repudiating payment of debts. This act, in conjunction with acts of the President, deluded the people into giving up their gold coin in exchange for paper intended to be irredeemable henceforward. As a congressman of the day remarked, these acts had for their design the establishment of a new form of government.

By creating a new status of insolvency nationwide, the congress opened wide the door for a new system of law; regulatory, commercial law promulgated by administrative agencies, bureaus, and courts at both federal and state levels. For all persons of the insolvent class or, in other words. all those dealing totally without lawful money in their business affairs, there is a body of customs and usages termed law merchant, or mercantile equity, long used by merchants since the 13th century to expedite disputes in commercial contracts. The custom of merchants is largely enacted under the terms and principles of the Civil Law in the states by the legislatures.

How does this affect the status of a citizen in the court? Due to the economic situation, it is assumed that all persons operate on credit and that the common Law is nowhere applicable. All are assumed to be "merchants in equity," and thereby governed by the "general commercial law."

This brings us to the Erie R. R. v. Tompkins case of 1938. It was a landmark case because it overturned the 96 year old doctrine of Swift v. Tyson. Stated in Erie, "there is no general federal common law," meaning that there is no base of common law generic to the states. This decision was a direct ratification of HJR 192, passed five years earlier, and effects a repudiation of the basic principle of the Constitution, that the people as one created for themselves as Americans a general law and a supreme law, binding upon every government official in the United States, both state and federal. It is the birthright of every natural person who is a Citizen of these United States, never to be abrogated, repudiated, diminished, or

"suspended" by the governmental offices it created, or by any other office created under "commercial law. “ In fact, Erie implied that the "commercial law" or law merchant, was the province of the state as common law! This travesty of decisional law is the central issue today for anyone wishing to maintain a status of citizen at law, for it necessitates a statement of repudiation by the person himself. This could be called an equity disclaimer statement.

"This natural person is by all intents and purposes a merchant and trader at law on a cash basis, without recourse to Standard Lawful Money, and enjoys no privilege of limited liability for the payment of debts. I deny all jurisdictions of mercantile equity brought on by H1R 192 of June 5, 1933, expressly Law Merchant, Roman Civil Law, and Admiralty Law, and demand all of my rights at the Common Law. "

A statement of this sort is the beginning pleading in any case today in order to establish the Common Law status of the party in court. As mentioned above, the application of laws is the court's function. If the status of one of the parties is a bar to the action, then it must be so pleaded, by stating the facts surrounding the case, and the facts surrounding the law.

For instance; in the Traffic courts, the statement of status is one of the facts surrounding the case. Then, a pleading that the magistrate's court lacks jurisdiction over a free person is a fact surrounding the law, for they try quasi-criminal cases upon the "traffic code" where there is no crime. How can the Citizen injure the state by exercising his right to travel? He cannot. (Interesting note:

"Traffic" is found to be one of the definitions of "commerce." Another is "transport of persons." Therefore, it is plain to see that the "traffic code" is but the regulatory "custom of merchants" for those involved in commerce. A drivers license is, then, evidence of a commercial contract with the state seal upon it! "Code" means a body of regulatory law.

A law which contemplates compelling all persons to purchase a driver's license is null and void as it violates the status of the citizen. No law can be made which would effect a change of status to the detriment of rights.

What, then, do we think of HJR 192? What if the state attempts to impose licensure of occupations or activities?

These laws are intended to operate upon the privileged person, being a corporation or otherwise enfranchised individual. There is another fact to surround the law -- intent of the lawmakers. In Idaho law, that is the decisional law of Idaho's highest court, if there is a question between an application of a statute which would be unconstitutional and one which would not, the choice must be in favor of the lawful application so as to preserve the statute. Therefore, in the individual case, it is far wiser to plead that the application of a certain statute in that case would violate rights, than to plead that the statute is unconstitutional; for, one can easily see, the statute may have an application in some other case, making it a constitutional law. It is assumed in our law that the legislators were aware of their limits and intended no violation of the supreme law in any enactments.

To whom does a statute apply? That is the question for the court's judgement. Policemen on the street, or bureaucrats or agents cannot decide for themselves, and they should be so instructed. The courts are the forum for redress of grievance, and let the word transmit to the legislature of its ignorance.

ALL STATUTES require a RULE or REGULATION to implement it, AND to give it "the force of law." See section 03 below.

"[W]e think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone."

California Bankers Assn. v. Shultz, 416 U.S. 21, 26, 94 S.Ct. 1494 (1974),

[An act, which is a Statute would NOT impose a penalty without a regulation!]

In United States v. Mersky, 361 U.S. 431, 437-38, 80 S.Ct. 459 (1960), the Court had before it a statute which contained the words, "The Secretary of

the Treasury may by regulations . . . " Concerning this language, the Court stated:

"Here the statute is not complete by itself since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command .... Once promulgated, these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language.

The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other."

ONLY TOGETHER DO THEY HAVE ANY FORCE!

The statutes and regulations are part of ONE STATUTORY SCHEME! And the word scheme is a good way to describe the despicable business of the State legislatures:

"The defendant's argument that the court should view the applicable statute, regulations and proclamation as one statutory scheme is well founded."

United States v. Wayte, 549 F.Supp. 1376, 1385 (C.D.Cal. 1982).

SO, if there is NO RULE there is NO LAW. Mere statutes on their own do NOT have the force of law.

Here are ALL the IDAPA RULES, the Idaho Administrative Code for the IDAHO STATE POLICE, that are on the books in Idaho relating to MOTOR VEHICLES and to MOTOR CARRIERS.

The definition of "Motor Vehicle" and "Person" occur in the Rules for MOTOR CARRIERS! If you are not a motor carrier, then BY DEFINITION you are not a "person" and you do NOT operate or drive a "Motor Vehicle!" Also take note of the term "Transportation" in section 08 below. You are not

involved in Transportation since it refers to MOTOR CARRIERS IN COMMERCE ONLY, and therefore, you are not under the jurisdiction of the DEPARTMENT OF TRANSPORTATION!

No other rules exist.

Here are the most important excerpts:

IDAPA - 11.13.01.030.03

[Read this one carefully. This RULE gives ONLY the Motor Carrier Rules the force and effect of law and makes violations of them subject to punishment as provided by the related statutes! What rule gives other motor vehicle statutes the force of law? NONE! There are none but they don't need them because the Idaho vehicle registration says

"If you are registering as a motor carrier, by signing the front of this document, you must be familiar with and are subject to the Federal CFRs and the state of Idaho IDAPA RULES."

Read the registration for yourself. SO, when anyone signs the front of a vehicle registration they are "registering as a motor carrier," and are subject to these IDAPA RULES! And the statutes make it a violation NOT to sign the registration. Now THAT'S racketeering " IC 18-7805 "at its best! You are forced to falsely claim that you are a motor carrier!]

03. Force of Law. These rules at IDAPA 11.13.01, "The Motor Carrier Rules," have the force and effect of law and violations of them may be subject to punishment as a misdemeanor, as provided by Section 67-2901A of the Idaho Code. (4-5-00)

OTHER DEFINITIONS

IDAPA 11.13.01.005 (Subsections .04, .05, .06, .07, and .08)

04. Interstate Carrier. Means any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a

foreign Nation, used or maintained for the transportation of persons or property. (4-5-00)

["Who or which" here means that an Interstate Carrier, a CORPORATION obviously, can be a "who" which is a "natural person" who is incorporated and/or who "owns" a motor vehicle, or an artificial person, a "which" that is incorporated and that "operates" a motor vehicle. Even though it says "any person who owns or operates any motor vehicle in the state," making you think that it means you heading on down the road, it DOES NOT. It only means motor vehicles used for transportation, which, by definition in section 08 below, only applies to vehicles of MOTOR CARRIERS that are used [IN COMMERCE!]

05. Motor Carrier. Means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire. (4-5-00)

[It is undisputed that an "individual" is defined as a LEGAL ENTITY, which is, by definition, NOT a natural person. Even if they illegally extend the meaning of individual to mean you or any other natural person, or man or woman, you are probably not "engaged in transportation" according to section .08 below, and certainly NOT "in the furtherance of a business or for hire." Driving back and forth to work doesn't apply either.]

DEFINITION OF LEGAL ENTITY FROM BLACK'S LAW DICTIONARY 5TH AND 6TH EDITIONS.

"LEGAL ENTITY. Legal existence. An entity, other than a natural person, who has sufficient existence in legal contemplation that it can function legally, be sued or sue and make decisions through agents as in the case of corporations."

DEFINITION OF LEGAL ENTITY FROM THE LABOR LAW TALK DICTIONARY.

"A legal entity or artificial person is a legal construct with legal rights or duties such as the legal capacity to enter into contracts and sue or be sued. It is an entity -- usually an organization such as a corporation or a

government -- ultimately composed of natural persons that the law treats for some purposes as if it were a person, distinct from the natural persons of which it is composed; the "legal personality" of an artificial person, including its rights, duties, obligations and actions, is separate from any of the other artificial or natural persons which compose it."

[A legal entity is a "legal construct," constructed or created by law, NOT a natural person, created by a "god" or "creator" or by some other natural means. It is, by definition, an ARTIFICIAL PERSON ONLY, meaning an ["organization such as a corporation or a government," that is "separate" or "distinct" from the natural persons of which it is composed!"]

06. Motor Vehicle. Means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. (4-5-00)

[Notice how they try to trick you by NOT using the words in the furtherance of a business or for hire here; however, this is implied. In other words, this section makes you think you operate a "motor vehicle," but remember that this definition is in the MOTOR CARRIER RULES! So only a motor carrier operates a motor vehicle! And, a "motor vehicle," (it does NOT say COMMERCIAL VEHICLE, JUST MOTOR VEHICLE) is used in "transportation" which is defined in section 08 below, which means used IN COMMERCE, which means, obviously, the same thing as “in the furtherance of a business for hire.”]

[The Federal Criminal Code, Title 18, also defines the term "Motor Vehicle" quite correctly. Notice it does NOT say "commercial motor vehicle," just "motor vehicle." That's because a motor vehicle IS a commercial vehicle--ALWAYS!]

18 USC § 31

Definitions:

(6) Motor vehicle.— The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

(10) Used for commercial purposes.--The term ``used for commercial purposes'' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

[Do you drive or operate a motor vehicle? Not according to the Federal Government, by their own definition. Back to IDAPA:

.07 Person. Means any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (4-5-00)

[It is undisputed from section 05 above that an "individual" is a MOTOR CARRIER and a LEGAL ENTITY, which is NOT a natural person; therefore, by definition, YOU are not a "person" as defined in section .07!]

08. Transportation. Includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contact, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho. (4-5-00)

There you have it in black and white - Transportation applies ONLY to vehicles operated by, for, or in the interest of a MOTOR CARRIER AND that are used IN COMMERCE ONLY!

In the section entitled CARRIER SAFETY REQUIREMENTS:

Section 019.02 (j) refers to the federal regulations addressing the simple act of the "Driving of Motor Vehicles." Sounds like something you do but it is NOT.

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

j. Part 392. Driving of Motor Vehicles. (4-5-00)

[Do you drive a motor vehicle? You might think so and so might the cops who pull you over without the authority to do so since you are not a "driver" or "other personnel affected by the regulations." If you are not a MOTOR CARRIER then, according to the Federal Government, and to the state of Idaho, you do NOT drive a motor vehicle now do you?

DO YOU THINK THE LAW ENFORCEMENT AGENCIES KNOW THAT?

They should, since they are deemed to know the law at a higher standard than you, and these IDAPA rules are the Idaho Administrative Code written and promulgated for the administrative agency known as the IDAHO STATE POLICE "DUNS AND BRADSTREET NUMBER 825016520" while working in CORPORATE CAPACITY.

Brief on driver’s license as evidence of consent.

There can be no jurisdiction in any summary proceeding unless there is consent from the party being moved against. The traffic courts provide nothing more than summary proceedings, there being no due process nor equal protection under the law afforded the Accused except where convenient for the court to do so. The only way any summary process can proceed without due process is when there is some sort of a contract, agreement, or implied consent allowing jurisdiction between two consenting parties.

This was admitted in the Molko case where the opinion of the court states: " ... assumed a legal identity other than "free person" when she availed herself of the privilege of driving on public thoroughfares. Having availed herself of that privilege, she does, indeed, have the duty to specifically perform in accordance with the laws of the state." Cynthia L. Molko v. Milton Birnbaum, L- 35855, Decision on Motion for Preliminary Injunction, dated May 27, 1982, in the Third District Court in Canyon County. Driving is a privilege to an artificial person and its employees when conducting trade, commerce, or industry upon the public roadways. However, no privilege exists for a natural person as all natural persons have the unalienable right to personal liberty, which includes the right of locomotion. This is fully explained in the brief entitled "Rights." The issue of "Rights" verses "privilege" is covered in that brief and need not be duplicated herein. It is sufficient to say that no Citizen can give up a right for a privilege. "Assuming a legal identity" other than free person is a voluntary and presumed act, or the consent of entering into another capacity of contract requiring a specific performance in some form which is regulated by the legislature, and evidence of that voluntary act must exist. Any time there is a specific performance there must also be a contract or agreement between the parties involved. Specific performance is defined as:

"The actual performance of a contract by the party bound to fulfill it." Bouvier's Law Dictionary, 1914 Any contract requiring specific performance must consist of three things:

1. Perquisite that the contract be founded upon a valuable consideration.

2. Mutual enforcement of the contract must be practicable.

3. Enforcement in specie must be necessary, really important to the plaintiff, and not oppressive to the defendant; and specific performance will not be decreed if it would cause a harsh result, be inequitable, or be contrary to good conscience.

Disregarding 1 and 3, where is the mutual consent for enforcement of any specific performance? Where is the evidence of any contract, express or implied? There can be no consent where there is no proof of contract, and without a contract there can be no mutual consent. Referring again to the

Molko case the judge would have us believe that natural Citizens: " ... have the duty to specifically perform in accordance with the laws of the state." The problem is, its the jurisdiction of this state which is the Plaintiff. and not the people of the state.

From this statement it erroneously follows that duties are prescribed by law and that the laws of this state comprise a contract between this state and all persons, natural and artificial. It cannot be disputed that the legislature can pass laws or regulations pertaining to the operation of business and commerce affecting public interest. Any business affected with a public interest can and should be regulated, and the state can layout the conditions of doing business as following Motor vehicle regulations in the contract of incorporation, which includes obeying all statutes of this state to include the requiring a drivers license for commercial ventures upon the public roadways. However, the natural person cannot be bound by mere statute or the will of the legislature, but is bound by a higher law, that being the "law of the land." A natural person is a sovereign Citizen and cannot involuntarily enter upon an "assumed . .legal identity" nor can this state compel, by statute, a specific performance from a natural person who has not entered it's authority. A natural person is a Citizen, not bound by contract and, therefore, cannot be required to perform specifically.

The legislature cannot legislate demands upon a Citizen forcing, under threat of a criminal action or proceeding, the carrying or producing of documents nor a specific performance by what is referred to as implied consent legislation as: " .... no consent can be given which will deprive the consenter of any unalienable rights." A & E. Encyc; Desty, Cr. L. Section 33. However," A central difference between those cases and this one is that businessmen engaged in such federally licensed and regulated enterprises accept the burdens as well as the benefits of their trade, whereas the petitioner here was not engaged in any regulated or licensed business. The businessmen in a regulated industry in effect consents to the restrictions placed upon him." (emphasis added) Almeida-Sanchez v. United States, 413 US 266, 271.

There was no doubt that Sanchez was guilty of hauling marihuana in violation of Federal Code but was stopped and searched without probable cause by law enforcement officers. The U.S., in attempting to support the

illegal search, referred to two other cases where the high court had ruled that searches could be made without a warrant. However the court quickly pointed out that in the Sanchez case, he was not in a regulated enterprise nor licensed which would automatically waive his constitutional rights. The Supreme Court, then, has ruled that if Sanchez had been licensed or in a regulated business, the stop and search would have been legal, but since he was not so regulated the stop and search was unconstitutional.

Businesses operating on the public "rights" of way are regulated to protect the public because artificial persons have no conscience and must be controlled through regulation. Therefore, the actions of business operating on the public rights of way are regulated through Motor Vehicle codes and they are required to purchase and carry "evidence of consent" by obtaining licenses. It is well established that the participation in a regulated enterprise, by and through a license, constitutes voluntary consent to regulatory restrictions. The rule is: "There are certain 'relatively unique circumstances' ... in which consent to regulatory restrictions is presumptively concurrent with participation in regulated enterprise. See United States v. Biswell, 406 U.S. 311...; Colonnade Catering Corp. v. United States, 397 U.S. 72." (emphasis added) Delaware v. Prouse, 440 U.S. 648, 662. Circumstances are evidences, or more specifically, "evidence of consent" and/or participation in a regulated enterprise.

In the above cases the consent of Biswell and Colonnade was in the license they applied for which allowed them to operate a regulated enterprise. In addition, both were creations of the state and required to abide by the statutes of the states. And one of those statutes is that juristic organizations obtain a driver's/chauffeur's license. The license to drive, then, is a privilege to any juristic person and is prima facia evidence of a regulated enterprise and its state granted privilege to operate motor vehicles on the public rights of way. The drivers/chauffeur's license is the evidence of concurrent consent of a regulated enterprise that it will enter summary proceedings (traffic courts) established by its master (this state) and abide by its regulatory restrictions (Motor vehicle codes). The Supreme Court has ruled that:

"Each licensee is annually furnished with a revised compilation of ordinances that describe his obligation and define the inspector's

authority ... the dealer is not left to wonder about the purposes of the inspector or the limits of his task." (emphasis added) United States v. Biswell, 406 US 312,316

The licensee being any person engaged in a regulated enterprise; ordinances being motor vehicle codes; inspector's being the king's agents (CITY, COUNTY AND STATE police enforcers); and the dealer being the licensee. A driver's/chauffeur's license then, is nothing more than "evidence of consent" obtained by the licensee establishing that that person is involved in a regulated enterprise.

It could be presumed that a natural person may voluntarily give consent to a privilege through the obtaining of a driver's license, thereby waiving a right to drive on the public rights of way, but that argument is well refuted and will not be further elaborated upon in this brief. A free and natural citizen drives as a matter of right and cannot be compelled into any foreign or alien jurisdiction or any other summary proceeding.

Even if a natural person were subject to a summary proceeding the complaint fails as there are insufficient facts to form a complaint. There must be the "unique circumstances" of "consent", or the "participation in the regulated enterprise." Therefore, the Plaintiff would have to establish that the accused is either a corporation or a business licensed by the state to conduct business or a regulated enterprise which has consented to regulatory restrictions". The prima facia evidence of these unique circumstances would be the incorporation papers or a driver's / chauffeur's license.

Those natural persons who do not obtain a driver's / chauffeur's license have not consented to regulatory restrictions nor are they engaged in a regulated enterprise, until proven to the contrary by the Plaintiff.

In every case of a traffic violation the first thing the Plaintiff should establish at the alleged scene of the crime or prior to arraignment is whether or nor the person is natural or artificial, and if natural, whether or nor that person is a person operating on the Public rights of way in a regulated enterprise or licensed, or subject to regulatory restrictions.

The Plaintiff never attempted to establish whether this Accused person was or was not a person required to apply for and obtain a driver's license and otherwise specifically perform under the provisions of motor vehicle codes. Therefore, it was not established that the Accused is a person subject to regulation under motor vehicle codes and, therefore, the complaint fails and the case must be dismissed. This person is a natural person operates a vehicle as a matter of Right and was/is not engaged in any regulatory enterprise or commercial venture on the public roadways and therefore, can only be regulated by his own conscience being fully responsible for any loss, damage, or injury to another person's life, liberty, and property as a result of her actions.

There is no evidence of guilt when a State converts a liberty into a privilege the Citizen can engage without impunity ... Shuttlesworth v. Birmingham 373 US 263

No statute shall convert a liberty into a privilege, license it or attach or impose a charge of right ... Murdock v. Penn 319 US 105

Constitutional provisions for the security of person and property are to be liberally construed and “ it is the duty of the courts to be watchful for the Constitutional rights of the Citizen and against any stealthy encroachments thereon ... Byars v. US 273 US 28

Therefore, the proceedings against this person were without merit, as the STATE OF IDAHO “Plaintiff” did not prove that the Accused was a person subject to the code and since the Plaintiff cannot establish that this person is a person subject to the code the Court has no jurisdiction to proceed and the case should be dismissed.

Preventative or Penal Remedy

Jurisdiction is derived from power and capacity. The fines and payments ordered by the Court are payable or tendered only in the form irredeemable "paper money", sometimes called "Federal Reserve Notes"(FRN’s). This paper is redeemable in nothing but more paper and is not substance nor representative of substance. FRN's were not “an attempt to make dollars." (United States v Balklard, 14 Wall 457) They are, in fact, registered

bearer bonds, and as such, small change for United States Bonds. Not being a property in possession, they are not dollars. On the other hand, the "Standard Gold Dollar", is or was property (allodium) in possession and is or was substance At Law and usable in payment of debts (rather than payment for debts).

Property is defined as: "The 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." (2 Bla. Com 2) "The right to possess, use, etc., (Bouvier Law Dictionary, p.2750)

This absolute property right is best defined in the word "allodium", which is defined as: "an estate held by absolute ownership, without recognizing any superior to whom any duty is due on account thereof." (Bouvier, p.183)

Standard Gold Dollars, being absolute property in possession, are actually "portable lands" inasmuch as they vest the owner with full legal and equitable rights and interests, and are allodial property. However, property is further defined into property in possession, or choses in action.

The truth that there are no dollars in circulation today becomes apparent when we define "choses in action." They are "A right to receive without action ... " (Bouvier, p. 483) In order to properly explain this a distinction must be made between the security of the evidence of the debt and the thing due.

A deed, a bill of exchange, or a promissory note may be in the possession of the owner, but the money or damage due on them are no less "choses in action." This distinction must be kept in mind. The choses in action are the money damages, or the thing owing, the bond or note is but evidence of it. There can, in the nature of things, be no possession on a thing which lies merely in action. I Bouv. Inst. p. 191; First National Bank v Holland, 99 Va 495,39 S.E. 126,55 LRA 155; 86 Am St Rep 898. And, as to the Court's ability to order a fine paid, it should be interesting to note, "In the absence of fraudulent transfer or other such fraud as would positively impede an action At Law and proceeding in garnishment," equity will not subject the choses in action of the debtor to the payment of his debts." Hall v Imp Co, 143 Ala 464,39 south 285

It is obvious that the "paper currency" here in question, and that contemplated by this Court as "payment" of a fine are, in fact, in operation of the law, but evidences of choses in action.

The difference between the two species of property are carefully explained in Knox v Lee, 12 Wall 522 as follows:

"We will notice briefly an argument presented in support of the position that the unit of money value must possess intrinsic value. The argument is derived from assimilating the Constitutional provision respecting a standard of weights and measures to that conferring the power to coin money and regulate the value. It is said there can be no standard of value which has no value itself. This is a question foreign to the subject before us. The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money, nor do we assert that Congress can make anything that has no value money. What we do assert is that Congress has power to enact that a government's promises to pay money for the time being equivalent in value to the representative of value determined in the coinage acts ... " And, "It is thus clear that a promise of delivery is no delivery, nor upon national currency, even meant to be." Milan v United States et. al., 524 F.2d 629

For more on this subject see Knox v Lee, a portion of which follows:

"No one supposes that these government certificates are never to be paid, that the day of specie payments is never to return, and it matters not in what form they are issued.

The principle is still the same. Instead of certificates they may be Treasury Notes, or paper in any other form and their payment may not be made directly in coin but they may be first convertible into government bonds, or other government securities. Through whatever changes they may pass, their ultimate destiny is to be paid."

It should be clear that money is a substance and not a promise, though the promise may be compelled of acceptance, and thus passes as money,

contemplating the substance. Such was the law, and the general Federal Common Law at that, during the reign of Swift v Tyson, which lasted until 1938 when the Erie R. R. decision and subsequent decisions expelled the Law Merchant from the Federal Common Law, effectively destroying the Seventh Amendment to the Constitution of the United States and paving the way for the reign of irredeemable paper. Paper redeemable in "Nothing" but more paper became a full reality on March 18, 1968, exclusively on the Federal level, through Public Law 90:269. Yet Article 1, Section 10, Clause 1, of the United States Constitution remains in effect. The Erie R. R. case decision could not destroy the Common Law of the States founded and grounded upon substantive allodial titles in real property. The best it could achieve were the compulsions of record in Milam v United States et. al. supra. Nor can the Courts of any Judicial District, magistrates, or prosecuting attorneys work in collusion with the King's agents (police enforcers) to destroy the Common Law of the several States in substantive allodial titles.

Land titles in the State of Idaho, as in all States of this union, once glorious and free, are allodial and substantive and not feudal and contemplative. There is no paramount overlord in any instance. The meaning of this should be known to the learned Courts as in all our law, fundamental property consists in lands and goods as distinguished from franchises, jurisdictional powers, and fiscal immunities or other immunities derived from some civil authority not beholden to The People of the Union. (Article 1, Section 1, Idaho State Constitution)

The States are yet, by Article 1, Section 10, Clause 1, absolutely forbidden from making anything a tender but gold and silver coin for the precise reason that fundamental property was considered to be substance at the Common Law in every State and not privileges or franchises for the purpose of preservation of substance, and derive from no authority superior to The People who framed the Constitution of the United States and created the States for their own protection against Federal tyranny.

The Accused submits that the legislative authority which enacted codes commanding or prohibiting specific performances such as licensing noncommercial activities, creating traffic codes and the Magistrates' Courts, to try all such non indictable misdemeanors by summary process, may

properly extend to those who volunteer themselves into such juristic beings, paper fiction persons and any other franchises in servitude or other classes of persons like members and subjects. However, such legislation cannot regulate or deny Rights to a Free and Natural Citizen or any traveler At Law.

Legislation cannot compel servitutes in the form of regulation, specific performance nor require any penalty by a chose in action.

In Idaho the founding fathers of our state Constitution knew what was coming down the road of CORPORATE DEMOCRACY “THE AGENCY” and placed certain verbiage to protect the Citizen and the fundamental rights guaranteed by the United States Constitution.

Idaho Constitution Article III Section 19. Local and special laws prohibited. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. Regulating the jurisdiction and duties of justices of the peace and constables.

2. For the punishment of crimes and misdemeanors.

3. Regulating the practice of the courts of justice.

4. Providing for a change of venue in civil or criminal actions.

5. Granting divorces.

6. Changing the names of persons or places.

Authorizing the laying out, opening, altering, maintaining, working on, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, or any public grounds not owned by the state.

8. Summoning and impaneling grand and trial juries, and providing for their compensation.

9. Regulating county and township business, or the election of county and township officers.

10. For the assessment and collection of taxes.

11. Providing for and conducting elections, or designating the place of voting.

12. Affecting estates of deceased persons, minors, or other persons under legal disabilities.

13. Extending the time for collection of taxes.

14. Giving effect to invalid deeds, leases or other instruments.

15. Refunding money paid into the state treasury.

16. Releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any person or corporation in this state, or any municipal corporation therein.

17. Declaring any person of age, or authorizing any minor to sell, lease or incumber his or her property.

18. Legalizing as against the state the unauthorized or invalid act of any officer.

19. Exempting property from taxation.

20. Changing county seats, unless the law authorizing the change shall require that two thirds of the legal votes cast at a general or special election shall designate the place to which the county seat shall be changed; provided, that the power to pass a special law shall cease as long as the legislature shall provide for such change by general law; provided further, that no special law shall be passed for any one county oftener than once in six years.

21. Restoring to Citizenship persons convicted of infamous crimes.

22. Regulating the interest on money.

23. Authorizing the creation, extension or impairing of liens.

24. Chartering or licensing ferries, bridges or roads.

page 58 of 184 25. Remitting fines, penalties or forfeitures.

26. Providing for the management of common schools.

27. Creating offices or prescribing the powers and duties of officers in counties, cities, townships, election districts, or school districts, except as in this constitution otherwise provided.

28. Changing the law of descent or succession.

29. Authorizing the adoption or legitimization of children.

30. For limitation of civil or criminal actions.

31. Creating any corporation.

32. Creating, increasing or decreasing fees, percentages, or allowances of public officers during the term for which said officers are elected or appointed.

Any compelling codes requiring any chose in action are nothing more than a discriminatory punishment upon the Accused who has not the ability to tender a payment At Law making him, in fact, an insolvent before the Court, such status being forced on the Accused by acts of Congress, in abrogation of the Common Law. The fundamental Common Law, which drew its source from The People, is, in this respect, unalterable by acts of a Congress sworn to uphold the Law.

The Court is, therefore, without capacity to render the Accused to be subjected to perpetual indebtedness to the State as Article 1, Section 10, of the Constitution of the United States absolutely forbids this abrogation of

the fundamental law of substance. This Accused Citizen, by right of status, cannot be compelled into performances upon a debt that never existed, or upon contract likewise nonexistent by this or any other Court in the land.

Because of the Constitution of the United States, Article 1, Section 10 and an act of Congress, this court possesses no power to effect a remedy and therefore, has no jurisdiction in this case.

Common Law vs. Civil Law Rights

COMES NOW the Accused, In Propria Persona in Sui Juris “NOT Pro Se” appearing specially under Idaho Rules of Civil Procedure 4 (i)(2) and not generally or voluntarily herein, to demand all rights under the Constitution of the United States/Common Law based upon the status of domicil of the Accused as a matter of due process of law and to determine what rights the Accused has in this court and what rights will be denied, if any, to enable the Accused to determine what jurisdiction the State is attempting to apply to this person as:

No change in ancient procedure can be made which disrupts those fundamental principles ... which ... protect the Citizen in his private right and guard him against the arbitrary action of the government." Ex Parte Young, 209 US 123.

When summoned into any court, the first thing a party must do is analyze and identify the nature of the charges, jurisdiction of the court, and the status of the Accused, to determine if the status of the Accused falls within the statute and the jurisdiction of the court.

The State and the Court are obviously proceeding based upon Civil Law statutes, and therefore, are using an Admiralty / Maritime / Equity / Agency jurisdiction to proceed rather than the principles and modes of the common law. (See Davison v. New Orleans, 96 U.S. 97; Dartmouth College Case, 4 Wheat 518) Facts supporting this conclusion are:

I Jurisdiction

The Accused recognizes that when jurisdiction is not squarely challenged it is presumed to exist (Burks v. Lasker, 441 US 471). This includes supposed duties, liabilities, and sanctions --- attached by way of statutes m for violations of said duties. (U.S. v. Grimaud, 220 US 506).

In this Court there is no meaningful opportunity to challenge jurisdiction, as the Court merely proceeds summarily. However, once jurisdiction has been challenged in the courts, it becomes the responsibility of the Plaintiff to assert and prove said jurisdiction: (Hagans v. Lavine, 415 US 533, note 5), as mere good faith assertions of power and authority(jurisdiction) have been abolished. (Owens v. City of Independence, 100 Set. 1398, 1980).

II THE STATE APPEARS AS THE PLAINTIFF AND AS A PARTY TO THE ACTION

The state functions in two capacities:

1. In behalf of the "People of the State" in common law actions; and

2. As a CORPORATION in a CORPORATE CAPACITY to protect and enforce its AGENCY interests through summary special proceedings.

But the state in either capacity is still bound by the U. S. Constitution. (Martin v. Hunter's Lesses, 1 Wheat 304)

Since the Plaintiff is the "STATE OF IDAHO", it is acting in its own interest and is, therefore, the PERSON / CORPORATION who is allegedly complaining. The STATE is attempting to bring a personal action and is seeking a remedy for an alleged injury of nonexistent rights, as rights only exist between moral beings. (Bouvier's Law Dictionary, 1914, p. 2960)

State of Idaho Memorandum of Law

Petitioner’s known as John Doe recent discovery of the above adjudicative facts is conclusive evidence that establishes Petitioner’s de jure legal status to Plaintiff’s de facto claim, whether in remedy, as an unincorporated

nonprofit association as defined by IC Title 53 Chapter 7 or in penalty, as a quasi - municipal corporation “governing body political subdivision” as defined IC section 7-1303 (6), as both are commonly named " STATE OF IDAHO" which has initiated this IC Title 7 chapter 13 special proceeding. This civil action quasi in rem was to be prosecuted pursuant to IC title 7 chapter 13, Judicial Confirmation Law i.e. the IC 7-1302 provision whereupon the early judicial determination as to the validity and power of the plaintiff's claim to such action by reliance upon the IROE 301 presumption / assertion that the designated defendant is the IC Section 53-503 (7) (b) "true name" of the real party of interest and is valid to invoke and maintain this de facto court’s state-action jurisdiction.

This is what takes place here in Idaho and by initiating IRCP 4 (i) (2) since in reality a CORPORATION can only challenge you as a CORPORATION the CORPORATE NAME is imposed by presumption thus deemed a civil proceeding, if the status is challenged. The problem with the court is it has usurped both Constitutions which is known as rebellion and treason against the United States and the State of Idaho.

III Public Prosecutor

In order for the Court to be properly set in a common law criminal action, there must be a member of:

1. The judiciary (the judge);

2. The executive (the public prosecutor); and

3. The Accused.

In this case the STATE is proceeding with a CITY official (CITY ATTORNEY) who is a member of the Judiciary, not an appointed member of the executive branch of state government AND WHOSE OATH IS TO THE CORPORATE STATE OF IDAHO.

The functions of the city attorney are not even outlined or authorized by Code, and he or she is neither appointed by nor works for the executive branch of government. Therefore, this person is functioning under a

statutory Civil Law jurisdiction and not under the provisions of the Common Law. The governor of the state is not discharging his duty to execute the laws of the state, by and through an appointed prosecutor. Instead, the laws of the State are being prosecuted by a municipal city (judicial) officer. Such judicial proceedings are only found in proceedings under the Civil Law.

IV Charge not by a Competent Authority

A principle of the Common Law is that the People are the party of the action in a felonious, or public offense. Public offenses are either felonies or misdemeanors (the offense charged in this case). Misdemeanors comprehend all indictable offenses (I Bish. Cr. L. Section 624; Bouvier's p. 2222) and, therefore, the charges must be brought forth by the People in the form of a grand jury indictment.

V Article III, Section 2, U. S. Constitution

The original jurisdiction in this case is with the United States Supreme Court because:

1. The State is a Party;

page 63 of 184 2. The magistrate court is operating in a jurisdiction alien to the Common Law. VI State is Compelling a Performance

The State by statute is attempting to compel a performance and the city attorney and the local police are applying said statutes without having to prove whether or not the statute applies to the Accused Constitutional status.

Due process of law is not necessarily satisfied by any process which the legislature may prescribe. See Abrams v. Jones 35 Idaho 532, 207 P. 724.

There can be no constructive offenses, and before a man can be punished, his case must be plainly and unmistakably within the statute. US v Lacher 134 US 624.

An action under the common law only exists after there has been a loss or a damage, and it cannot compel a performance. The charges against the Accused are because she did not show a drivers license and display license plates. Punishing a person for not doing a thing is tantamount to compelling a person to do the thing. Therefore, the nature of the action and the kind of relief sought is compelling in nature and not an action under the common law.

Under the common law a person cannot be compelled "to purchase, through a license fee or a license tax, the privilege freely granted by the Constitution" Blue Island v. Kozul, 41 N.E. 2d. 515 (As quoted in Murdock v. Pennsylvania (City of Jeanette) 319 U.S. 105, 114.

In addition: "A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution. Thus, it may not exact a license tax for the privilege of carrying on interstate commerce." Mc Goldrick v. Bewind White Co., 309 U.S. 33, 56-58. "Although it may tax the property used in, or the income derived from that commerce, so long as those taxes are not discrimination. “Id., p.47” As repeatedly stated, this person is not enfranchised by any state nor engaged in any form of trade, commerce, or industry that makes him subject to any licensing requirement, and therefore, travels on the rights-of-way as a matter of right and "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v. Arizona, 384 U.S. 436,491. Also see Marbury v. Madison, 1803.

The power to tax is the power to destroy and this person claims that the taxing power of the state if it were to pertain to this person in this case would not only control but also suppress and/or abrogate his absolute right to personal liberty (locomotion) as: "The power to tax the exercise of a privilege is the power to control or suppress its enjoyment." Magnano Co. v. Hamilton, 292 U.S. 40,44-45.

Since the State is attempting to control or suppress the Accused actions by taxing through the vehicle registration program and operator's license, the state is proceeding in some kind of administrative law not the common law. This type of action is an equitable action brought on by some enfranchisement, license, or contract, which must be shown to establish

jurisdiction over this person. As stated by Blackstone: "Let a man therefore be ever so abandoned in his principles, or vicious in his practice, provided he keeps his wickedness to himself, and does not offend against the rules of public decency, he is out of reach of human laws." Blackstone Commentaries, Vol I, p. 113.

Since no such conditions exist in this case, no jurisdiction exists in this Court.

VII Counsel

The Accused demands unlicensed Counsel of choice. The right to counsel at a criminal trial is deemed so fundamental to the interests of justice that denial thereof automatically vitiates any conviction obtained (the automatic reversal rule). This is true even though there is no showing of any prejudice or unfairness in the proceedings or even any need for counsel. Gideon v. Wainright, 372 US 335.

A conviction obtained where the accused was denied counsel is treated as void for all purposes. Lack of counsel of choice can be conceivably even worse than no counsel at all, or having to accept counsel beholden to one's adversary. Burgett v. Texas, 309 US 109.

The right to counsel exists not only at the trial thereof, but also at every stage of a criminal proceeding where substantial rights of an accused may be affected. Mempha v. Rhay, 389 US 128.

"A state or federal court which arbitrarily refuses to hear a party by counsel, denies the party a hearing and, therefore, denies him due process of law in a constitutional sense." Reynolds v. Cochran, 365 US 525.

VIII No Sworn Complaint

That STATE is proceeding without any formal sworn complaint. Since no "proper plaintiff' exists who can bring the action for a violation of rights in a common law action, that STATE is proceeding on the face of a citation which is a special proceeding under a Color of Law jurisdiction

(Administrative) of licenses and contracts, and which are not applicable to this natural person.

The Uniform Citation "tickets" fail as complaints for the following reasons:

1. No corpus delicti is established upon the face of the "tickets".

2. No criminal intent is alleged, nor shown by apparent circumstances surrounding this case.

3. No offer of proof is made that defendant is subject to Title 49, Chapters 1, 2, & 3, and thereby subject to these summary proceedings for lesser offenses.

Where no corpus delicti is shown, a conviction cannot be supported.

IX No Intent

The formal complaint must allege 2 elements of any crime, to be valid and sustain a case.

Idaho Code 18-114: Union of Act and Intent "In every crime or public offense there must exist a union, or joint operation, of act and intent, or criminal negligence."

The STATE does not have to prove intent in this case as the only issue before the Court is whether Petitioner committed the act or not. Experience has proven that in like cases before this Court, there is no presumption of innocence. Since intent will not be a matter of fact before the jury, intent must be a matter of law. Therefore, the state legislature has legislated guilt and the Court is proceeding in a summary process under the Color of Law to regulate corporations and regulated industry. (Almeida Sanchez, 413 U.S. 266; Colonnade Catering Corp. v. United States, 397 U.S. 72; United States v. Biswell, 406 U.S. 311) Under the Common Law, "intent" is a matter of status and conduct and must be a matter of fact before the jury, and if not so, the proceedings are alien to the common law.

X Common Law Jury

The Accused demands a common law jury of twelve of his peers. A trial by jury at the Common law consists of twelve men, neither more or less. Patton et al v. U.S., 281 US 276.

XI Jury to Determine the Law as well the Facts

The Accused demands a jury that would be able to determine the law and evidence in this case as well as the facts. This is a common law right. State v. Croteau, 23 Vt 14, 54; State v. Meyer, 58 Vt 457; Appeal of Lowe, 46 Kan 255; Lynch v. State, 9 Ind 541; Hudelson v. State, 94 Ind 426; People v. Videto, 1 Parker, Gr R. 603; Pleasant v. State, 13 Ark 360; Wohlford v. People, 45 III App 188; Commonwealth v. Porter, 51 Mass 263; U.S. v. Watkins, Fed Case No. 16, p. 649 (3 Cranch, c.c. 4411); 4 L.R.A. 675; Beard v. State, 71 Md 275.

XII State has not stated a claim upon which relief can be granted

The complaint naming the CORPORATE STATE OF IDAHO as Plaintiff, by the word "Plaintiff' alleges a AGENCY Cause of Action by imposing your CORPORATE NAME which is: "Matter for which any criminal or civil proceeding may be brought." "A cause of action implies that there is some person in existence who can bring suit and also a person who can lawfully be sued". "When a wrong has been committed, or a breach of duty has occurred, the cause of action has accrued, although the claimant may be ignorant of it".

A cause of action consists of those facts as to two or more persons entitling at least some one of them to a judicial remedy of some sort against the other, or others, for the redress or prevention of a wrong. It is essential to the existence of such facts that there should be a right to be violated and a violation thereof.

In this case, no evidence or testimony can be brought before the court to establish any natural person or persons who have suffered a loss of rights and therefore, there can be no cause of action or criminal causation.

XIII Meaningful Hearing

This CORPORATE ADMINISTRATIVE AGENCY COURT has repeatedly stated on the record that it will not even read or hear any constitutional issues brought before it much less rule on such issues, therefore the Court has denied the Accused due process of law which is guaranteed. This is done by Interpretive Rule Making further described below.

Interpretative rule is one among the categories of rules developed by administrative agencies in the exercise of lawmaking powers. When the legislature finds areas in statutes where it is impractical for lawmakers to apply expertise, it delegates the lawmaking function to administrative agencies. The Administrative Procedure Act (APA) is the law under which administrative agencies create rules and regulations necessary to implement and enforce major legislative acts. The federal APA categorizes administrative rules as legislative rules, interpretive rules, procedural rules, and general statements of policy.

Interpretative rules are rules issued by an administrative agency to clarify or explain existing laws or regulations. An interpretative rule does not attempt to create a new law or modify existing ones.[i] The rule only provides clarifications or explanations to a statute or regulation.[ii] Interpretative rules create no enforceable rights and only remind affected parties of existing duties. The rules merely state how an agency understands a statute. Interpretative rules only interpret the statute and thus guide the administrative agency in performing its duties. An interpretative statement simply indicates an agency’s reading of a statute.[iii]

Some examples of interpretative rules are agency manuals, guidelines, and memoranda of administrative agencies.

Generally, the APA provides that the public should be informed about rules created. Therefore, notice on the rule is to be published and comments received from the public should be applied to the rules if they are not against government policy. However, an interpretive rule does not have to meet the requirements concerning notice to the public and opportunity for comment set out in the APA.[iv] This is because an interpretive rule does not have the force of law.

[i] Paralyzed Veterans of Am. v. West, 138 F.3d 1434 (Fed. Cir. 1998)[ii] Animal Legal Defense Fund v. Quigg, 710 F. Supp. 728 (N.D. Cal. 1989)[iii] First Nat'l Bank v. Sanders, 946 F.2d 1185 (6th Cir. Tenn. 1991)[iv] Castellini v. Lappin, 365 F. Supp. 2d 197 (D. Mass. 2005)

XIV Theory of Case

STATE OF IDAHO proceedings in the COURT during trial will not allow the Accused to address issues of law nor will Petitioner be allowed to express her theory of the law and the case to the jury. The Accused is restricted by the form of the proceedings to restrict his or her defense solely upon the basis of whether or not he or she committed the acts, and substantive issues cannot be related to the jury.

This clearly shows that the jury proposed by the STATE is not a common law jury but one operating under administrative restrictions to satisfy the conscience of the CEO and this court. This type of jury is prescribed in admiralty / maritime / equity / agency jurisdictions and foreign to the common law.

Idaho statutes such as IC 1-2213 clearly states:

1-2213. Appeals -- Powers of district judge. (1) Appeals from final judgments of the magistrate's division shall be taken and heard in the manner prescribed by law “CONSTITUTIONAL” or rule “ADMINISTRATIVE AGENCY”.

(2) Unless otherwise provided by law or rule, a district court judge shall review the case on the record on appeal and affirm, reverse, remand, or modify the judgment; provided, that the district judge in his discretion, may remand the case for a new trial with such instructions as he may deem necessary or he may direct that the case be tried de novo before him.

Idaho statutes such as Title 19 3942 states:

Trial on appeal. The clerk of the district court must file the papers received, and enter the action on the calendar in its order with other criminal cases,

and the same must be tried anew in the district court at the next term thereof, unless for good cause the same be continued.

Therefore, the question is whether the magistrate of the trial court will properly instruct the jury is a question of law over which we exercise free review. State v. Gleason, 123 Idaho 62, 65, 844 P.2d. 691, 694 (1992) or knowingly, willfully and wantonly deny the petitioners right to due process of law within the state of Idaho which petitioner and his property is domicil within. A defendant in a criminal action is entitled to have his or her theory of the case submitted to the jury under proper instructions State v. Olsen, 122 Idaho 87, 90, 831 P.2d 555, 558 (1992).

In discussing the trial courts obligations regarding jury instructions the Idaho Supreme Court has stated:

If the theory is not supported by the evidence, then the court must reject the instruction. But if the theory is supported by the evidence, then the court must determine if the instruction is a correct statement of law. If it is a correct statement, then the instruction should be given. But if the instruction is incorrect, then the trial court is under the affirmative duty to properly instruct the jury. In this manner, the defendant is still under the obligation to bring his or her theory or theories to the attention of the trial court. The trial court is not obligated to determine on its own upon what theory or theories to instruct the jury on. It is the petitioners request to be heard according to his theory or theories according to the law of the state. Petitioner demands the COURT to adhere to rule of law and allow for the defense of the petitioner status AND THIS CASE to be heard by the jury of his peers 1 STAT 51 “statues at large” and not by a DE FACTO CORPORATE JURY OF THE CORPORATE STATE OF IDAHO EIN 82-6000852, 82-6000952.

Conclusion

In this case:

1. The Accused is a Free and natural person who has claimed all of his / her rights at the common law and has denied all other jurisdictions until asserted and proved.

2. The STATE / PLAINTIFF has brought forth charges that, in this case, are not within the jurisdiction of the state of Idaho.

3. The Administrative Court is proceeding in a summary fashion and not according to the rules of procedure of the Common Law.

4. The STATE / PLAINTIFF and the Court are apparently conspiring to defeat the lawful / Constitutional and legal / Civil Rights of the Accused.

5. The STATE / PLAINTIFF and the Court are proceeding in a jurisdiction foreign to the Common law.

John Doe, de jure Citizen of Idaho, real party in interest, known as petitioner, enters this demurrer for hearing for good cause shown fraud, (knowingly, willfully and wantonly). The record is clear and unambiguous, PLAINTIFF is a MUNICIPAL CORPORATION DE FACTO EIN # 82-6000852, 82-6000952 alleging a “criminal” offense Identified defendant is the unincorporated property of John Doe, real party of interest domicile within the state of Idaho, organized and incorporated, dejure member of the American union, ie one of the 50 several states comprising the United States / United States of America inapposite the 54 STATES commonly called UNITED STATES OF AMERICA, a MUNICIPAL CORPORATION DE FACTO. The statute allowing CORPORATE NAME filing is unconstitutionally overbreadth as applied to a Citizen of Idaho. The State of Idaho, incorporated, is prima facie conclusive evidence that plaintiff is not the people of Idaho, aka “the state of Idaho.” Therefore such is a feigned civil action prohibited by article V section 1 state of Idaho constitution, unless domicile is controverted by sworn affidavit solemnly declared. Since the MUNICIPAL CORPORATION AGENCY AND ITS EMPLOYEES have continued down a path of egregious violations of the petitioners right, privileges and immunities without evidence to the contrary it has been done in violation of general laws of the state of Idaho and all parties should be prosecuted according to Idaho statutes for such Ponzi scheme perpetrated upon the Citizens of Idaho de jure.

Error will not be presumed on appeal but must be affirmatively shown by the appellant, and with limited expectations error at trial must be properly objected to and preserved to merit review. State v. Thomas, 94 Idaho 430

(1971). The exception to this rule is that an appellant court will review “fundamental error” on appeal even when no adequate objection has been interposed at trial. State v. White, 97 Idaho, 708 1976, cert.den. 429 U.S. 842,97S.Ct.118,50 L.Ed.2d.111 (1976).

Fundamental error is such error as goes to the foundation of the defendant’s rights or must go to the foundation of the case or taken from the defendant a right which was essential to his defense and which no court could or ought to prevent him to waive. Each case will of necessity, under such a rule, stand on its merits. Out of facts in each case will arise the law. Smith v. State, 94 Idaho 469, 475, n. 13 (1971).

Remedy Sought

Since the STATE proceedings in this case do not conform to common law, the Accused demands that the court to dismiss the charges due to his or her status and declaration of domicil within the territorial boundaries of the state of Idaho.

Rights of Status as a Free Citizen

Article 1, Section 3, of the Idaho State Constitution states; "The state of Idaho is an inseparable part of the American Union, and the Constitution of the United States is the Supreme law of the land."

Other State Constitutions also make references concerning the information contained in the above paragraph. The Constitution of the United States states; "This Constitution .... shall be the supreme law of the land; and the judges in every State shall be bound thereby ... "

There can be no doubt that all judges are bound by the Constitution of the United States which is a part of the Common Law, which nullifies any legislative law or statute that violates the rights of a FREE Citizen.

In this country Rights precede government or the establishment of states, which is an ancient maxim of law. Rights are acknowledged above government or they cease to be Rights and become privileges authorized by the government or state.

The rights governing contracts, money, appearances, pleading, and pleas are more ancient than the history of this country and were well established in the early days of American jurisprudence. It has been the arbitrary rule making on the part of government officials, diligently at work expediting the judicial system into streamlined Courts of Equity and chancery proceedings, which have been abrogating Free and Natural Citizens' Rights and freedoms. "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda V Arizona, 384, US 436, 491

This Person hereby lays claim to the absolute inalienable rights of contract, freedom, and liberty -- that is, the claim of unrestricted action except so far as the claim of others necessitates restriction -- and the right to free locomotion... There is a monstrous difference in restricting actions of locomotion and prohibiting and commanding actions, or the lack of, and punishing by penalty, fines, and imprisonment persons who fail to comply when the action committed by the Person has not, in fact, caused any loss or damage of another's Life, Liberty, or Property as opposed to those classes of crimes where another's Life, Liberty, or Property has been damaged or lost. Restriction of various functions on certain classes of commercial travelers and other juristic persons may be necessary; however, penal action is not. A penal action is nothing more than an action or information brought on by an "agent of the king" and in which the penalty goes to the "king" (government). (Bouvier Law Dictionary, P. 2551)

Any FREE Citizen who claims his rights cannot be forced to comply with penal offenses. Under the Common Law there can be no constructive offenses. United States V. Lacher, 134 US 624; Todd V. United States, 158 US 282. It should be understood that a constructive offense is nothing more than an act which may or may not be performed; the doing that which a penal law forbids to be done or omitting to do what it commands.

Penal statutes are essentially those actions which impose a penalty or punishment arbitrarily extracted for some act or commission thereof on the part of some person. (Black's Law Dictionary, 5th Ed., P. 1019) Such statutes operate to compel a performance (Black, P. 1020) and inflict a punishment by statute for its violation. (The Strathairly, 124 US 571)

In any appearance of this Free and Natural Citizen, it must be noted that no jurisdiction other than the Common Law will be recognized and executive chancery is specifically denied. This denial includes state codes that are in violation of the rights of man, and in this case a code demanding a specific performance commanding that a certain thing can or cannot be done, making said statute an unconstitutional statute. "Constitutional and legal rights are protected by the Law, by the Constitution; but if government does not create the idea of right or original rights, it acknowledges them; just as government does not create property or values and money, it regulates them. If it were otherwise, the question would present itself, whence does government come? Whence does it derive its own right to create rights? By compact? But whence did the contracting parties derive their right to create a government that is to make rights? We would be consistently led to adopt the idea of a government by just divinum; that is, a government deriving its authority to introduce and establish rights (bestowed on it in particular) from a source wholly separate from human society and the ethical character of man, in the same manner in which we acknowledge revelation to come from a source not human." (Bouvier, P. 2961)

The powers of our government are supposed to be severely limited and this has been best presented by the Chief Justice of the Supreme Court in 1803: "The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited. and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and the acts allowed are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by any ordinary act. "Between these alternatives there is no middle ground. The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it. "If the former part of the alternative be true, then a legislative act contrary to the constitution, is not law; if the latter part be true, then written constitutions are absurd attempts, on the part of

the people, to limit a power in its own nature illimitable. "If then, the courts are to regard the constitution, and the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary acts must govern the case to which they both apply. "Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that constitution forms no rule for his government -- if it is closed upon him, and cannot be inspected by him? "If such to be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime. "It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the constitution, have that rank". "Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts as well as other departments, are bound by the instrument." Marbury V Madison, 1 C. 137, 176-179 In the United States all three branches of government, state or national, are granted "limited" powers. These powers are granted by "The People." The People are, in fact, individuals including the Accused. The People are principals and authorize agency to the three branches of government. The concept of limited powers of government establishes the fact that the agent is not granted sufficient power in any case to invert the relationship so as to make the individual an agent and the state his principal. Such an inversion would prohibit acts of "free agency" which are privy to a principal and are outside the discretion of an agent. Since our government is a government of self governing individuals, the individuals have, and must have, the sovereign powers.

If the People, as principals, do not possess the Sovereign powers, they possess no power from which they can convey a limited portion to their agents, the government, and so any government that would act presumably under the Constitution and convert the people from the principals and Sovereigns to agents is, in fact, a pretender, a government of pretense, because it does not derive its authority from the people. Therefore, the People would be reduced to agents and are no longer the source of authority. Such a government has destroyed it's source of power through usurpation; it has become a principal in violation of it's creator's interests.

Government is deriving it’s authority from some source outside the People in violation of the operation of a Constitutional Republican form of government and, therefore, inverts the relationship of the individual, principal, and the state, agent. This violates the "limited powers" doctrine.

The controlling principle in the Common Law is that no man may order the life, actions, and decisions of another. Each individual being answerable to his Creator for his actions and their consequences, must have the right to choose the acts. The Common Law provides protection guaranteeing man's independent action in all ways, unless there is a responsible swearing to an allegation that he is the probable cause of damage to another's Property, injury to another's Person, or infringement on another's Rights. The oath attending a swearing of charges protects the accused by making the Plaintiff answerable to perjury if falsely brought. Our heritage, the Common Law, requires no performance of the individual. The Common Law demands and secures restitution and punishment for wrongs.

As this pertains to the highways and the use of vehicles. The People own the rights-of-way. The name explains the law. People have "rights" of way.

As it pertains to absolute ownership and use of property. The People own the Unalienable Right to possess, carry, move, and use said property in any manner in which they choose so long as those actions do not infringe upon the Rights of others. The accused does not need a grant of privilege to use his own Property (Rights). A State granted privilege cannot be compelled on a Free and Natural Citizen (Free person) who possesses Rights and powers that antedate the State or the Nation and who gains no immunities from the State and has full liability for his acts.

As it pertains to contracts, this Free and Natural person has the unalienable right to contract with anyone this person pleases, and the government can pass no law "impairing the obligation of contracts,." State granted privileges to juristic persons have their source in the limited powers granted by the natural individuals of the State. The licensing or permit statutes of states require a specific performance. Beyond that licensing asks for more; for some reason it asks for a signature, and that is something the Accused objects to because it is contractual and constitutes a presumed voluntary waiver of Common Law process in criminal actions and a voluntary entry

into police courts of chancery. Licensing requires such information that this person considers private, which the licensing agencies do not keep private. The State cannot compel the Accused to waive his Right of privacy. The operation of licensing statutes requires all of these private things which it cannot compel a Free and Natural Citizen (Free person) to provide, whether or not it is a statute. Cited as proper authority is the following:

"An unconstitutional act is not law; it confers no rights it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed. " Norton v Shelby County, p. 442 "The general rule is that an unconstitutional statute, though having the form and the name of law, is in reality no law, but is wholly void and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, an unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed." 16 Am. Jur. 2d 177 The best definitions that the Accused has obtained of licenses are:

1) "Permission to do something which would otherwise be illegal," and

2) "A grant to use the property in which one possesses no estate."

The People own the "rights-of-way". The name explains the law. Again, the People have "RIGHTS" of way. The Accused does not need a grant of privilege to use his own property (rights). A state granted privilege cannot be compelled on a Free and Natural Citizen (Free person) who possesses "rights" and powers that antedate the state or the nation and who gains no immunities as from the state and has full liability for his acts. State granted privileges to juristic persons have their source in the limited powers granted to the State by the Natural Persons of the State.

It is only fitting and proper that juristic persons, subjects, members, and artificial persons be totally constrained in their actions, since they are legal fictions and can suffer no penalties of the mind and flesh. They must be controlled through making their creation and their every act a grant of privilege and prescription. No interior conscience, no love of freedom, no pride of independence, no tender hope for a future environment suitable for his offspring that can be relied upon to govern his conduct constructively,

exists in a legal fiction, and no freedom or unrestrained action can safely be permitted a juristic person.

The Court should agree that the Accused possesses no legal identity other than "Free Citizen" and Defendant. If that is the case, it raises questions in the mind of the Accused about understanding the charge and the nature of the charge. In order for the charge to have applicability to the Accused, the Accused would seemingly have to possess some legal juristic identity in which specific performance is required as a juristic person created by the State, or a contractor inviting an exchange of obligations, or an agent, insolvent, bond servant, subject, or trespasser. If the Court sees the Accused as a "Free Citizen," any charge of failure to specifically perform is unrelated to that sole identity because that identity does not describe a relationship to duty. What Complaint has been brought forward by the Plaintiff stating what act has transpired and how that act caused a damage, injury, or infringement of another Person's Property (Right)?

If a Person does not have a contract, gun permit, a marriage license, a fishing/hunting license, a driver's license, or has not fulfilled any other state requirement m_ is he a trespasser? Has a person then volunteered into administrative law jurisdiction? If a person has a permit, license, or etc. is he a benefactor? Of whom? Most statutes do not say what benefit a Free and Natural Citizen receives that causes a corresponding duty. Upon what undisclosed benefit does a Citizen owe duty to license himself?

The statute fails to identify the grantor of the privilege. The statute does not say what benefit a Free and Natural Citizen receives that cause any corresponding duty. In addition, the statute contains no evidence of any consideration.

Therefore, said statute is unconstitutional in its operation for what it requires of the Free and Natural Citizen. Additionally, statutes such as this are void for vagueness and ambiguity, as they fail to identify the relationship of the parties to an alleged controversy and does not specifically define who is, and who is not subject to said statute. Therefore, the issues in question are not within in the jurisdiction of the Court.

Issue of Status and Jurisdiction

The ownership or possession of lands which, in America, is titled allodium, is attended with the full legal rights to use such property for one's own benefit and advancement. This is embraced by the Declaration of Independence when it mentions the Unalienable rights (which became civil rights with the ratification of the Constitution) as absolute Property, along with Life and Liberty. The undiminished rights of property are the freedom of an individual to expand or not to expand his material wealth, or more to the specific terminology of the Declaration of Independence, the pursuit of happiness. A property tax, or direct tax, compels one to produce in order to pay the tax. As all government is derived from the consent of the people, and the Rights of the individual are more sacred than the will of the collective Citizenry, the consent of the people is actually individual in essence, and must only extend to the particular situation, or status, of said individual.

Basic government, while hard to define in its full role or duty other than to protect Life, Liberty, and Property other than the individual is, at minimum, the process of the Courts, a County Sheriff, Prosecutor, etc. at the lower levels, and the Constitutionally mandated branches of government with their respective functions.

So much more of what seems to be "government" is simply extensive program and process Jurisdictions) designed to create and then direct businesses in the State, the end result of which is to finally move all society from status to contract, or privilege, in order to construct a "new society or new order" upon more equitable lines of thought and method. This erosion of the substantive law, or in America, the Common Law, a law of privilege and quasi-contract which does not regard the Common Law principle of possession, but instead introduces the use or trust, equitable estates, which are then subject to new and foreign jurisdiction under statute. This could be termed the statute merchant or statute-staple, and is based upon a presumed enfranchisement of all Citizens and subjects in the society. Such a condition is absolutely unconstitutional.

Now we come back to the principle of implied consent, a basic tenet of contract and of government. Implied consent is a principle used in this legislative process of lawmaking. Somehow, it seems, all society has

collectively implied its consent to statutes of the civil law. This is because of the virtually universal use of corporate privilege or a derivative, the commercial paper methods of conducting business, a capacity, by society's members, which has occasioned the broad scale "general" legislation in the areas of police powers, taxation's and assessments, and regulations of property by municipalities. Such statutory enactments, and the subsequent adoption of procedures and jurisdictions to enforce this "will of the legislature" upon the subjects are strictly limited, or even prohibited by the Constitution. Therefore, status becomes the central issue, and jurisdiction must be decided at every turn. Rights are preserved under the Common Law, which must not depend upon the nearly unlimited will of the legislature.

Of course, the specific subject matter involved is the crucial argument in support of, or in dispute of such legislation and its enforcement or exercise in the Courts. We have the law (Common Law) as decided by previous Court cases as a guide and tentative authority in the issues, but with each new statutory enactment, there can be new principles (issues) or Rights (denial of) involved which have yet to be specifically ruled upon. Therefore we must apply, not only our knowledge and understanding of the law, but our common sense as well, for as Coke stated; "Reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself." (7 Rep. 69)

We (each individual) must decide for ourselves, for we are the principals of government (Idaho Constitution, Art. I, Sec. 2) and cannot enfranchise ourselves, only our business entities, or persons. "Status may yield ground to contract, but cannot itself be reduced to contract." Pallock's Maine's And. Laws, 184 (quoted in Bouvier's Law Dictionary, 1914).

Contracts must include informed consent, less any ministerial process be effectively a denial of due process of law. It is status, and not the kind of contract, which determines due process. Legislative authority cannot subject the fundamental, constitutional rights to any proceeding other than those which satisfy due process, that is the ancient accepted mode of judicial proceedings, the law which hears before it condemns, which proceeds only upon inquiry, and renders judgment only after trial. (See Bilbert v. Elder, 65 Idaho 383,144 P. 2d. 194. (19430, and Abrams v. Jones,

35 Idaho 532 (1922).) Summary or special proceedings are not in the nature of actions at Common Law and are created by personal statutes (see Black's 5th) of the legislature, in foreign and modern civil law.

There can be no doubt that this is but derivative of the jus gentuim of the Roman law, and consistent with the Lex Mercatoria or Law Merchant, the law of commercial contracts. Black's 5th also defines this body of law, statute, or code to be the "statute merchant" or "statute staple" mentioned above. The courts of the staple in the merchant nations of centuries past were merely "trading pits" for the quick and equitable settlement of questions of a purely commercial nature and therefore, absolutely foreign to the Common Law or the municipal law of any land. Such law dealt necessarily in the potentiality of substance, or the promise of payment and not in the possession itself. The object and intent was the expediting of claims arising out of transactions with choses in action (personal property) and done in summary proceedings. It is elementary to any reasonable mind, that the entrance of these modes and principles into the realm of the Common Law and the rights of Citizens under the Constitution of the United States, would be an intolerable perversion and eventual abrogation of all freedom in Life, Liberty, and Property as defined by the Declaration and the Bill of Rights.

Personal Statutes create status, but a status other than that of the Free and Natural Citizen at Law under the Constitution. The rights, duties, capacities, or incapacities created are, in fact, franchises or privileges granted by a principal, the legislature, and thereby totally subject to its enactments and procedures. In Idaho, the procedural merger of law and Equity has ordained that all actions prosecuted by the State of Idaho are in criminal forms, but at the same time, actions instituted by the municipal corporations acting as agents for the State upon these statutes, are civil actions. Witness the language of the Idaho Constitution, Art. 5, Sec. I, in defining the civil action: " .. .for the enforcement or protection of private rights or the redress of private wrongs ... " (emphasis added).

There we find the County or City acting as a "private person" in seeking remedies or recovery. This "status" created by legislation is not and cannot be consistent in any way with the status held by Citizens, or more specifically, natural persons under Constitutional protection. Further, the

"rights" of these "persons", which are artificial or juristic persons, are not in the same class as fundamental substantial rights held as inviolate by State or Federal government in the Bill of Rights. I submit that these rights are merely equitable interests or claims on property and not the possession of property which is an absolute right, comprehending the complete, undiminished use and dominion of a thing. These are "rights" to action as opposed to rights of ownership and possession. In this sense, they are "property" but must be further defined as personal property and further classified as property or "choses in action." (See Bouvier's Law Dictionary (1914) on property, choses in action, and right (absolute).

These rights, being choses in action, are then recoverable by action in the appropriate court, under the appropriate, enabling statute which confers jurisdiction over that matter and authorizes these special or summary proceedings. Many of the case citings concerning this subject are listed and quoted in I.C Vol. I; Canst. Declaration of Rights; Article 1. These citings put forth the law of Idaho as interpreted by its High Court.

Cases in point are: State v. Jutila, 34 Idaho 595; People ex reI. Brown v. Burnham, 35 Idaho 522; Brady v. Place, 41 Idaho 747; Blue Note, Inc. v. Hopper, 85 Idaho 152; Comish v. Smith, 97 Idaho 89 (all on the subject of Common Law right of trial by jury);

page 84 of 184 and on due process of law, or the law of the land: State v. Frederic, 28 Idaho 709; Collins v. Crowley, 94 Idaho 891; Mullen v. Moseley, 13 Idaho 457; Eagleson v. Rubin, 16 Idaho 92; O'Connor v. City of Moscow, 69 Idaho 37; and concerning the 4th Amendment: State v. Petersen, 81 Idaho 233; and concerning fundamental rights: Abrams v. Jones, 35 Idaho 532.

I submit here that the "capacity" mentioned in Black's 5th under personal statutes is a CORPORATE CAPACITY of doing business or operating with limited liability and/or perpetual succession or existence. Any discussion of status must involve the capacities or incapacities, both natural and conventional, belonging to such person deriving, of course, from the nature of the person, whether natural, juristic, or artificial; whether of a substantive origin or merely in contemplation of law.

Of course, persons operating or conducting business under a privilege or commercial contract are a class of persons, just as citizens in full possession of their political and civil rights (see Right in Bouvier's Law Dictionary) are a class of persons. Still they are different classes under the law, some having fundamental or inalienable rights and some having rights arising from legislation. The operation of a statute is upon the class of cases which, from their analogy to the cases that are named (in code books of the state), are within the equity of the statute (see Black's 5th on Equity of a Statute).

To determine jurisdiction then, is to take into account the status of the individuals or persons party to the action, the nature, or cause of the action, the type of relief sought, and finally the power or capacity of the Court itself. A challenge to the jurisdiction of the Court, when based upon the status of Defendant, the service of process, the cause of action or lack of same, and the ability to effect a remedy or the capacity to proceed according to the law of the land, is a matter which will involve much knowledge and understanding of law on the part of the Judge or Magistrate, for it is a question of substantive and procedural law, of Constitution and local usages. The utmost concern and caution of the Court is advisable in such matters, for upon these decisions rest the safety and welfare of the citizenry, Citizen's respect for government, Citizen's continued peaceful and lawful settlement of disputes arising among themselves and between Citizen's and their public servants. An unwarrantable jurisdiction of the civil law or law merchant promulgated by the Legislature and courts cannot help but incite disgust and dissension when the public-at-large becomes aware of a tyranny and despotism in the form of police powers, taxation's, summary judgements, and bureaucratic regulation, which is being authorized at every turn by a runaway legislature. The Courts are our basic protection from oppression or excessive rule-making. The Constitution and Bill of Rights are our standards of reason and right. We do not desire to flood the Courts with unseasoned or frivolous banter, but knowledgeable and reasonable arguments of law and clear statements of fact. The weight of the question is great, this issue of status and jurisdiction, and is to be treated solemnly and soberly by all involved. It is regrettable that many public officials have no idea of what is at stake here, but go blindly on, listening to custom and precedent rather than reason or fact. It should be obvious to the learned Court that this Person has no contract and still

operates At Law and therefore, not under the jurisdiction of this Court. Wherefore this Accused person moves the Court to dismiss the charges.

Counsel of Choice

The terms "attorney" and "assistance to counsel" are Common Law terms and: "It has been held, and is undoubtedly the law, that, where common law phrases are used in an indictment or information, such phrases must have common law interpretation." Chapman vs People, 39 Mich. 357-359; in re richter (D.C.) 100 Fed. 295-297

The meaning of the Common Law terms is quite clear and the term "Assistance of Counsel" does not necessarily mean that "Counsel" will be a licensed attorney. Certainly a licensed attorney may be a counselor, but all counselors may not be licensed attorneys. "Barristers or counselors-at-law, in England, were never called or appointed by the courts at Westminster, but were called to the bar by the inns of the court." Cooper's Case, 22 N.Y. 67, 90 "They are voluntary societies, ... " King v Benchers of Gray's Inn "Of advocates, or (as we generally call them) counsel, there are two species ... ; barristers and serjeants ... serjeants and barristers indiscriminately ... may take upon them the protection and defense of any suitors, whether plaintiff or defendant; who are therefore called their clients, like the defendants upon the ancient Roman orators. Those indeed practised gratis, for honor merely, or at most for the sake of gaining influence: and so likewise it is established that a counsel can maintain no action for his fees; which are given, not as 'location vel conduction, but as guiddam honorarium; not as salary or hire, but as a mere gratuity ... '" 3 BL. Com. 26-29 "In early times, personal communication between counsel and client 'was necessary'; for there were no attorneys ... " It was not until after the statutes of Merton (20 H. III, c. 10), Westminster (3 E. I, c. 33), and Gloucester (6 E. I, c. 1), that suitors were allowed to appear at pleasure by attorney. The counsellor was for many centuries the only person known as a 'lawyer'" Kennedy v Broun, 13 C. B. N.

S. 677, 698. "Physicians and counsel usually perform their duties without having a legal title to remuneration. Such has been the general understanding." Veitch v Russell, 3 A.,

E. N. S. 928, 936 "Attorneys are responsible to their clients for negligence or unskillfulness; but no action lies against the counsel for his acts, if done bona fide for his client. In this respect therefore, the counsel stands in a different position from the attorney." Swinfen v. Swinfel, 1 C. B. N. S. 364, 403 "An advocate at the English bar, accepting a brief in the usual way, undertakes a duty, but does not enter into any contract or promise, express or implied. Cases may indeed occur where on an express promise (if he made one) he would be liable in assumption; but we think a barrister is to be considered, not as making a contract with his client, but as taking upon himself an office or duty, in the proper discharge of which not merely the client, but the court in which the duty is to be performed, and the public at large, have an interest.. .. A counsel has complete authority over the suit, the mode of conducting it, and all that is incident to it. ... No action will lie against counsel for any act honestly done in the conduct or management of the cause." Swinfen v. Chelmsford, 5 H. & N. 890, 920,922,923

"English attorneys-at-law (called solicitors since the judicature act of 1873 took effect) were not members of the bar, and were not heard in the superior courts, and the power

page 87 of 184 of admitting them to practice and striking them off the roll had not been given to the inns of the court. That part of the profession which is carried on by attorneys is liberal and reputable, as well as useful to the public, ... and they ought to be protected where they act to the best of their skill and knowledge. But every man is liable to error. .. A counsel may mistake, as well as an attorney. Yet no one will say that a counsel who has been mistaken shall be charged with the debt. The counsel, indeed, is honorary in his advice, and does not demand a fee: The attorney may demand a compensation, but neither of them ought to be charged with the debt for a mistake.". Pitt v. Yalden, 4 Burr. 2,060, 2,061 "An attorney-at-law .. .is one who is put in the place, stead, or turn of another, to manage his matters of law. Formerly every suitor was obliged to appear in person, to prosecute or defend his suit, ... unless by special license under the king's letters-patent... But... it is now permitted in general, by divers ancient statutes, whereof the first is statute Westm. 3, c. 10, that attorneys may be made to prosecute or defend any action ... These attorneys are now formed into a regular corps; they are admitted to the execution of their office by the superior courts of Westminster Hall, and are in all points officers of the

respective courts of which they are admitted ... No man can practise as an attorney in any of those courts, but such as is admitted and sworn an attorney of that particular court: An attorney of the court of king's bench cannot practise in the court of common pleas; nor vice versa. To practise in the court of chancery, it is also necessary to be admitted a solicitor therein." 3 Bl. Com. 25, 26. "Attorney, in English law, signifies, in its widest sense, any substitute or agent appointed to act in 'the turn, stead, or place of another.' The term is now commonly confined to a class of qualified agents who undertake the conduct of legal proceedings for their clients. By the common law the actual presence of the parties to a suit was considered indispensable, but the privilege of appearing by attorney was conceded in certain cases by special dispensation, until the statute of Merton and subsequent enactments made it competent for both parties in all judicial proceedings to appear by attorney. Solicitors appear to have been at first distinguished from attorneys, as not having the attorney's power to bind their principles, but latterly the distinction has been between attorneys as the agents form ally appointed in actions at law, and solicitors who take care of proceedings in parliament, chancery, privy council, etc. In practice, however, and in ordinary language, the terms are synonymous ... The qualifications necessary for admission on the rolls of attorneys and solicitors" are fixed by statute. "They may act as advocates in certain of the inferior courts. Conveyancing, formerly considered the exclusive business of the bar, is now often performed by attorneys. Barristers are understood to require the intervention of an attorney in all cases that come before them professionally, although in criminal cases the prisoner not unfrequently engages a counsel directly by giving him a fee in open court." 3 Enc. Brit. 62; also see Co. Lit. 51 b, 52 a.

The intent of our founding fathers was pretty clear and it is also axiomatic in Law that it is the intent of lawmakers that is law; not the interpretations of others. "The intention of the lawmaker constitutes the law." Stewart v Kahn, 11 Wall, 78 U. S. 493, 504 "As the meaning of the lawmaker is the law, so the meaning of the contracting parties is the agreement." Whitney v Wyman, 11 Otto, 101 U.S.

It has been repeatedly upheld in the courts that: "The framers of the statute are presumed to know and understand the meaning of the words used, and where the language used is clear and free from ambiguity, and not in

conflict with other parts of the same act, the courts must assume the legislative intent to be what the plain meaning of the words used import." First National Bank vs United States, 38 F (2nd) 925 at 931 (March 3, 1930). "A legislative act is to be interpreted according to the intention of the legislature, apparent upon its face. Every technical rule, as to the construction or force of particular terms, must yield to the clear expression of the paramount will of the legislature." 2 Pet. 662 "The intention of the legislature, when discovered, must prevail, any rule of construction declared by previous acts to the contrary notwithstanding." 4 Dall 144 "The intention of the law maker constitutes the law." U.S. v Freeman, 3 HOW 565; U.S. v Babbit, 1 Black 61; Slater v Cave, 3 Ohio State 80.

Then, what was the intent of our founding fathers? Our founding fathers wrote the Constitution in plain, simple language and used words that everyone of that day could understand. The Constitution was also written with common words to insure that all of the people could understand its meaning. Otherwise, there was no way the people would submit themselves to it. Hadn't they just rid themselves of a tyrant King? Therefore, each word was chosen very carefully and we need only understand the meaning of the words used in those days. In referring to the American Dictionary of the English Language, First Edition, Noah Webster, 1825, are the following definitions: "COUNSEL, ... which is probably from the Heb ... Those who give counsel in law; any counselor or advocate, or any number of counselors, barristers, or serjeants; as the plaintiffs counsel, or the defendant's counsel"

We need to remember that many of the authors of the Constitution were members of the legal profession, and isn't it interesting that Webster's definition c~early omits any reference to "lawyer" or "attorney" as being counsel? Whatever "COUNSEL" is, counsel can represent both a plaintiff and a defendant.

The word advocate was defined as: "ADVOCATE, ... To call for, to plead for; ... In English and American courts, advocates are the same as counsel, or counselors ... "

The word Barrister was defined as: "BARRISTER, (from bar) A counselor, learned in the laws, qualified and admitted to plead at the bar, and to take upon him the defense of clients; ... "

In neither definition are there any references to "lawyers" or "attorneys," nor is anything specifically mentioned about qualifications other than "learned in the laws," and "qualified." Nothing is mentioned about being approved by the Supreme Court nor any other agency or entity.

The word attorney was defined as: "ATTORNEY” One who takes the tum or place of another. .. One who is appointed or admitted in the place of another, to manage his matters in law. The word formerly signified any person who did business for another; ... The word answers to the procurator, (proctor) of the civilians ... " "Attorneys are not admitted to practice in courts, until examined, approved, licensed and sworn by direction of some AGENCY Court; after which they are proper officers of the AGENCY Court."

It is important to notice that an attorney could act "FOR" or "IN PLACE OF" an individual. Whereas counselors were restricted to "PLEADING FOR" and "GIVING" of "ADVICE AND COUNSEL" in the presence of the accused or client. Counselors had no authority to "ACT FOR" or "IN PLACE OF" any client.

In those days it was commonplace to handle one's own case, thereby, acting (In Propria Persona) in one's behalf in court. However the court room is an awesome and lonely place when everyone else in the room is a member of the court. Whenever desired, the accused or the plaintiff could have a friend in the court -- A counselor. A friendly person who could and would "SPEAK FOR HIM" or "ADVISE HIM" in Court proceedings and matters of law.

Counselors were persons who took pride in their knowledge of the law and used it to the good of the people. They were advisors of the people and, as such, mayor may not have been able to collect fee for their services. Under the Common Law, they could charge for their services but could not use the force of law to collect a fee.

Attorneys, on the other hand, were agents of the court, an "officer of the court," who could be "appointed or admitted in place of another to manage his matters in law." Attorneys were schooled in the law, "examined, approved, licensed and sworn, by the direction of some court." As such, they could charge for their services and demand payment under force of law.

Without doubt, our founding fathers knew well the meaning of the word "COUNSEL," and they used that word so the people would be "FREE" to choose counsel of their choice, who mayor may not be an attorney. It has only been the rulings of the monopolistic American jurisprudence system that has continuously denied individuals the RIGHT of "ASSISTANCE OF COUNSEL" to the American public.

It has long been recognized under the Common Law that attorneys were different from "counselors." The New York Code recognized the words as having different meanings as it states: " ... by an attorney, solicitor, "OR" counselor, or ... " NY Code, 4th Ed. Rev., 1885, Article 179, Page 272

In Title 10, Article 303, page 465, I find the same usage as it stated: " ... the right of a party to agree with an attorney, solicitor, 'OR' counseL." (Emp. added)

This usage clearly upholds the Common Law meanings as the words solicitor, attorney, are separated by a comma and attorney, solicitor are separated from counselor by the conjunction "OR".

In the rules of the Supreme Court of New York, it stated: " ... shall be alleged, or by his attorney, OR counsel." Rules of Procedure, 1855, Supreme Court of New York, Rule 37, page 666.

And in a footnote (same page): " ... by the parties "OR" their attorney "OR" counseL."

On a trial before Pollock, C.B., it stated: " ... The plaintiff, who was in custody, did not appear by either counsel "OR" attorney, "OR" in person; ... " Corbett v Hudson (Emp. added)

From the Rules of Procedure in the Supreme Court of Pennsylvania comes the following: " ... That counselors shall not practice as attorneys, nor attorneys as counselors in this court." Rules of Procedure, February term, 1790

The Supreme Court of the United States recognizes that there were separate functions and responsibilities for "attorneys" and "counselors" as the two different rolls were maintained by the court. "His name should be taken from the roll of attorneys, and placed on the list of counselors." Ex Parte Hallowell, 3 Dal 411, Feb. 1799

The usage of these words clearly separates functions and responsibilities of attorneys from counselors.

Interestingly enough, when Idaho was founded, the state's founding fathers also recognized the Common Law, and therefore they understood the language and meaning of the Common Law when they wrote: "The Common Law of England, so far as it is not repugnant to, or inconsistent with the Constitution or laws of the United States, in all cases not provided for in these Revised Statutes, is the rule and decision in all the courts of this Territory." Idaho Revised Statutes, 1887, Section 18, Page 63.

The Revised Statutes do provide that: "If any person shall practice law in any court, except a Justice Court, without having received a license as attorney and counsellor, he is guilty of a contempt of court." Idaho Revised Statutes, 1887, Title IV, Section 3996, page 430.

The question now becomes, does this statute apply to criminal or civil cases or both and to whom does it apply? Therefore, in Common Law criminal cases, there is no written Law. The Law is then void, and where the Law is void there can be no arbitrary rule making by any court that can deny an accused the right to "assistance of counsel" of his choice. "Under both our Federal and State Constitutions, a defendant has the right to defend in person or by COUNSEL of his own choosing." People v Price, 262 N.Y. 410, 412, 187 N.E. 298, 299 "This fundamental right is denied to a defendant unless he gets reasonable time and a fair opportunity to secure counsel of his own choice and, with that counsel's assistance, to prepare for trial." People v McLaughlin, 53 N.E. 2d Series 356, 357 "Justice

requires that a party should be permitted to con duct his cause in person (subject to reasonable requirements of propriety), or by any agent of good character, and that the test of the agent's character should not be so rigorously applied as to imperil the constitutional right to a fair trial." Concord Mfg. Co. v Robertson, ante, pp. 1, 6, 7; State v Saunders, ante, pp. 39, 72, 73 "It is the responsibility of the court to insure that the court indulge every reasonable presumption against the waiver of fundamental rights." Aetna Ins. Co. v Kennedy, 301 US 389; Ohio Bell Tel. v Public Util. Comm., 301 US 292 "Upon the trial judge rests the duty of seeing that the trial is conducted with solicitude for the essential rights of the accused."

Glasser v US, 315 US 68,70

The trial court must protect the right of an accused to have the assistance of counsel. "This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused. While an accused may waive the right to counsel, whether there is a proper waiver should be clearly determined by the trial court, and it would be fitting and appropriate for that determination to appear upon the record." Johnson v Zerbst, 304 US 458, 465

The constitutional right of Assistance to Counsel is not qualified to only someone who has received a license from some supreme court or other alleged authority. The Constitution says absolutely nothing about a "licensed attorney," but simply says: "In all criminal prosecutions, the accused shall enjoy the right...to have Assistance of Counsel for his defense." United States Constitution, Bill of Rights, Article VI

Since the United States Constitution was ordained and established by the people for their protection, not for the protection of a legal society, and since it may not be superseded or amended by any act of Congress or by any other "law" of this or any other state, this defendant demands the right to exercise such right, and will choose either Counselor Co-counsel, or both, to help him with his defense.

The language of the Sixth Amendment quoted above is quite clear, unambiguous, and is very precise, and the men who were responsible for

its form, very learned and skilled in the Law, and in fact, many were attorneys. Therefore, the conspicuous lack of the words "attorney" or "attorney-at-law" is notable indeed!

While the Bill of Rights was being debated and argued, the same members of Congress were in the process of passing the First Judiciary Act of September 24, 1789. The very same day the President signed this bill, the House and Senate were finally coming to an agreement on the express and explicit language and form of the Bill of Rights. Therefore, their meanings are to be compatible. Williams v Florida, 399 US 78; 90 S. Ct. 1895, 1904. Therefore, it is absolutely clear that the explicit language and form of the First Judiciary Act of 1889 was and is the meaning of the Sixth Amendment. The First Judiciary Act states in part: "Sec. 35. And be it further enacted, That in all the courts in the United States, the parties may plead and manage their own causes personally OR by the assistance of such counselOR attorneys at law as by the rules of the said courts respectfully shall be permitted to manage and conduct causes therein." First Congress, Session I, Chapter 20, Page 20. Also Section 30, page 89, also refers to counsel as: " ... not being of counselor attorney to either of the parties ... " It is the individual who has the absolute Constitutional RIGHT to "ASSISTANCE OF COUNSEL" under the Sixth Amendment and it is the "Will of the Sovereign People" who reign supreme m not the courts! Numerous court cases support the individual's right to counsel. Some are: "The fundamental right of the accused to representation by counsel must not be denied or unreasonably restricted." Poindexter v. State, 191 S.W. 2d 445. "While the Constitution guarantees to a defendant in a criminal case, the right to be heard by counsel, it also allows him to be heard 'by himself and where he elects to appear for himself rather than by an attorney, he cannot be compelled to employ counsel, or to accept services assigned by the court." People v. Shapirio, 188 Misc 363. Defendant, in this case, has certainly made a timely and proper demand for "COUNSEL OF CHOICE" --- not necessarily a licensed attorney recognized by the Court. Since one cannot be compelled to accept an assigned attorney, the individual has the basic unalienable right to select "COUNSEL" from among anyone he chooses, because:

"The right of counsel is not formal but substantial." Snell v. U.S., 174 F. 2d 580, US ex reI; Mitchell v. Thompson, (DC-NY), 56 F. Supp 683; Johnson v.

U.S., 71 App DC 400, 110 F. 2d 562. This defendant claims and demands the "RIGHT" to "Assistance of Counsel" as imperative, necessary, essential, and the prerequisite to a proper defense of his life, liberty, and property that have been endangered by the fruitful, however unlawful, apprehension and restraint of said defendant. The "RIGHT" to "Assistance of Counsel" may not be limited to any condition, because: " ... .it is one of the fundamental rights of life and liberty." Robinson v. Johnson, (DC-CAL) 50 F. Supp 774. And finally, "The right to effective "Assistance of Counsel" in a criminal proceeding guaranteed by this amendment is a basic and fundamental right secured to every person by the Due Process Clause of the Fourteenth Amendment." Armine v. Times, (CCA 10), 131 F. 2d 827. This defendant has the "RIGHT" to counsel and because of the above authorities, intends to secure "Assistance of Counsel" of his choice. Inasmuch as such was once well know and understood to be the "RIGHT" of the people as defined in the "Will of the Sovereign People's" Constitution, this defendant here and now asserts his "RIGHT" and takes it back. No governmental entity was eyer properly given power or authority, by the "Will of the Sovereign People", to take such a "RIGHT" away. Inasmuch as Defendant believes and knows he cannot receive proper, fair, effective, and conscientious representation from a licensed member of the bar and officer of this court that is trying this Defendant, and because it has become apparent to this Defendant that attorneys neither care to understand nor defend Christian Common Law, nor that which they have sworn a hallowed oath to uphold n_ The Constitution of the United States, and therefore; this Defendant must refrain from using, nor can he be forced to use, against his will, a so-called "licensed attorney" because: "If the state should deprive a person the benefit of counsel, it would not be due process of law." Powell v. Alabama, 287 U. S. 45, 70. And, "If this requirement of the Sixth Amendment is not complied with, the court no longer has jurisdiction to proceed." Johnson v. Zerbst, 304 U.S. 458, 468.

Here in Idaho our association Citizens of Idaho (U1777) is governed by Uniform Unincorporated Non-Profit Association Act of 1996 which under Idaho statute 53-707 allows us to assert and defend standing, or intervene or participate in any judicial or administrative or governmental proceeding or arbitration and mediation or alternative dispute resolution on behalf of its members or considered members nor the relief requested requires the participation of the member or considered member.

Demand for Public Prosecutor

In 1748, Baron de la Brede Charles Louis de Second at Montesquieu published his magnum opus L'Esprit des Lois, which contained the original explanation of The Doctrine of the Separation of Powers. Here Montesquieu, a resident of France near Bordeaux, explained his idea of the ideal Constitution, from the point of view of political liberty, as that where the Legislature, the Executive, and the Judiciary are mutually independent of one another. The Fathers of our Constitution adopted the theory of Montesquieu (or what they perceived to be his theory) completely.

Hamilton stated in Number 47 of the Federalist Papers: "The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny." Such strong feelings on the part of our Founding Fathers resulted in the following imperatives in our Constitution of the United States:

Article I, Section 1. All legislative powers herein granted shall be vested in a Congress of the United States of America."

Article II, Section 1. The executive Power shall be vested in a President of the United States of America."

Article III, Section 1. The judicial Power of the United States shall be vested in one supreme Court, and such inferior Courts as the Congress may from time to time ordain and establish."

These grants of power clearly and unequivocally ordain that the powers granted are to be divided into three departments and that no one department shall exercise the powers of any of the others. The Founding Fathers of the Idaho Constitution followed the lead of the Federal Constitution when they wrote the Constitution for the State of Idaho. The Idaho Constitution contains the following provisions:

Article II, Section 1. The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and

no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted."

Article III, Section 1. The legislative power of the state shall be vested in a senate and house of representatives. "

Article IV, Section 5. The supreme executive power of the state is vested in the governor, who shall see that the laws are faithfully executed."

Article V, Section 2. The judicial power of the state shall be vested in a court for the trial of impeachments, a Supreme Court, district courts, and such other courts inferior to the Supreme Court as established by the legislature." Here again, we have the same separation of powers as is mandated by the Constitution of the United States and as envisioned by Montesquieu. If anything, they are more firmly stated and restated in the Idaho Constitution than in the Federal Constitution.

Each branch of government, then, has its separate functions, of which neither of the other two branches may infringe upon. The functions of the executive branch may be determined by looking at the meaning of the word executive: "Executive, a. Having the quality of executing or performing; as executive power or authority; an executive officer. Hence in government, executive is used in distinction from legislative and judicial. The body that deliberated and enacts laws, is legislative; the body that judges or applies laws to particular cases, is judicial; the body or person who carries the law into effect, or superintends the enforcement of them is executive." Webster's New Twentieth Century Dictionary of the English Language, unabridged. Thus it can be seen that the manner in which our government is intended to operate is for the Legislature to make the laws, the Executive Department, under the supervision of the Governor, to execute the laws, and the Judicial Department to apply the law to particular cases and act as referee and Judge between contending parties.

Public Prosecutors

The execution of the laws include administering the laws and enforcing them by prosecuting those who do not comply with them. In order for the Governor to have the power to prosecute those who fail to comply with the laws passed by the Legislature, the prosecutors must be under his supervision and therefore, prosecutors must be appointed by him. He must have the power to remove them from office if they fail to do his bidding and he cannot do so unless they fill an appointed office.

Article IV, Section 5 of the Idaho Constitution requires the Governor to "see that the laws are faithfully executed," a requirement he cannot fulfill without power over those who prosecute violators of law. Article 1, Section 8 of the Idaho Constitution uses the words "public prosecutor" twice within that section. Therefore, our Founding Fathers understood that a Natural Person was entitled to be prosecuted by a member of the Executive Branch of government a "public prosecutor." This is supported by the definition of the word "prosecutor"; Prosecutor: "The public prosecutor is an officer appointed by the government to prosecute all offenses: he is the attorney general or his deputy." (emphasis added) Bouvier's Law Dictionary, 1914, page 2753. Interestingly enough, the words "prosecuting attorney" do not even exist in the law dictionaries of those times. The Mandate of Article IV, Section 5, is clear and the Governor is raped of his responsibility and power if he cannot appoint and supervise those who prosecute violators of the laws of the state. The Governor simply cannot perform the duties of his office. He has absolutely no power to discharge his duties as the system is now functioning. He cannot see that the laws are faithfully executed which is the clear mandate of Article IV, Section 5 of the Idaho Constitution. In reality, the Governor is refusing to either accept or carry out his responsibility as he has the power to appoint persons to positions required for him to execute his duties of office. The rule of the Common Law doctrine applies which states that when the Constitution mandates a duty, the Common Law provides the means to carry out that duty. In order for there to be a proper prosecution, At Law, the Governor must appoint public prosecutors who are under his supervision.

PROSECUTING ATTORNEYS Take an oath to the County of _____ and the CORPORATE STATE OF IDAHO

Prosecuting Attorneys exist as a result of Article V, Section 18 of the Idaho Constitution which reads as follows: "Sec. 18. A prosecuting attorney shall be elected for each organized county in the state, by the qualified electors of such county, and shall hold office for a term of two years, and shall perform such duties as may be prescribed by law; .... " Since the existence of the Prosecuting Attorney is authorized in Article V of the Constitution which is headed "Judicial Department", the Prosecuting Attorney is a member of the Judicial Department and has been held to be so by the Idaho Supreme Court. See State v. Wharfield 41 Id. 14., 236 Pac. 862. According to Article V, Section 18 of the Constitution, the Legislature has the responsibility of assigning the duties of the Prosecuting Attorney. They have done so in Section 31-2604 of the Idaho Code. Among the duties assigned are the prosecution of all cases, criminal and civil, to District or Magistrate Courts in which "The People", the State, or County are a party or have an interest. Therefore, the situation now exists in the court room where a Defendant is not only being prosecuted by a member of the Judiciary Department but also being judged and sentenced by a member of that same Judiciary Department. This situation is contrary to The Doctrine of the Separation of Powers and strongly resembles the Star Chamber proceedings in England of old. When Prosecuting Attorneys prosecute a criminal case, they not only violate the State Constitution by usurping duties properly belonging to the Executive Branch, but also violate the Doctrine of the Separation of Powers.

County Officers

There are other problems with Prosecuting Attorneys representing the County and the State in criminal matters. The Constitution of the State of Idaho provides in Article XVIII, Section 6 for the election of specific County officers. "The legislature by general and uniform laws, shall, commencing with the general election in 1970. provide for the election biennially, in each of the several counties of the state, of county commissioners, and a coroner and for the election of a sheriff, county assessor and a county treasurer, who is ex-officio public administrator, every four years in each of the several counties of the state. All taxes shall be collected by the officer or officers designated by law. The clerk of the district court shall be ex-officio auditor and recorder. No other county offices shall be established, ... " (Emphasis added.) It can be seen that the Constitution

clearly states that "no other county offices shall be established" and the office of Prosecuting Attorney is not listed. However, the Idaho Code states: "31-2001. County officers enumerated. -- The officers of a county are:

1. A Sheriff.

2. A Clerk of the District Court, who shall be ex-officio Auditor and Recorder, and ex-officio Clerk of the Board of County Commissioners.

3. An Assessor.

4. A Probate Judge.

5. A Prosecuting Attorney.

6. A County Treasurer, who shall be ex-officio Public Administrator and ex-officio Tax Collector.

7. A Coroner.

8. Three (3) members of the Board of County Commissioners.

The Legislature has clearly decreed by legislative fiat that the Prosecuting Attorney is a county officer. The Legislature has not only violated the Constitution (Article XVIII, Section 6) in designating the Prosecuting Attorney as an officer of the county, but also by designating the Magistrate as a county officer.

The salary of the Prosecuting Attorney is determined by the Legislature and is paid by the county, presumably because the Prosecuting Attorneys are by statute county officers. However, even though they are Judicial Officers of the State pursuant to Art. 5, Sec. 18, their salaries are budgeted and paid by the county, not the State. The salary of a Magistrate, in contrast, is budgeted and paid by the State though the Judicial Department not by the county. The inconsistency is striking. It is the sworn duty of judges to uphold the Constitution and whenever a conflict exists between statute and Constitution rights, it is their duty to rule in favor of Constitutional rights. It is also the sworn duty of the Prosecuting Attorney to uphold the Constitution

and therefore the Prosecuting Attorney must withdraw from all criminal cases against Natural Persons as he is not a member of the Executive Branch of government.

City Attorneys

City attorneys have even less standing as a member of the Executive Branch of government than a Prosecuting Attorney. They are, in fact, simply officials of a municipal corporation acting in behalf of that corporation. Since they are members of a municipal corporation and not members of the Executive Branch of government, they can have no standing in the courts in criminal cases against Natural Persons. Power granted municipal corporations are expressly granted in Idaho Code, Title 50, Chapter 3. Corporate and local self-government powers are: "Cities governed by this act shall be bodies corporate and politic; may sue and be sued; ... " IC 50-301. Nowhere in this statute is there a provision giving capacity to the City to act in the behalf of the "State of

Idaho" in criminal cases. The wording "sue and be sued" obviously gives the city the capacity to appear in court in civil matters in behalf of the city but that cannot be construed to provide capacity to appear in behalf of the state. The city in enforcing its ordinances and regulations against its subjects (commerce, trade, and industry) should be civil and then the city would have standing in the courts. The city does have a police force which has been granted statutory authority to enforce the laws of the state. City policemen have the authority to arrest but this does not provide any power to the city to prosecute in the name of the state. Criminal prosecutions must be on behalf of the "People of the State" and since the city is merely a municipal corporation within a county it cannot possess Executive Powers of the state. Therefore, the city cannot represent the "People of the State" in court.

Guaranteed a Republican form of Government

It would appear that Idaho does not provide its Citizens a republican form of government as: I. The Governor has abrogated his Constitutionally mandated duty to "see that the laws are faithfully executed." 2. The legislature has exceeded its Constitutional authority by assigning executive

duties to members of the Judicial Department of government. There is also the question of the "party of interest". Is the State of Idaho the party of interest in criminal actions or is the STATE OF IDAHO a party to criminal proceedings. The State government as it currently exists and functions, appears to be strong evidence of an intention to defraud the Citizens of a lawful form of republican government and perhaps there is an ongoing conspiracy causing the Rights of the Accused to be violated by the AGENCIES OF THE STATE, COUNTY AND CITIES working in CORPORATE CAPACITY.

CONCLUSION

THEREFORE, neither the prosecuting attorneys nor the City Attorneys have authorization to appear in court to represent the State in the capacity of prosecutors of public offenses in the criminal forms. Such a practice, even if provided for by statute, is a bold violation of the Separation of Powers doctrine, and is a tyrannical abridgment of the provisions of the Idaho Constitution concerning due process of law and separation of powers. The Defendant's rights to constitutional government are not secured in this court due to these fallacious practices. The prosecuting attorney is at best an impostor of the officer who should be in the Plaintiff's chair. The City attorney is therefore an impostor of an impostor.

THEREFORE, the Accused moves the Court to not allow any person to represent the People of Idaho in this case other than a duly appointed member of the Executive Branch of government. The Court should not allow the proceedings to move forward with an agent of the JUDICIARY / CITY / COUNTY who is falsely representing the State in this criminal proceeding against a Natural Person before the bar.

Demand for Jury of 12

The details of the origins of the Common Law Jury are lost in the mists of antiquity, Blackstone, 4 Commentaries 365, quotes Cokes who stated: 'Pausanias relates, that at the trial of Mars, for murder, in the court denominated Areopagus from that incident, he was acquitted by a jury composed of twelve pagan deities, and Dr. Hickes, who attributes the introduction of this number to the Normans, tells us that among the

inhabitants of Norway, from whom the Normans as well as the Danes were descended, a great veneration was paid to the number twelve: 'nihil sanctius, nihil antiqwuis fuit; ac in ipso hoc numero secreta quaedomm esset religio.' Even before there is a record of the jury system in England, the tribes of Northern Europe had developed traditions which formed the foundations of the Common Law jury system. In Normandy, before the conquest of England by the Normans, the trial by Jury of twelve men was the usual trial among the Normans in most suits, especially in assizes, et juris uturm." 1 Hale's History of the Common Law, 218, 219. Crabbe said: "It cannot be denied that the practice of submitting causes to the decision of twelve men was universal among all the northern tribes (of Europe) from the very remotest antiquity." Crabbe's History of the English Law, p. 32. Also, a Professor Scott wrote: "At the beginning of the thirteenth century twelve was indeed the usual but not the invariable number. But by the middle of the fourteenth century the requirement of twelve had probably become definitely fixed. Indeed this number finally came to be regarded with something like superstitious reverence." A. Scott, Fundamentals of Procedure in Actions at Law, 75-76 (1922) Ranulph De Glanville, writing in the twelfth Century, stated: "By means of such Writs, the Tenant may protect him self, and may put himself upon the Assise, until his Adversary, appearing in Court, pray another Writ, in order that four lawful Knights of the County, and of the Vicinage, who should say, upon their oaths, which of the litigating parties, have the greater right to the land in question. "The Election of the twelve Knights having been made, they should be summoned to appear in Court, prepared upon their oaths to declare, which of them, namely,whether the Tenant, or the Demandant, posses the greater right to the property in question. "When the Assie proceeds to make the Recognition, the right will be well known either to all jurors, or some may know it, and some not, or all may be alike ignorant concerning it. If none of them are acquainted with the truth of the matter, and this be testified upon their oaths in Court, recourse must be had to others, until such can be found who do know of the truth of it.

Should it, however, happen that some of them know the truth of the matter, and some not, the latter are to be rejected and others summoned to Court, until twelve, at least, can be found who are unanimous. "

The Magna Carta, signed by King John of England in June, 1215, contains the following sentence:

"Nullus liber homo capiatur, vel imprisonetur, aut utlagetur, aut exuletur aut alique modo destrvatur; nec super eum ibimus, nec super eum mittemus, nisi per legale judicium parium suorum, vel per legem terrae." One translation of this passage is by Lysander Spooner in his book entitled, "An Essay on the Trial by Jury," published in Boston by John P. Jewett & Company in 1852, and reads as follows: "No freeman shall be arrested, or imprisoned, or deprived of his freehold, or his liberties, or free customs, or be outlawed, or exiled, or in any manner destroyed, nor will we proceed against him, nor send anyone against him, by force or arms, unless according to the sentence of his peers, and of the Common Law of England. There is some disagreement as to the translation of "vel" in the last phrase of the quotation. However, Justice Black (concurring) in Duncan v. Louisiana, 391 U. S. 169, agrees with the translation by Spooner. Black translated the passage as follows: "No freeman shall be taken, outlawed, banished or in any way destroyed, nor will we proceed against or prosecute him, except by the lawful judgement of his peers and by the law of the land." The phrase, "according to the sentence of his peers," or according to Justice Black's, "except by the lawful judgement of his peers," refers to the Common Law jury of the time who were authorized and impaneled to try and sentence a freeman. Magna Carta does not specify the number of men who were to comprise a jury. This is certainly understandable, because at the time of the Magna Carta, the fact that a jury was composed of twelve men was so firmly embedded in English tradition that it was not necessary to specify the size of a Common Law jury.

Magna Carta was ratified again by Henry III, in 1216, and again several times later. These re-ratifications of the Magna Carta, in essentially an unchanged form, were continued by Henry's successors for at least two hundred years. Coke stated: " .... And it seemth to me, that the law in this case delighteth herself in the number of twelve; for there must not only be twelve jurors for the matters of fact, but twelve judges of ancierit time for trial of matters of law in the exchequer chamber. Also for matters of state there were in ancient time twelve counsellors of state. He that wageth his law must have eleven others with him, which think he says true. And that number of twelve is much respected in holy writ, as twelve apostles, twelve

stones, twelve tribes, etc. "He that is of a jury must be a liber homo, that is, not only a freeman and not bond, but also one that hath such freedom of mind as he stands indifferent as he stands unsworn. Secondly, he must be legalis. And by law, every jurorer that is returned for the trial of any issue or cause, ought to have three properties. "First, he ought to be dwelling most near to the place where the question is moved. "Secondly, he ought to be most sufficient both for understanding, and competency of estate. "Thirdly, he ought to be least suspicious, that is, to be indifferent as he stands unsworn: and then he is accounted in law liber et

legalis homo; otherwise he may be challenged, and not suffered to be sworn." 3 Coke's Institutes by Thomas, 459 In regard to civil juries, Blackstone stated: "Then therefore on issue is joined, by these words, 'and this the said A. prays may be inquired of by the country,' or 'and of this he puts himself upon the country,---and the said B. does the like,' the court awards a writ of venire facias upon the role or record, commanding the sheriff 'that the cause to come here on such a day, twelve free and lawful men, libros et legales homines, of the body of his country, by whom the truth of the matter may be better known, and who are neither of kin to the aforesaid A., nor the Aforesaid B., to recognize the truth of the issue between the parties." Blackstone 3 Commentaries 351.

In regard to criminal actions, he stated: "The antiquity and excellence of this trial for the settling of civil property, has before been explained at large. And it will hold much stronger in criminal cases; ... " Blackstone, supra.

The first Continental Congress, in the Declaration of Rights adopted October 14, l774, resolved unanimously: "That the respective colonies are entitled to the Common Law of England, and more specifically to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law." 1 Journals of Congress 28. In the historic case of Thompson v. Utah, the United States Supreme Court stated: "Assuming then that the provisions of the Constitution relating to trials for crimes and to criminal prosecutions apply to the Territories of the United States, the next inquiry is whether the jury referred to in the original Constitution and in the Sixth Amendment is a jury constituted, as it was at common law, of twelve persons, neither more nor less. This question must be answered in the affirmative. When Magna Carta declared that no

freeman should be deprived of life, etc., 'but by the judgement of his peers or by the law of the land,' it referred to a trial by twelve jurors." In another case, the Supreme Court stated: "Trial by jury in the primary and usual sense of the term at the common law and in the American constitutions is not merely a trial by a jury of twelve men before an officer vested with authority to cause them to be empaneled, to administer oaths to them and to the constable in charge, and to enter judgement and issue execution on their verdict; but it is a trial by a jury of twelve men, in the presence and under the superintendence of a judge empowered to instruct them on the law and to advise them on the facts." Capital Traction Company v. Hof, l74 US 1. This same number has been reiterated in another case where the high court stated: "That a jury composed, as at common law, of twelve jurors was intended by the Sixth Amendment to the Federal Constitution, there can be no doubt." Maxwell v. Dow, 176 U.S. 581, 586.

Again, it said: "The constitutional requirement that 'the trial of all crimes, except in cases of impeachment, shall be by jury' means, as this court has adjudged, a trial by the historical, common law jury of twelve persons, and applies to all crimes against the United States ... " Rassmussen v. United States, 197 U.S. 516, 529. And finally, they stated: " .... we must first inquire what is embraced by the phrase 'trial by jury.' That it means trial by jury as understood and applied at common law, and includes all the essential elements as they were recognized in this country and England when the Constitution was adopted, is not open to question. Those elements were --- (1) that the jury should consist of twelve men, neither more or less; (2) that the trial should be in the presence and under the superintendence of a judge having power to instruct them as to the law and advise them in respect of the facts; and (3) that the verdict should be unanimous." Patton et al v. United States, 281 U.S. 276. It can be seen from the foregoing that the concept of the common law jury of twelve men has been our heritage since pre Magna Carta days. The colonists brought the concept of the common law jury to this country and it was firmly embedded in our jurisprudence at the time of our revolution. The Supreme Court of the United States has affirmed and reaffirmed the elements of the common law jury, as specified in Patton supra, so that the elements which constitute a common law jury are beyond all questions or doubt. In spite of the overwhelming evidence supporting the concept of the common law jury as outlined in Patton supra, some people have claimed that the Supreme

Court has, in their decision in Williams v. Florida, 399 U.S. 78, put an end to the requirement for a twelve man jury. Nothing could be further from the truth. The Court merely ruled that the Defendant's Fourteenth Amendment rights were not violated by the Florida decision to provide a six man, rather than a twelve man jury. The question of what constitutes a common law jury was neither asked nor answered. It would be difficult to formulate a better discussion of the advantages of the common law jury than that given by Blackstone when he states: "Here therefore a competent number of sensible and upright, chosen by lot from among those of the middle rank, will be found the best investigators of truth, and the surest guardians of public justice. For the most powerful individual in the state will be cautious of committing any flagrant invasion of another's right, when he knows that the fact of his oppression must be examined and decided by twelve indifferent men, not appointed till the hour of trial; and that, when once the fact is ascertained, the law must of course redress it. This therefore preserves in the hands of the people that share which they ought to have in the administration of public justice, and prevents the encroachments of the more powerful and wealthy citizens. Every new tribunal, erected for the decision of facts, without the intervention of a jury (whether composed of justices of the peace, commissioners of the revenue, judges of a court of conscience, or any other standing magistrates), is a step towards establishing aristocracy, the most oppressive of absolute governments. " .... It is, therefore, upon the whole, a duty which every man owes to his country, his friends, his posterity, and himself, to maintain to the utmost of his power this valuable constitution in all its rights; to restore it to its ancient dignity, if at all impaired by the different value of property, or otherwise deviated from its first institution; to amend it, wherever it is defective; and, above all, to guard with the most jealous circumspection against the introduction of new and arbitrary methods of trial, which, under a variety of possible pretenses, may in time imperceptibly undermine this best preservation of English liberty. "Upon these accounts, the trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law. And if it has so great an advantage over others in regulating civil property, how much must that advantage be heightened, when it is applied in criminal cases! ... it is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbors and equals. A constitution, that I may venture to affirm has,

under Providence, secured the just liberties of this nation for a long succession of ages. And therefore a celebrated French writer, who concluded, that because Rome, Sparta, and Carthage have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, were strangers to the trial by jury." Blackstone, supra. The Accused reminds the Court that this Free and Natural Person has never entered a plea before the Court, has not granted jurisdiction over this Person, and continually challenges the jurisdiction of the Court over the subject matter and its capability to effect a remedy in this case. In addition, if the Court fails to timely notify this person of "Rights" Sua Sponte or those declared or demanded by this Person, the Court on its own volition denies itself jurisdiction. Although the Accused denies the Court jurisdiction, the Accused readily recognizes certain powers of the Court that the Court can and does exercise whether jurisdiction is valid or not.

The Accused also recognizes that the Court will proceed regardless of proper jurisdiction and, therefore, the Accused has no other alternative but to defend against the loss of Life, Liberty, and Property. The Accused has always demanded his rights under the Constitution of the United States and the Common Law and has never waived them. The Accused, therefore, demands, as a matter of right, a common law jury of twelve men to try all issues of fact, law, evidence, and to impose sentencing in accordance with established procedures of the common law.

Jury to Determine the Law as well the Facts

COMES NOW the Defendant, a free and natural person, to demand a trial by Jury which will have all its proper Common Law rights of deciding both law and fact and admissibility of evidence for the following reasons and upon the following grounds:

1. This was formerly the function, right, and duty of a Jury and any diminishment of it is a crime against the Common Law, the inherent and unalienable right of the Defendant, and a denial of justice and the fair trial by an impartial Jury guaranteed by the Sixth Amendment of the Constitution of the United States, and the Constitution of this State.

2. Defendant is entitled to the "trial per pais;" as a plea of "not guilty" was entered for him, he is entitled to, and herein demands, the trial by his country -- or the people rather than a trial by the government (STATE OF IDAHO) or the trial judge. The jury is the accused' instrument of relief.

Support of Defendants Motion

"For more than six hundred years u that is, since Magna Charta, in 1215 -- there has been no clearer principle of English or American constitutional law, than that, in criminal cases, it is not only the right and duty of juries to judge what are the facts, what is the law, and what was the moral intent of the accused; but that it is also their primary and paramount duty to judge of the justice of the law, and to hold all laws invalid that are, in their opinion, unjust or oppressive,and all persons guiltless in violating, or resisting the execution of, such laws. Unless such be the right and duty of jurors, it is plain that, instead of juries being a "palladium of liberty" u a barrier against the tyranny and oppression of the government -- they are really mere tools in its hands, for carrying into executionary injustice and oppression it may desire to have executed. But for their right to judge of the law, and the justice of the law, juries would be no protection to an accused person, even as to matters of fact; for, if the government can dictate to a jury any law whatever in a criminal case, it can certainly dictate to them the laws of evidence. That is, it can dictate what evidence is admissible, and what inadmissible, and also what force or weight is to be given to the evidence admitted. And, if the government can thus dictate to a jury the laws of evidence, it can not only make it necessary for them to convict on a partial exhibition of the evidence rightfully pertaining to the case, but it can even require them to convict on any evidence whatever that it pleases to offer them. That the rights and duties of jurors must necessarily be such as are here claimed for them, will be evident when it is considered what the trial by jury is, and what is its object. "The trial by jury," then, is a "trial by the country" -- that is, by the people -- as distinguished from a trial by the government. It was anciently called "trial per pais" u that is, "trial by the country." And now, in every criminal trial (Defendant's note: 1852) the jury are told that the accused "has, for the trial, put himself upon the country; which country you (the jury) are."The object of this trial "by the country," or by the people, in preference to a trial by the government, is to guard against every species of oppression by the government. In order to effect

this end, it is indispensable that the people, or "the country," judge of and determine their own liberties against the government; instead of the government's judging of and determining its own powers over the people. How is it possible that juries can do anything to protect the liberties of the people against the government, if they are not allowed to determine what those liberties are? Any government that is its own judge of, and determines authoritatively for the people, what are its own powers over the people, is an absolute government, of course. It has all the powers that it chooses to exercise. There is no other -- or at least no more accurate -- definition of a despotism than this. On the. other hand, any people that judge of, and determine authoritatively for, the government, of course retain all the liberties they wish to enjoy. And this is freedom. At least it is freedom to them because, although it may be theoretically imperfect, it nevertheless corresponds to their highest notions of freedom. (Lysander Spooner, AN ESSAY ON THE TRIAL BY JURY, DaCapo Press, NY, NY) The true trial by Jury, which was the ancient custom of the realm, was established long before Magna Charta, but repeatedly, some Judges, ambitious and jealous of their power, from time to time take from the people, with the aid and abetting of the legislative power -- this inalienable right to be really tried by the country -- or the people! In the famous trial of John Peter Zenger in 1735, Judge Delancy attempted to tell the Jury that truth was not a defense in a criminal libel case. The famous Philadelphia lawyer, Andrew Hamilton, argued that the truth and the good motives of the accused were all important. The judge, in effect, told the Jury, "You decide if Zenger published the material (it had already been admitted) and I'll decide if it was libelous." Hamilton urged the Jury to decide the law and the fact u which they did in acquitting Zenger -- and the case helped to establish the freedom of the press in America. (See James Alexander, A BRIEF NARRATIVE OF THE CASE AND TRIAL OF JOHN PETER ZENGER, Belknap Press) The ancient right and duty of juries , which was reestablished with Magna Charta, and which has had to be reasserted from time to time by the people with resistance or threatened resistance to the constituted authorities, is well set out in Chapter 39 of Magna Charta: "No free man shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will we proceed against or prosecute him, except by the lawful judgement of his peers and by the law of the land." We should perhaps again then, take note of the inescapable fact, that the "Law of the Land" and "Due Process" have long been held to be synonymous (see

Black's Law Dictionary) and: "The term 'due process of law' as used in the Federal Constitution, has been repeatedly declared to be the exact equivalent of the phrase, "law of the land" as used in Magna Charta. (16 Am Jur 2d Sec. 547) Of course, King John was loathe to sign Magna Charta; he was angry and claimed he would not sign that which would take his kingdom away and make him a slave. If the trial by Jury, which the Barons were demanding, meant that the King's government could continue to dictate the rules of evidence and to dictate the law, and all the Jurors could do was to accept the law as the King's court directed, and be a "fact finding group" under the manipulation of the King's court, then King John would have probably been quick to have signed Magna Charta and would have probably felt that he had really given up nothing, for he could still tax and confiscate and convict by enforcing his law and by manipulating the Jurors u relegated to deciding the fact of, "did the accused, or did not the accused obey the tyrannical law?" So, the Defendant would ask the Court to take judicial notice of this and THINK ABOUT IT because this procedure is rampant in our lower courts today. Although there are many authorities, the Defendant chooses not to even need to cite any u it is just too axiomatic. ANY "LAW" WHICH IS TYRANNICAL, WHICH IS AGAINST NATURAL JUSTICE, IS NOT LAW u AND BY THE TRUE LAW OF THE LAND, NEEDN'T BE OBEYED UNLESS A JURY, JUDGING OF THE LAW, BY THEIR OWN CONSCIENCES, NOT BY THE DIRECTOR OF A COURT, UNANIMOUSLY AGREE!

This is the message of Magna Charta: It is echoed in the Declaration of Independence and in the 5th, 6th, 7th, 8th, 9th, 10th, 13th, and 14th Amendments of the Federal Constitution u not to mention the Second Amendment! This is ample evidence to prove that Juries in criminal cases today decide the law as well as the fact. This is obvious when they find a general, rather than a special verdict, but the disturbing part is that many lower court judges, in general, attempt to conceal the power u and especially the right u from the Jury! These judges attempt to put the Jury under oath to accept the law as They, the judges, give it to them. This is a degradation of the human personality and spirit. No human being should ever have to swear to follow the instructions and directions of another if this goes against his conscience -- his sense of right and wrong -- his sense of justice and injustice.

Just as incredible is the fact that a member of the Jury has the need to know the Law, because he cannot be held guiltless in a crime himself through ignorance of the Law. Yet, when it comes time to be able to judge the law as well as the fact, he is deemed unable to cope with such matters. In fact, the natural duty and right is simply taken away from him, regardless of what his feelings or abilities would be if all of the facts could be presented." It would be a violation of your sworn duty," says the judge, "to find according to your own sense of right and wrong, or sympathy for the accused," etc. Jurors are sometimes frightened by the judges, to think that they would be perjuring themselves if they rejected the judge's instruction as to the "law." This is an absolute disgrace, especially when the judge may be perjuring himself by neglecting and refusing to uphold his oath to support the Constitution by giving the Jury some statute which he cannot help but know is a flagrant violation of the Constitution. The judge salves his conscience by claiming that he is bound and obligated to uphold judges higher than himself. This is pure unadulterated gobble-de-goup as it is not provided for by the Constitution. Under Article VI of the Constitution, the judge is bound to support the Constitution to the best of his ability -- no matter what some other court has decided! Errors in judgement by lower court judges on matters of Constitutionality should be corrected by a higher court through the appeal process when good cause exists. The practice today, however, is to avoid ruling on the Constitutional issues, thereby denying due process to defendants who are not likely to avail themselves of the appeal process. This tends to aid prosecutors in prosecuting such defendants. Is a lower court judge who will not rule on the constitutionality of statutes any more qualified to sit in judgement of a defendant than the jurors who are constitutionally empowered to veto laws which they feel are detrimental to themselves? Ajudge should be a referee -- not a prosecutor!

This Defendant points out that NO court has proper jurisdiction over the Defendant's person or the subject matter if the Court thinks it has a higher duty to uphold another court than it does to follow the guidelines of conscience in supporting the Constitution of the United States! The following are some citations and references demonstrating that at the time of the birth of this Republic, corrections of abuses in the Common Law, as practiced in England and in the colonies, had again restricted the power of judges and restored the power of the People, as the supreme sovereign -- as the principle legislature -- to speak through their Juries -- with an

absolute veto power over the courts, the legislature, and the President! In other words, the Jury could not pass legislation, but they could veto it in that case by the simple expedient of refusing to find against the accused and refusing to apply an unjust or harsh law -- and they knew it and were advised of it. AND THEY ARE ENTITLED TO KNOW IT -- AND BE ADVISED OF IT TODAY!!! Thus the Defendant does so demand of this Court today.

"Nevertheless the historical tradition is that in the course of this controversy William Cushing (Defendant's note: The same Cushing who was Associate Justice of the Supreme Court, and who was united with Jay, Blair, Wilson, and Patterson in the Jury charge in Georgia v. Brailsford, infra), decided that the clause in the 1770 Massachusetts Constitution that declared that "all men free and equal" was, in effect, the equivalent of abolishing slavery in Massachusetts. As Cushing points out, the law in Massachusetts at this time was stated by the jury and not in opinions of the court." (Article on William Cushing by Herbert Alan Johnson, in Friedman & Israel's Vol. I, THE JUSTICES OF THE UNITED STATES SUPREME COURT, 1789-1969, Chelsea House Publishers, N. Y.) (emphasis added) The following provision is Section 5 of the Constitution of Maryland, of 1776. Similar phrases are found in other states' constitutions. The phrase is implicit that not even legislators who pass statutes which are upheld by courts can make them binding upon the people without the consent of the "country," or of the "people" speaking through their Juries: "The doctrine of nonresistance, against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind." (Maryland Constitution, Section 5, 1776) Since the Supreme Court has held that "Due Process means the 'Law of the Land' of Magna Charta -- and since that meant that a Jury could veto any "law" -- a meaning becomes quite apparent 63 years later in the Constitution of Kentucky of 1850 wherein it states: "That the ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this Constitution. II (Section 8) The "ancient mode of trial by jury" was the mode where the unanimous consent of 12 peers was needed before the government could punish, exile, banish, fine, forfeit, seize, or in any way proceed against an accused.

It is stated clearly in Chapter 39, Magna Charta. Anything less than this would not have been, and was not, acceptable at Runnymede. Does anyone think the Barons would have risked their lives to have a King continue to control his own courts enforcing his own laws with his own judges' controlling instruction to Juries and the admissibility of evidence? Does anyone think that our revolutionary Forefathers risked their "lives, fortunes, and sacred honor," fighting with frozen bleeding feet in the snow for the right to trials by government wherein government could control instructions to Juries; control interpretation of statutes; control the evidence; and control the selecting of Jurors, and then make the jury swear to uphold as "Law" that which was dictated to them by a judge? My patriotic champions and heroes did not risk their everything for such a "thank you for nothing" privilege. The colonists fought, bled, and died for independent Juries who could think and act for themselves -- bound only to their consciences to do justice -- and if that meant refusing to impose an unjust government law -- that was exactly what the colonists wanted! And that's exactly what the Defendant is demanding. The colonists knew that representative government would not solve their problems -- they knew that government is always the enemy of liberty, and that it must be watched with suspicion and diligence, and must be "bound down by the chains of the Constitution." If not, then pray tell, why did the State of Massachusetts have Juries, rather than the courts deciding the law? (Cushing, supra) Why did the Constitution of Maryland call for Juries to decide the law as well as the fact in all criminal cases? Why did the State of Idaho, in 1889, declare without any significant amendment even until today: "Right to trial by jury. m The right to trial by jury shall remain inviolate; ... " Article I, Section 7 Article II, Sec. 10, of the Colorado State Constitution in 1876 stated: "Freedom of speech and press. -- No law shall be passed impairing the freedom of speech; every person shall be free to speak, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, SHALL DETERMINE THE LAW AND THE FACT." (Emphasis added)

Why does the Constitution of Mal)'land still provide that the Jury shall decide the law as well as the fact in criminal cases? Why does Wyoming? And why do nearly all of the states' constitutions (or by statement) provide that all cases of criminal libel shall be decided by the Juries -- both as to

LAW and FACT? And why do some of these add, "under the direction of the court," as in other cases? Does someone mean that we have one type of Jury for libels and another type of Jury for other cases? Doesn't "direction of the court" refer to its oral charge to a Jury that they are to be told that they have the duty and right to try both law and fact? Is this the ancient mode of trial by Jury we are supposed to hold sacred and inviolate? The Constitution of Delaware of 1792 states:" And in all indictments for libels the jury may determine the facts and the law, as in other cases."

Doesn't this seem odd? In nearly every state the judiciary attempts to make the Citizens think that in libel cases there is an exception to the Jury finding only the facts -- that in libel cases the judges concede that the Jury can actually find the law.

Then, pray tell, why does the citation just above say, "AS IN OTHER CASES?" Doesn't that mean this was already established procedure and it became also applicable to the libel cases? From the Mississippi Constitution's Declaration of Rights, Section 13: " .... and in all prosecutions for libel the truth may be given in evidence, and the jury shall determine the law and the facts under the direction of the court; AND IF IT SHALL APPEAR TO THE JURY THAT THE MATTER CHARGED AS LIBELOUS IS TRUE, AND WAS PUBLISHED WITH GOOD MOTIVES AND FOR JUSTIFIABLE ENDS, THE PARTY SHALL BE ACQUITTED." Here we have, again, a principle emerging which the judiciary of many jurisdictions have attempted to smother and hide that the truth is justification, that good motives, and for justifiable ends, must be seriously considered in "criminal intent." Some Judges are attempting to make Juries swear to follow the judges' lead in declaring patriotic resistance to certain tyrannical and unconstitutional statutes a violation of the law. Judges have no right to do this! They may permit the parties to argue the law and they may give their own opinion of it to the Jury, but they have no right to make a Jury think they would be violating their oath if they did not take the same view of a statute as that held by the judge -- and they do not have the right to prevent the Jury from seeing and hearing how the statute is in conflict with the Constitution. Again, Judges are referees -- not prosecutors.

In the Constitution of Delaware, of 1792, Article I, Sec. 5, we have: " ... and in all indictments for libels the jury may determine the facts and the law, AS

IN OTHER CASES." (Emphasis added) Juries DID decide the law as well as the fact in other than libel cases. Since the Constitution provided this, is not the Jury entitled to be told by the court that they have not only the power, but the constitutional right to decide the law in the case? I contend that the Jury must be told of the Common Law and of their right and duty to decide the law as well as the facts. I wonder who started this nonsense about a Jury being instructed that "it would be a violation of your sworn duty not to take the 'law' as it is given to you by the court in this case"? What kind of a "railroad and greasedskid" Jury trial did our forefathers risk their lives for? Surely not for the types we see before us today. "As where rights secured by the Constitution are involved, there can be no legislation or rule making which would abrogate them." Miranda vs. Arizona 384-US 491 Who, anywhere, has the right to force a man to swear to follow another's thinking as to what is proper law? Let him first honor his own oath to support the Constitution. Does it make a judge feel better who thinks he has to follow superior judges into error to force a Jury to also follow him and them into error? When the blind lead the blind they both fall into the ditch.

This Defendant will shortly show beyond all refutation that defendants had the right for juries to decide law and fact, and will also show that Juries were entitled to know and understand the same. Finally it should be highly suggestive of impropriety when courts appear to be so insulated that a defendant wants a Jury to decide the law as well as fact.

Most attorneys and judges are aghast at the very thought of juries being able to determine the law and the facts of a case; they act as if theirs, the most learned profession in the world, has been slandered by the very mention of the possibility that a jury has any right to determine the law. Before listing the citations, a sober look at a situation that has been repeating itself is in order: "The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world. "He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our law; giving his Assent to their acts of pretended Legislation." For depriving us in many cases, of the benefits of Trial by Jury. "For taking away our Charters, abolishing our most valuable Laws, and altering

fundamentally the Forms of our Governments. "In every stage of these Oppression We have Petitioned for Redress in the most humble terms:Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people ... "We, therefore .... " Declaration of Independence I contend that a Court that would subvert my Common Law Jury is, in fact, a prince who is unfit to be the ruler of a free people.

We can readily see from the above that the situation that faced our forefathers is not much different than that which we face today and is all the more reason that the true function of Juries to decide the law as well as the facts in criminal cases must be restored. "The common law right of the jury to determine the law as well as the facts remains unimpaired." State v. Croteau, 23 Vt 14, 54 "There is no qualification of the right of the jury, in a criminal cause, to disregard the instructions of the court as to the law, and they may adopt their own theory of the law, even if more prejudicial to the accused than the instructions of the court." State v. Meyer, 58 Vt 457,3 A 195 "Comp. laws 1885, p. 360, S 275, which provides that, in prosecutions for criminal libel, the jury, after having received the direction of the court, shall have the right to determine,at their discretion, the law and the facts is constitutional." Appeal of Lowe, 46 Kan 255, 26 P 749"It seems that the court instructs juries in criminal cases not to bind their consciences, but to inform their judgements, but they are not in duty bound to adopt its opinion as their own. "Lynch V. State, 9 Ind 541 "An instruction that the jury have no right to determine whether the facts stated in the indictment constitute a public offense is in error." Hudelson V. State, 94 Ind 426 "The jury have a right to disregard the opinion of the court, in a criminal case, even on a question of law, if they are fully satisfied that such opinion is wrong." People V. Videto, 1 Parker, Gr R. 603 "The court below having charges the jury, in a trial for a capital offense, that "they were the judges of the law and the evidence," in unqualified terms, the supreme court remarked that if the court had charged the jury, that they were bound to receive the law when given from the court, but that, in cases where the issue involves a mixed question of the law and testimony, in order to determine the criminal intent with which the act was done, it would have saved to the defendant the full benefit of his right to ha\'e an impartial trial; by jury, and the court would, at the same time, have maintained its own dignity and constitutional authority. Pleasant v State, 13 Ark 360 "Where the jury are made the judges of the

law,as well as the facts, it is within the discretion of the trial court to permit counsel to read judicial opinions and legal textbooks to the jury." Wohlford V. People, 45 III App 188 "In a criminal case, counsel may, in summing up, argue the law of the case to the jury." (Ind 1857) Lynch v State, 9 Ind 541 (Mass 1854) Commonwealth v Porter, 51 Mass (10 Metc) 263; (Tenn 1883) Hannah v State, 79 Tenn (11 Leal 201) "Counsel will not be permitted to argue, before the jury, questions of law not involved in the instruction asked and submitted to the court." (Ask for them) (US v Watkins, Fed Ca No 16,649) (3 Cranch, c.c. 4411) "Counsel should be allowed, on the trial of a criminal case, to read to the jury suitable statements of the law from works of approved authority." (Winkler v State, 32 Ark 539) "On a trial for murder, the court charged the jury that 'the jury are not only judges in the facts of the case, but they are judges of the law. The court is a witness to them as to what the law is. After the court has stated the law to them, then, if they believer it to be different, they can disregard the opinion of the court. If the jury err in favor of the defendant, their judgement is final, and cannot be reversed by the Supreme Court.' Held, there was no error in so charging a jury in a criminal case." Kelson v State, 32 Tenn 482 "Though the Constitution gives to the jury in criminal cases the right to determine the law, it is not error the court to instruct them not to disregard the law." Blacker v State, 130 Ind 203, 29 NE 1077 "Defendant cannot complain of an instruction that it is the court to instruct it as to the law of the case, but the instructions are advisory merely, and it has the right to disregard them, and determine the law for itself." Walker v State, 136 Ind 663, 36 1\c 356 "In criminal cases, the jury are judges of the law as well as of the facts; and it is error in the court to restrict them to 'the law as given in charge of the court'" McGuthrie v State, 17 Ga 497.

"On trial for larceny, the presiding judge, after charging the jury that they were judges of the law and the evidence, added that, if they thought they knew more of the law than the judge, it was their privilege to so believe. Held, not to be error." State v Johnson 30 La Ann 904 "In a prosecution under a law against liquor selling, the accused claimed that the act was unconstitutional, and asked the court to charge the jury that they were judges of the law as well as of the facts. The judge instructed the jury that in a criminal case they were judges of the law as well as of the facts, but that they were under the same obligation in the matter with the judge on the bench, and were not authorized to say that is not law which is so; that the

Supreme Court had decided the act to be constitutional, and that in his opinion it was constitutional, that if they decided that to be unconstitutional which the Supreme Court had decided to be constitutional they would disturb the foundations of law; but that, after all, they were judges of the law and if on their consciences they could say that the act was unconstitutional they ought to acquit the accused. Held, on motion of the accused for a new trial, that the charge was correct." State v Buckley, 40 Conn 246 "Const. Art. 15, S. 5, declaring that the jury shall be judges as well of law as of fact in criminal cases, does not prohibit the court from instructing the jury on the law, when they unanimously request it." Beard v State, 71 Md 275, 17 At! 1044, 17 Am St Re 536, 4 L.R.A. 675 " ... and in all indictments for libels, the jury shall have a right to determine the law and the fact, under the direction of the court, as in other cases." Constitution of Kentucky, 1850; Art. XIII, Sec. 10 "In all criminal cases whatever the jury shall have the right to determine the law and the facts." Constitution of Indiana, 1851; Sec. 19 " ... and in all prosecutions for libel the truth may be given in evidence, and the jury shall determine the law and the facts under the direction of the court; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted." Constitution of Mississippi; Sec. 13 (apparently from their Declaration of Rights) " ... and in all indictments for libels the jury may determine the facts and the law, as in other cases." Constitution of Delaware, 1792, Sec. 5

"Upon all general issues, the jury find not the fact of every case by itself, leaving the law to the court; but find for the plaintiff or defendant upon the issue tried, wherein they resolve both law and fact by itself." Remarks by Lord Chief Justice Vaughan (Vaughan, 136) wherein the English government tried to punish a jury which had defied the court's instructions as to the law in a trial of William Penn in England, and; "To what end must they have, in many cases, the view, for their exacter information chiefly? To what end must they undergo a verdict by the dictates and authority of another man, under pain of fines and imprisonment, when sworn to do it according to the best of their own knowledge? A man cannot see by another's eye, nor hear by another's ear; no more can a man conclude or infer the thing to be resolved, understanding or reasoning." (The judge's interpretation of the law -- defendant's note)

In Indiana, the Supreme Court, under the Constitution of 1816, having alternately denied and affirmed the right of the jury in criminal cases to decide the law, the people, by the constitution which took effect in November, 1851, declaring that, "in all criminal cases whatever the jury shall have the right to determine the law and the fact," and this right has since been maintained by that court, even when the constitutionality of a statute was involved. Townsend v State (1828) 2 Blackford, 151; Warren v State (1836) 4 Blackford, 150; Carter v State (May 1851) 2 Indiana, 517; 1 Charters and Constitutions, 513, 526; Lynch v State (1857) 9 Indiana, 541; McCarthy v State (1877) 56 Ind 203; Hudelson v State (1883) 94 Ind 426; Blake v State (1891) 130 Ind 203. From the dissenting opinion of Gray, Sharas, J.J. of Sparf and Hansen v U.S., 156 US 51 (1895) at page 153. The provision of Section 3 of the Act of Congress of July 14, 1798, c 74, for punishing seditious libels, that "the jury who shall try the cause shall have a right to determine the law and the fact, under the direction of the court, as in other cases," (1 Stat 597) is a clear and express recognition of the right of the jury in all criminal cases to determine the law and the fact in all cases -- not just liable cases -- as is manifest by the words, "as in other cases." The words "direction of the court," as used here, like the words "opinion and directions" in the English libel act, do not oblige the jury to adopt the opinion of the court, but are merely equivalent to instruction, guide or aid, and not to order, command, or control. The provision is in affirmance of the general rule, and not by way of creating an exception; and the reason for inserting it was that the right of the jury had been more often denied by the English courts in prosecution for seditious libels than in any other class of cases (ibid). Until nearly forty years after the adoption of the Constitution of the United States, not a single decision of the highest court of any state, or of any judge of a court of the United States, has been found, denying the right of a jury upon the general issue in a criminal case to decide, according to their own judgement and consciences, the law involved in that issue -- except the two or three cases, above mentioned, concerning the constitutionality of a statute. And it cannot have escaped attention that many of the utterances, above quoted, maintaining the right and duty of the jury to decide both the Law and facts, were by some of the most eminent and steadfast supporters of the Constitution of the United States, and of the authority of the national judiciary. (Gray, Shiras, J.J., dissenting opinion, Sparf and Hansen v U.S.)

The jury are perjured if the verdict be against their own judgement although by direction of the court, for their oath binds them to their own judgement. T. Jones, 13, 17 (Bushell case -England)Quoting again from Justice Gray and Shira, in Sparf and Hansen v U.S: "Within six years after the Constitution was established, the right of the jury, upon the general issue, to determine the law as well as the fact in controversy, was unhesitatingly and unqualifiedly affirmed by this court, in the first of the very few trials by jury ever had at its bar, under the original jurisdiction conferred upon it by the Constitution."

That trial took place at February term, 1794, in Georgia v Brailsford, et al, 3 Dall 1, which was an action at law by the State of Georgia against Brailsford and others, British subjects ... After the case had been argued for four days to the court and jury, Chief Justice Jay, on February 7, 1794, as the report states, "delivered the following charge:

"This cause has been regarded as of great importance, and doubtless it is so. It has accordingly been treated by the counsel with great learning, diligence and ability; and on your part it has been heard with particular attention. It is, therefore, unnecessary for me to follow the investigation over the extensive field into which it has been carried; you are now, if ever you can be, completely possessed of the merits of the cause. "The facts comprehended in the case are agreed; the only point that remains is to settle what is the law of the land arising from those facts; on that point, it is proper that the opinion of the court should be given. It is fortunate on the present, as it must be on every occasion, to find the opinion of the court unanimous; we entertain no diversity of sentiment; and we have experienced no difficulty in uniting in the charge which it is my province to deliver."

The Chief Justice, after stating the opinion of the court in favor of the defendants upon the questions of law, proceeded as follows: "It may not be amiss, here gentlemen, to remind you of the good old rule, that on questions of fact it is the province of the jury, on questions of law it is the province of the court to decide. But it must be observed that by the same law, which recognizes this reasonable distribution of jurisdiction, you have nevertheless a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy. On this, and on every

other occasion, however, we have no doubt you will pay that respect which is due to the opinion of the court; for, as on the one hand, it is presumed that juries are the best judges of facts; it is, on the other hand, presumable that the courts are the best judges of law. But still both objects are lawfully within your power of decision." (emphasis added)

Here we have Chief Justice of the Supreme Court, Jay, who was one of the three authors of the Federalist Papers, urging adoption of the United States Constitution — former president of the Continental Congress -- and who became the first Chief Justice of the Supreme Court, unanimously, along with Justices Cushing, Wilson, Blair, and Paterson. (Defendant's note, Iredell was not present) after four days of trial -- where there were no facts in dispute -- and where the jury was listening to arguments by counsel about the law -- gave an instruction to the jury, giving them the court's opinion of the applicable law -- but clearly informing the jury that they were to decide the law in the case.

It is clearly seen here that in the early days of this Republic there was no doubt among the highest judicial authorities, of the jury's RIGHT AND DUTY in all criminal cases to determine the law as well as the fact! The Constitution cannot be altered, save by amendment; the Supreme Court set the example here in the Brailsford case. Any Court that does not follow this Supreme Court lead does attempt to amend the Constitution by rule -- not by amendment. I contend, therefore, that the lower courts must refrain from this unlawful usurpation of law in favor of our common heritage -- the Common Law -as exemplified by the Supreme Court of the United States. Defendant only wants his right as clearly exists from ancient times to this day.

Continuing with the opinion in Sparf and Hansen v U.S., supra, Supreme Court Justices Gray and Shira state: "That Georgia v Brailsford was not a criminal case, nor a suit to recover penalty; had it been, it could hardly have been brought within the original jurisdiction of this court." Wisconsin v Pelican Ins. Co., 127 US 265,294. "But it was a suit by a State to assert a title acquired by an act of its legislature in the exercise of its sovereign powers in time of war against private individuals. As the charge of the court dealt only with the case before it, without any general discussion, it does not appear whether the opinion e;;.:pressed as to the right of the jury to

determine the law was based upon a supposed analogy between such a suit and a prosecution for crime, or upon the theory, countenanced by many American authorities of the period, that at the foundation of the Republic, as in early times in England, the right of the jury extended to all cases, CIVIL OR CRIMINAL, tried upon the general issue. "However that may have been, it cannot be doubted that this court, at that early date, was of opinion that the jury had the right to decide for themselves all matters of law involved in the general issue in criminal cases; and it is certain that in the century that has since elapsed there has been no judgement or opinion of the court, deciding or intimating, in any form, that the right does not appertain to the jury in such cases. And the opinions expressed by individual justices of the court upon the subject, near the time of the decision in Georgia v Brailsford, or within forty years afterwards, of which reports are known to exist, tend, more or less directly, to affirm this right of the jury. That there is not a greater accumulation of evidence to this effect is easily accounted for when it is remembered that comparatively few reports of trials were printed, and that the right of the jury was considered to be so well settled, that it was seldom controverted in practice, or specially noticed in reporting trials." 156 US 51

The conclusion is obvious, since the Jury once had the right to decide the law in all criminal cases, the jury still has the right to decide the law as well as the fact and the defendant also has the right to argue the Law to the Jury and he must be allowed to in order for him to receive a fair and just trial. The Jury must have a copy of the Constitution with them and need to swear to support IT like all judicial officers. -otherwise they are simply agents of the State and like the prosecutor are clearly prejudiced against the Defendant! The law and precedent is clear. There is no new law espoused by this Defendant. I advocate, therefore, a return to the Law as it was, and as it is established by the highest judicial office of our land; and that we not deviate from that mode of trial by Jury so long established by our heritage, nor pollute it by foreign and alien modes of trial held by our forefathers to be tyranny.

A CORPORATE JURY IS WHAT YOU GET

As a CORPORATE JUROR a citizen of the United States of America you are chosen by your imposed CORPORATE NAME administered by STATE

OF IDAHO, IDAHO TRANSPORTATION DEPARTMENT, COUNTY PROPERTY TAX ROLL and are rejected if you are a Citizen of the United States. Thus interpretive rule making is in place and the magistrate will deny your Constitutional rights, privileges and immunities.

The magistrate may ask your jury to leave and they will never hear your defense. This is jury tampering according to common law. Further more the magistrate may go along with the STATE and allow a motion in-limiting which prevents you from exercising your Constitutional due process of law.

Answers to Objections

In 1852, Lysander Spooner, wrote of why it is imperative that Juries rather than judges decide the issues of a case: "The following objections will be made to the doctrines and the evidence presented in the preceding chapters. "

1. That it is a maxim of the law, that the judges respond to the question of the law, and juries only to the question of fact. "The answer to this objection is, that, since Magna Charta, judges have had more than six centuries in which to invent and promulgate pretended maxims to suit themselves; and this is one of them. Instead of expressing the law, it expresses nothing but the ambitious and lawless will of the judges themselves, and of those whose instruments they are." It is not my intention here to impugn all judges, as the Supreme Court and higher court judges generally understand the Constitution and the Common Law and rule wisely. However, many lower court judges do not rule in a way consistent with Constitutional principles, and do violence to our heritage.

Many judges do not even live up to that part of their own maxim, which requires jurors to try the matter of fact. By dictating to them the laws of evidence, that is, by dictating what evidence they may hear and what they may not hear, and also by dictating to them rules for weighing such evidence as they permit them to hear, they of necessity dictate the conclusion to which they shall arrive; and thus the court really tries the question of fact, in every cause. It is clearly impossible, in the nature of things, for a jury to try a question of fact, without trying every question of law on which the fact depends."

2. It will be asked, 'Of what use are the justices if the jurors judge both of law and fact?' "The answer is, that they are of use, (1) To assist and enlighten the jurors, if they can, by their advice and information; such advice and information to be received only for what they may chance to be worth in the estimation of the jurors; (2) To do anything that may be necessary in regard to granting appeals and new trials; to conduct the proceedings as a referee with total impartiality."

3. It is said that it would be absurd that twelve ignorant men should have power to judge, while justices learned in the law would be compelled to sit by and see the law decided erroneously. "The answer to this objection is, that the powers often are not granted to them on the supposition that they know the law better than the justices; but on the grounds that the justices are untrustworthy, that they posed to bribes, are themselves fond of power and authority, and are also the dependent and subservient creatures of the legislature; and that to allow them to the law, would not only expose the rights of parties to be sold for money, but would be equivalent to surrendering all the property, liberty, and rights of theirs unreservedly into the hands of arbitrary power (the legislature) to be disposed of at its pleasure. The powers of juries, therefore, not only place a curb over legislators and judges, but imply also an imputation upon their integrity and trustworthiness; and these are the reasons why legislators and judges only entertained the intensest hatred of juries, and so fast as they could do it without alarming the people for their liberties, have, by indirection, denied, and practically destroyed their power. And it is only since all the real power of juries has been destroyed, and they have become mere tools in the hands of legislators and judges, that they have become favorites with them. "Legislators and judges are necessarily exposed to all the temptations of money, fame, and powered them to disregard justice between parties, and sell the rights, and violate the liberties of the people. Jurors, on the other hand, are exposed to none of these temptations. They are not liable to bribery, for they are not known to the parties until they come into the jury box. They can rarely gain either fame, power, or money by giving erroneous decisions. Their offices are [temd] they know that when they shall have executed them, they must return to the people, to hold all their own rights in life subject to the liability of such jury their successors, as

they themselves have given an example for. "The laws of human nature do not permit the supposition that twelve men, taken by lot from f people, and acting under such circumstances, will all prove dishonest. It is a supposable case that they may not be sufficiently enlightened to know and do their who duty, in all cases whatever; but that they should all prove dishonest, is not within the range of probability. A jury, therefore, insures to us -- what no other court does -- that first and indispensable requisite in a judicial tribunal, integrity. "

4. It is alleged that if juries are allowed to judge of the law, they decide absolutely; that their decision must necessarily stand, be it right or wrong; and that this power of absolute decision would be dangerous in their hands, by their ignorance of the law. "One answer is, that this power, which juries have of judging of the law, is not a power of absolute decision in all cases, it is a power to declare imperatively that a man's property, liberty, or life, shall not be taken from him; but it is not a power to declare imperatively that they shall be taken from him."

Magna Charta does not provide that the judgments of the peers shall be executed, so far as to take a party's goods, rights or person, thereon. "A judgment of the peers may be reviewed, and invalidated, and a new trial granted. So that practically a jury has no absolute power to take a party's goods, rights, or person. They have only an absolute veto upon their being taken by government. The government is not bound to do everything that a jury may adjudge. It is only prohibited from doing anything -- (that is, from taking a party's goods, rights or person) -- unless a jury have first adjudged it to be done." An Essay on the Trial by Jury, by Lysander Spooner, (Who's Who), Da Capo Press N. Y., N. Y.

Summary

1. Under the Common Law the Jury has the right to decide the law and the facts of every criminal case.

2. Under the Common Law the Jury has the duty to judge of the justness of the law, and of the intent and motives of the accused, and to hold guiltless those accused of violating what in their opinion were unjust or oppressive laws.

3. "Trial per pais" means "trial by the country," or "by the people"; it does not mean "trial by the judge or government".

4. The Common Law Jury has not only 'veto' power over all legislation of the king / CEO, but over all legislation of "representative government" AND THEY KNEW IT ! AND WERE TOLD IT !

5. Juries could not be bound or sworn to follow the Court's instructions as to the "law"; they were only sworn to follow their own consciences -- to convict the guilty and acquit the innocent, but they would decide whether the law was proper!

6. Freedom can only be properly maintained where the People through their Juries, maintain a veto over the legislature and judges.

7. The victory for freedom at Runnymede was not that the Barons convinced King John to continue dictating the law and evidence in the courts with or without Juries -- it was that, henceforth, the ancient custom of the realm would be enforced -- and that no life, liberty, or property could, henceforth, be taken without the unanimous consent of a Jury of peers... undictated to by government as to either law or fact. Magna Charta was not new law but, like Miranda, a reaffirmation of the Law as it had always existed.

8. "Law of the Land" and "Due Process" have been held to be the equivalent of the Law of the Land of Magna Charta.

9. Under the Common Law or Law of the Land, no "law" which was oppressive and unjust could be Law, and the Jury had the right and duty not to impose it against an accused if this was against their conscience.

This undertone of justice, under the Common Law and Magna Charta, is echoed in the Declaration of Independence, which many states have affirmed by their Enabling Acts; it is also echoed in the first ten, the 13th and 14th Amendments of the United States Constitution.

10. No human being can morally be subjected to the present degradation (being practiced in some of the courts) of being sworn to uphold the Judge's interpretation of the "law". This is an insult to all self respect and one's own religion!

11. The only proper addition to the Common Law Oath of Jurors would be their sworn support of the Constitutions of the United States and of this State.

12. A jury is sworn to uphold the Constitution -- not some other Judge, which would be a violation of one's own conscience, and the supremacy clause of the U.S. Constitution.

13. The Court lacks jurisdiction over the person of the accused and over all the subject matter if it refuses to permit a properly sworn Jury to decide both law and fact in this case!

14. Representative government is no bar to tyranny and oppression without the added safeguard of Juries judging the law which the representatives pass and the judges attempt to uphold as is apparent in often flagrant violation of the Constitution they are sworn to uphold. (But, when will a traitor impeach a traitor?)

15. Apparently a majority decision in the Sparf and Hansen case (156 US 51) in 1895 has led to a steady and widespread repudiation of the true function of the Common Law Jury; and it is no longer permitted to decide the law without being made to feel as perjurers if they dare challenge the Judge's interpretation of the "law".

16. Assuming Congress and the Supreme Court and the legislatures and the State Courts go along with this changing of the function of a Jury -- IT IS INVALID -- IT AMOUNTS TO CHANGING OR AMENDING THE CONSTITUTION BY REDEFINING A WORD INSTEAD OF THROUGH THE PROPER AMENDMENT PROCESS!

17. This Defendant cannot have the trial by an impartial Jury which he is guaranteed by the Sixth Amendment, if the Judge instructs them that a statute is not in conflict with the Constitution when the Defendant KNOWS

that it is, and if the Defendant cannot argue the law to the Jury, THEN THE JURY IS "SENSITIZED" or made PARTIAL by the Judge.

18. The principle reason for Juries deciding the law is not that they are more learned or wise than Judges, but that they are less susceptible to worldly temptations and political pressures, assuring the likelihood of more integrity in their decisions.

Conclusion

The time has come when the People may again have to leave for Runnymede to face and challenge a tyrannical Caesar. Must they again remove the blinds which were so craftily placed on their eyes while they slept and are beginning to exercise the "horse sense" to which any thinking person must give them credit of having. Their past monumental work stand as living testaments to their mental, physical, and spiritual abilities, and maybe they are again beginning to exercise the great muscle of our Republic by demanding that Juries be given back their ancient rights and duties to the last, -- but most important, -- bar to justice for all!

Under the Common Law and under the Constitution of the United States, this Defendant DEMANDS that his Jury be appraised of their right and duty to decide the law, and the fact and the admissibility of evidence. In the alternative, he respectfully asks the Court for an Order to Dismiss with Prejudice.

JURY INSTRUCTION

EXAMPLE 1: Ladies and Gentlemen of the Jury, you are instructed that any person under the age of nineteen (21) years who shall by any means represent to any person licensed to sell beer at retail, or to any agent or employee of such retail license, that he is nineteen (21) or more years of age for the purpose of inducing such retail licensee, his agent or employee, to sell, serve or dispense beer to him or her shall be guilty of a misdemeanor. Boise City Code 5-5-13- K 3

EXAMPLE 2: Ladies and Gentlemen of the Jury, you are instructed that where a state statute talks about a subject and an ordinance of a city talks

about a subject, the state statute has precedence. Article 12, Section 2, Idaho State Constitution Idaho Code 50-302 In re Ridenbaugh, 5 ID 371,375 State v. Musser, 67 ID 214, 219

EXAMPLE 3: Ladies and Gentlemen of the Jury, you are instructed that all persons are capable of committing crimes, except those belonging to the following classes:

1. Persons who committed the act or made the omission charged, under an ignorance or mistake of fact which disproves any criminal intent.

2. Persons who committed the act charged without being conscious thereof.

3. Persons who committed the act or made the omission charged, through misfortune or by accident, when it appears that there was not evil design, intention or culpable negligence.

EXAMPLE 4: Ladies and Gentlemen of the Jury, you are instructed that whenever any person licensed to sell beer, his agent or employee, shall have reasonable cause to doubt that any person who attempts to purchase or otherwise procure beer from or through such retail licensee, his agent or employee, is nineteen (21) or more years of age, such retail licensee, his agent or employee, shall require such person to execute a certificate that he or she is nineteen (21) or more years of age, and to exhibit acceptable proof of age and identity. The form of such certificate, the manner in which it shall be executed, the record to be kept thereof, the responsibility of the retail licensee, his agent or employee, with respect to the execution of said certificate, and a determination of what shall constitute acceptable proof of age and identity, shall be in accordance with such regulations as the director shall prescribe relating thereto. Idaho Code 23-1023

EXAMPLE 5: Ladies and Gentlemen of the Jury, you are instructed that the law implies conformity with the natural and inherent principles of justice and forbids the taking of one's property without compensation, and requires that no one shall be condemned in person or property without opportunity to be heard. Holden v. Hardy, 169 U. S. 366

EXAMPLE 6: Ladies and gentlemen of the jury, you are instructed that the claim and exercise of a constitutional right cannot be converted into a crime. Miller v. U. S., 230 F. 486 at 4-89

EXAMPLE 7: Ladies and gentlemen of the jury, you are instructed that there can be no sanction or penalty imposed upon one because of his exercise of constitutional rights. Sherar v. Cullen, 481 F. 2d 946

EXAMPLE 8: Ladies and gentlemen of the jury, your are instructed that it can never be admitted as a just attribute of sovereignty in a government, to take the property of one Citizen and bestow it upon another. The exercise of such power is incompatible with the nature and object of all government and is destructive of the great end and aim for which government is instituted and is sub-service of the fundamental principles upon which all free governments are organized. White v. White, 5 Barb 474, 484-5

EXAMPLE 9: Ladies and Gentlemen of the Jury, you are instructed that malice is defined as "that state of mind which is reckless of law and of the legal rights of the Citizen". Alabama News Employees' Benevolent Soc v. Agricola, 200 So. 748,755 240 Ala.668 ---Evens-Jordan Furniture Co. v. Hartzog, 187 So. 491, 493, 237 Ala. 407 --Bowles v. Lowery, 59 So. 695, 697, 5 Ala. app. 555

EXAMPLE 10: Ladies and Gentlemen of the Jury, you are instructed that malice is defined as "a state of mind that is reckless in its nature, implying a determination to do a thing regardless of legal rights or for the purpose of inflicting an injury". Lusk v. Onstatt, Tex Civ. app. 178 S.W. 2d 549,553,554

EXAMPLE 11: Ladies and Gentlemen of the Jury, you are instructed that malice is defined as "an intention to vex, injure, or annoy another person". Oregon Cawrse v. Signal Oil Co., 103 P.2d 729,731,164. Or. 666,129 A.L.R. 174

EXAMPLE 12: Ladies and Gentlemen of the Jury, you are instructed that malice is "an intent to do an unlawful act without legal justification or excuse. Calif. People v. Faylor, 36 Cal. 38 C.J. P 347 note 22

EXAMPLE 13: Ladies and Gentlemen of the Jury, you are instructed that malice "involves a mere disregard of duty which is apparent from the intentional doing of a willful act to the injury of another" New Mexico-Rea v. Motors Ins. Corporation, 144 P2d 676,680,48 N.M. 9

EXAMPLE 14: Ladies and Gentlemen of the Jury, you are instructed that malice "It has been said that a wanton or conscious or intentional disregard of the rights of another is equivalent to legal malice. Georgia-Investment Securities Corporation v. Cole, 194 S.E. 411, 414, 57 Ga. app. 97. Mc Gill v. Vaxin, 106 So. 44, 48, 213 Ala 649

EXAMPLE 15: Ladies and Gentlemen of the Jury, you are instructed that malice has been held to mean the same as improper motives and any unjustifiable motive constitutes legal malice. Michigan-Oyler v. Fenner, 248 N.W. 567,569263 Mich. 119. North Dakota-Redahl v. Stevens, 250 N.W. 534, 536, 64 N.D. 154

EXAMPLE 16: Ladies and Gentlemen of the Jury, you are instructed that malice in its legal sense means a motive from which flows the act injurious to another person, done intentionally and without lawful excuse. Arkansas-Gaylor v. State 70 S.W. 2d 844,845, 188 Ark 1167

EXAMPLE 17: Ladies and Gentlemen of the Jury, you are instructed that "malice is a performed purpose to do a wrongful act without sufficient legal provocation or just excuse". South Carolina-State v. Judge, 38 S.E. 2d715, 719,208 S.c. 497-State v. Hayward, 15 S.E. 2d 669, 671, 197 S.c. 371

EXAMPLE 18: Ladies and Gentlemen of the Jury, you are instructed that "malice has been judicially described as the spirit of evil which sometimes grips individuals and nations; it is the venomous spirit that motivates those who delight in doing harm to others". Pennsylvania-Caskie v. Philadelphia Rapid Transit Co. 5 A 2d 368, 372, 334 Pa. 33

EXAMPLE 19: Ladies and Gentlemen of the Jury, you are instructed that" Actual malice devotes the desire to do harm for the satisfaction of doing it or conduct which in effect amounts to the same thing". California Gudger v. Manton, 134 P 2d 217,221,21 Cal. 2d 537r

EXAMPLE 20: Ladies and Gentlemen of the Jury, you are instructed that when the right of privacy must be reasonable yielded to the right of a search, is as a rule, to be decided by a judicial officer, not by a policeman or government enforcement agent. Johnson v. U.S. 333 U.S. 10, 14

EXAMPLE 21: Ladies and Gentlemen of the Jury, you are instructed that a complaint may not be dismissed on motion if it states some sort of claim, baseless though it may prove to be and artistically as the complaint may be drown. This is particularly true where the plaintiff is not represented by counsel. Brooks v. Pennsylvania R. Co. 91 F. sup 101 (D.CS.D

EXAMPLE 22: Ladies and Gentlemen of the Jury, you are instructed that by the great weight of authority it is acknowledged that generally 'Public Officials are not immune from suit when they allegedly violate the rights of Citizens' and that "A Public Officials defense of immunity is to be / sparingly applied in these kinds of eases. James v. Ogilvie (1970, D.C. Ill.) 310 F. sup 661, 663

EXAMPLE 23: Ladies and Gentlemen of the Jury, you are instructed that; "A public official does not have immunity simply because he operates in a discretionary situation. Public servants are to be held liable when they abuse their discretion or act in a way that is arbitrary, fanciful or / clearly unreasonable. Littleton v. Berbling, (1972 Ca. 7 Ill.) 467 F 2d 389. The seventh Circuit Court of Appeals

EXAMPLE 24: Ladies and Gentlemen of the Jury, you are instructed that the decisions have, indeed, always imposed a limitation upon the immunity that the officials act must have been within r the scope of his powers, since they exist only for the public good, never cover occasions where the public good is not their aim, and hence that to exercise a power dishonestly is necessarily to overstep its bounds. Gregoire v. Biddle 177 F 2d 579,581, (Ca 2 1949)

EXAMPLE 25: Ladies and Gentlemen of the Jury, you are instructed that "Where rights secured by the Constitutional are involved there can be no rule making or legislation which would abrogate them." Miranda vs. Arizona 384 U.S. 432, 491.

EXAMPLE 26: Ladies and Gentlemen of the Jury, you are instructed that malice is "the purposely doing of a wrongful act, without justifiable excuse, which mayor may not profit him who does it and injures the rights of him against whom it is directed". Ohio-Ricketts v. Halm, 53 N.E. 2d 202,205,72 Ohio app. 478.

EXAMPLE 27: Ladies and Gentlemen of the Jury, you are instructed that malice is "the willful doing of an act which one knows is liable to injure another regardless of the consequences". U.S. - U.S. v. Reed,C.C. N.Y., 86 F. 308,312.

EXAMPLE 28: Ladies and Gentlemen of the Jury, you are instructed that "Malice," in a legal sense, has been defined as the willful violation of a known right;a conscious violation of the lawful rights of another to his prejudice. Arizona-Meason v. Ralston Purina Co., 107 P. 2d 224, 228, 56 Ariz. 291. Florida John B. Stetson University v. Hunt, 102 So. 637,639,88 Fla. 510. Illinois Kemp v. Division No 241 A.A. S. & E. R.E., 153 Ill. app 344, 365.

EXAMPLE 29: Ladies and Gentlemen of the Jury, you are instructed that malice is "an act wantonly done against another which a person of reasonable intelligence must know to be contrary to his duty and purposely prejudicial to another;" U.S.-KVOS, Inc. v. Associated Press, D.C. Wash., 13 F. sup. 910, 911, 912.

EXAMPLE 30: Ladies and Gentlemen of the Jury, you are instructed that "Malice is also defined as unjustifiable action causing injury". North Carolina-Rose v. Dean 135 S.E. 348, 349, 192 N.C. 556.

EXAMPLE 31: Ladies and Gentlemen of the Jury, you are instructed that malice is "an action flowing from any wicked and corrupt motive, a thing done malo animo, where the fact has been attended with such circumstances as carry in them the plain indications of a heart regardless of social duty, and fatally bent on mischief'. Illinois-People v. Wilson, 174 N.E. 398,401,342 Ill. 358. Mass.-Commonwealth v. Webster, 5 Cush 295, 304, 52 AM. D. 711. Wisconsin-State v. Scherr, 9 N.W. 2d 117, 11,243 Wis. 65.

EXAMPLE 32: Ladies and Gentlemen of the Jury, you are instructed that malice is "a wrongful act, done intentionally, without just cause or excuse even though it is from good motives and without express malice". Massachusetts-Whitcomb v. Reed-Preutice Co. 159 N.E. 922, 925, 262 Mass. 348.

EXAMPLE 33: Ladies and Gentlemen of the Jury, you are instructed that it is not necessary to show that the particular act was willfully or wantonly done, but it is necessary that the actor know that the act was wrongful, since it is not merely doing an act intentionally that is wrongful. Missouri-Beckler v. Yates 89 S.W. 2d 650, 653 338 Mo. 208-Greaves v. Kansas City Junior Orpheum Co., 80 S.\V. 2d 228,235,229 Mo. app 663.

EXAMPLE 34: Ladies and Gentlemen of the Jury, you are instructed that "Malice has been defined as a wish to injure another person or to do a wrongful act; a desire to injure; a wish to vex, annoy, or injure another person, or an intent to do a wrongful act; a wish or desire to vex, harass, or annoy another; a specific desire to vex or injure another from malevolence or motives of ill will; a desire to be avenged on a particular person. California-People v. George, 109 p. 2d 404, 406, 42 Cal. app. 2d 568. MichiganGlieberman v. Fine, 226 N.W. 669, 670, 248 Mich 8.38 C.J.p 351 note 31. North Dakota-Briggs v. Coykendall, 224 N.W. 202, 205, 57 N.D. 785 38 C.J. p 348 note 49. Arizona- Statutory definition- Fears v. State, 265 p. 600, 601 33 Ariz. 432. MontanaWray v. Great Falls Paper Co., 234 p. 486, 487,72 Mont. 461. North Dakota-Lux v. Bendewald, 227 N.W. 550, 553, 58 N.D. 761. South Dakota-Kerley v. Germscheid, 106 N.W. 136, 137,20 S.D. 363. U.S.-Johnson v. Ebberts, c.c. Or. 11 F. 129 131,6 Lawy. 538. Florida-Corpus Juris quoted in Parker v. State, 169 So. 411,414, 124 Fla. 780. North Carolina-Swain v. Oakley, 129 S.E. 151, 152, 190 N.C. 113.

EXAMPLE 35: Ladies and Gentlemen of the Jury, you are instructed that the purpose of a due process hearing is to safeguard from deprivation the liberty or property rights of protected persons, and this can only be done where the requisite hearing is held before the decision maker so that the decision maker can sift through the facts, weigh the evidence and reach the appropriate conclusion. (U.S.C.A. Const. Amend 5 Ponce vs. housing authority of Tulore Co. 389, F. sup. 635 D.C. Cal. 1975)

EXAMPLE 36: Ladies and Gentlemen of the Jury, you are instructed that failure to secure a valid court order must be punishable for those conducting a search or seizure without it if the rights of the fourth amendment of the Constitution are to be maintained." If no penalty will be ever attached to a failure to seek a warrant, as distinguished from the officers making their own, correct, determination of probable cause, warrants will never be sought". (Quotation of Niro v. U.S., 338 F. 2d 535 at 539 (lst Cir. Ct.) Cited in U.S. v. Mason 290 F. sup 843 (1968).

EXAMPLE 37: Ladies and Gentlemen of the Jury, you are instructed that all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are Citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its Jurisdiction the equal protection of the laws. Amendment XIV United States Constitution.

EXAMPLE 38: Ladies and Gentlemen of the Jury, you are instructed that even where probable cause exists, a warrantless search is forbidden unless made incident to a lawful arrest. Agnello vs. United States. 269 U.S. 2046 S. Ct. 4 70 LED 145, (1925).

EXAMPLE 39: Ladies and Gentlemen of the Jury, you are instructed that private property may be taken for public use, but not until a just compensation, to be ascertained in the manner prescribed by law, shall be paid therefor. Idaho Constitution Article 1 Sec. 14.

EXAMPLE 40: Ladies and Gentlemen of the Jury, you are instructed that he has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance. Declaration of Independence.

EXAl\1PLE 41: Ladies and Gentlemen of the Jury, you are instructed that No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. Amendment V of the Constitution of the United States.

EXAMPLE 42: Ladies and Gentlemen of the Jury, you are instructed that all men are by nature free and equal, and have certain unalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety. Idaho Constitution Article 1 Sec. 1.

EXAMPLE 43: Ladies and Gentlemen of the Jury, you are instructed that the state of Idaho is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land. Idaho Constitution Article 1 Sec. 3.

EXAMPLE 44: Ladies and Gentlemen of the Jury, you are instructed that No person shall be deprived of life, liberty or property without due process of law. Idaho Constitution Article 1 Sec. 13.

EXAI\1PLE 45: Ladies and Gentlemen of the Jury, you are instructed that "Malice includes not only anger, hatred and revenge, but every other unlawful and unjustifiable motive." 30 Idaho 259 at 266

EXAMPLE 46: Ladies and Gentlemen of the Jury, you are instructed that "Malice, although in its popular sense it means hatred, ill will or hostility to another, yet, in its legal sense, has a very different meaning and characterizes all acts done with an evil disposition, a wrong and unlawful motive or purpose; the willful doing of an injurious act without lawful excuse." 30 Idaho 259 at 266

EXAMPLE 47: Ladies and Gentlemen of the Jury, you are instructed that "Malice, in common acceptation, means ill will against a person; but in its legal sense it means, a wrongful act, done intentionally, without just cause or excuse ..... " 30 Idaho 259 at 266.

EXAMPLE 48: Ladies and Gentlemen of the Jury, you are instructed that the rule is, malice is implied for any deliberate and cruel act against another, however sudden, which shows an abandoned and malignant heart. 24 Idaho 252 at 265.

EXAMPLE 49: Ladies and Gentlemen of the Jury, you are instructed that "Malice not only includes anger, hatred and revenge, but every other unlawful and unjustifiable verb." 30 Idaho 261.

EXAMPLE 50: Ladies and Gentlemen of the Jury, you are instructed that intentionally to do that which is calculated in the ordinary course of events to damage, and which does, in fact, damage another's property or trade, is actionable if done without just cause and excuse; and such intentional infliction of damage without justification or excuse is malicious in law. Hitchman Coal & Coke Co. v Mitchell, 245 US 229, LRA1918C497, 38 S Ct. 65.

EXAMPLE 51: Ladies and Gentlemen of the Jury, you are instructed that malice, in common acceptation, means ill will against a person; but in its legal sense it means a wrongful act, done intentionally, without just cause or excuse. Tinker v Colwell, 193 US 473, 24 S Ct. 505. State v Rogers, 30 Idaho 259 at 26 .

EXAMPLE 52: Ladies and gentlemen of the Jury, you are instructed that a municipality has no sovereign immunity. Owens v City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "We hold, therefore, that the municipality may not assert the good faith of its officers or agents as a defense to liability under 1983". (page 638)"Yet in the hundreds of cases from that era awarding damages against municipal governments from wrongs committed by them, one searches in vain for much mention of qualified immunity based on the good faith of municipal officers. Indeed, where the issue was discussed at all, the courts had rejected the proposition that a municipality should be privileged where it reasonably believed its actions to be lawful." Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court:"The central aim of the Civil Rights Act was to provide protection to those persons wronged by the misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law." Monroe v. Pape, 365 US, at184 (quoting United States v. Classic, 313 US 299, 326 (1941) Owens v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court:"By creating an express federal remedy, Congress sought to "enforce provisions of the Fourteenth Amendment against those who carry a badge

of authority of a State and represent it in some capacity, whether they act in accordance with their authority or misuse of it." Monroe v. Pape, supra, at 172. Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court:"By its terms, (Title 42) 1983 'Creates a species of tort liability that on its face admits of no immunities 'Imbler v Pachtman 424 US 409,417 (1976). Its language is absolute and unqualified; no mention of any privileges, immunities, or defenses that may be asserted. Rather the act imposes liability upon "every person" who, under color of state law or custom, subjects, or caused to be subjected, any Citizen of the United States ... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws 11/6 and Monell held that these words were intended to encompass municipal corporations as well as natural "persons. (page 635)

EXAMPLE 53: Ladies and Gentlemen of the Jury, you are instructed that a municipality is not entitled to defeat liability by claiming it has acted in good faith. Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court "We hold, therefore, that the municipality may not assert the good faith of its officers or agents as a defense to liability under 1983". (page 638)" Yet in the hundreds of cases from that era awarding damages against municipal governments from wrongs committed by them, one searches in vain for much mention of qualified immunity based on the good faith of municipal officers. Indeed, where the issue was discussed at all, the courts had rejected the proposition that a municipality should be privileged where it reasonably believed its actions to be lawful." Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "The central aim of the Civil Rights Act was to provide protection to those persons wronged by the" '(M) issue of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law'." Monroe v. Pape, 365US., at 184 (quoting United States v. Classic, 313 US 299, 326 (1941). Owens v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "By creating an express federal remedy, Congress sought to "enforce provisions of the Fourteenth Amendment against those who carry a badge of authority of a State and represent it in some capacity, whether [hey act in accordance with their authority or misuse of it." Monroe v. Pape, supra, at 172. Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "By its

terms, (Title 42) 1983 'Creates a species of tort liability that on its face admits of no immunities 'Imbler v Pachtman 424 US 409, 417 (1976). Its language is absolute ,"no unqualified; no mention of any privileges, immunities, or defenses that may be asserted. Rather the act imposes liability upon "every person" who, under color of state law or custom, subjects, or caused to be subjected, any Citizen of the United States ... to the deprivation of any rights,privileges, or immunities secured by the Constitution and laws 11/6 and Monell held that these words were intended to encompass municipal corporations as well as natural "persons. (page 635)

EXAMPLE 54: Ladies and Gentlemen of the Jury, you are instructed that even if a municipality did have sovereign immunity, agents of the municipality acting beyond their authority may not claim the city's sovereign immunity. Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "We hold, therefor;!, that the municipality may not assert the good faith of its officers or agents as a defense to liability under 1983". (page 638)"Yet in the hundreds of cases from that era awarding damages against municipal governments from wrongs committed by them, one searches in vain for much mention of qualified immunity based on the good faith of municipal officers. Indeed, where the issue was discussed at all, the courts had rejected the proposition that a municipality should be privileged where it reasonably believed its actions to be lawful." Owen v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "The central aim of the Civil Rights Act was to provide protection to those persons wronged by the" '(M) issue of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law'. "Monroe v. Pape, 365US., at 184 (quoting United States v. Classic, 313 US 299,326 (1941). Owens v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court:"By creating an express federal remedy, Congress sought to "enforce provisions of the Fourteenth Amendment against those who carry a badge, :If authority of a State and represent it in some capacity, wither they act in accordance with their authority or misuse of it." Monroe v. Pape, supra, at 172. Owen v. City of Independence 44) US 622 with Justice Brennan delivering the opinion of the court: "By its terms, (Title 42) 1983 'Creates a species of tort liability that on its face admits of no immunities 'Imbler v Pachtman 424 US 409,417 (1976). Its language is

absolute and unqualified; no mention of any privileges, immunities, or defenses that may be asserted. Rather the act imposes liability upon "every person" who, under color of state law or custom,subjects, or caused to be subjected, any Citizen of the United States ... to the deprivation of any rights,privileges, or immunities secured by the Constitution and laws ! 1/6 and Monell held that these words were intended [0 encompass municipal corporations as well as natural "persons. (page 635)

EXAMPLE 55: Ladies and Gentlemen of the Jury, you are instructed that a damages remedy against the offending party is a vital component of any scheme for vindicating cherished constitutional guarantees. Owens v. City of independence 445 US 622 with Justice Brennan delivering the opinion of the court: "How uniquely amiss" it would be, therefore, if the government itself "the social organ to which all in our society look for the promotion of liberty, justice, fair and equal treatment, and the setting of worthy nom:s and goals for social conduct" --were permitted to disavow liability for the injury it has begotten. See Adickes v. Kress & Co., 398 U.S. 144, 190 (1970) (opinion of BRENNAN, J.). A damages remedy against the offending party is a vital component of any scheme for vindicating cherished constitutional guarantees, and the importance of assuring its efficacy is only accentuated when the wrongdoer is the institution that has been established to protect the very rights it has transgressed. Yet owing to the qualified immunity enjoyed by most government officials, see Scheuer v. Rhodes, 416 U.S. 232(1974), many victims of municipal malfeasance would be left remediless if the city were also allowed to assert a good faith defense. Unless countervailing considerations counsel otherwise, the injustice of such a result should not be tolerated." "Moreover, Sec. 1983 was intended not only to provide compensation to the victims of past abuses, but to serve as a deterrent against future constitutional deprivations, as well." See Robertson v. Wegmann, 436U.S. 584, 590-591 (1978); Carey v. Piphus, 435 U.S. 247,256-257 (1978).

EXAMPLE 56: Ladies and Gentlemen of the Jury, you are instructed that the parties have stipulated that the following facts are true. 1. That <owners name> is the owner of the property in question at all pertinent times.

EXAMPLE 57: Ladies and Gentlemen of the Jury, you are instructed that Rights are:"neither accorded to the passive resistant, nor the person who is

ignorant of his rights, not to one indifferent thereto. It is a fighting clause. Its benefits can be retained only by sustained combat. It cannot be claimed by an attorney or solicitor. It is valid only when insisted upon by a belligerent claimant in person." (United States vs. Johnson, 76F Sup 538)

EXAMPLE 58: Ladies and Gentlemen of the Jury, you are instructed that Seizure is the act of taking possession of property, e.g., for a violation of law or by virtue of an execution. The term implies a taking or removal of something from the possession, actual or constructive, of another person or persons. Molina v. State 53 \Vis. 2d 662, 193 N.W. 2d 874,877.

EXAMPLE 59: Ladies and Gentlemen of the Jury, you are instructed that a civil suit is a proper remedy against officers or agents of a city who use color of law and authority to unconstitutionally deprive U.S. Citizens of their property. Owens v. City of Independence 445 US 622 with Justice Brennan delivering the opinion of the court: "When there is a substantial showing that the exertion of state power has overridden private rights secured by that Constitution, the subject is necessarily one for judicial inquiry in an appropriate proceeding directed against the individuals charged with the transgression." (page 649).

EXAMPLE 60: Ladies and Gentlemen of the Jury, you are instructed that Idaho Code 18-2403 , says:THEFT. - (1) A person steals property and commits theft when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof. (2) Theft includes a wrongful taking, obtaining or withholding of another's property, with the intent prescribed in subsection (1) of this section, committed in any of the following ways: (a) By deception obtains or exerts control over property of the owner; (b) By conduct heretofore defined or known as larceny; common law larceny by trick; embezzlement; extortion; obtaining property, money or labor under false pretenses; or receiving stolen goods.

EXAMPLE 61: Ladies and Gentlemen of the Jury, you are instructed that Idaho Code 18-2403 says: (2)(c) By acquiring lost property. A person acquires lost property when he exercises control over property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or amount of

the property, without taking reasonable measures to return such property to the owner; or a person commits theft of lost or mislaid property when he: 1. Knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner; and 2. Fails to take reasonable measures to restore the property to the owner; and 3. Intends to deprive the owner permanently of the use or benefit of the property.

EXAMPLE 62: Ladies and Gentlemen of the Jury, you are instructed that Idaho Code 18-2407. Grading of theft.- says: (1) Grand theft. (b) A person is guilty of grand theft when he commits a theft as defined in this chapter and when: 1. The value of the property exceeds one thousand dollars ($1000.00); or 4. The property, regardless of its nature or value, is taken from the person of another.

EXAMPLE 63: Ladies and Gentlemen of the Jury, you are instructed that the plaintiff has the burden of proving each of the following propositions: l. That the defendant took plaintiffs property 1-1965 Chevrolet Automobile and 1-1972 Motorcycle without a right to do so; 2. That the plaintiff was consequently deprived of possession of that property 1-1965 Chevrolet Automobile and 1-1972 Motorcycle;3. The nature and extent of the damages to plaintiff and the amount thereof. If you find from your consideration of all the evidence that each of these propositions has been proved, then you verdict should be for the plaintiff; but, if you find from you consideration of all the evidence that any of these propositions has not been proved, then you verdict should be for the defendant.

EXAMPLE 64: Ladies and Gentlemen of the Jury, you are instructed that Property in a thing consists no merely in its ownership and possession, but in the unrestricted right of use, enjoyment and disposal. Anything which destroys any of these elements of property, to that extent destroys the property itself. The substantial value of property lies in its use. If the right of use be denied, the value of the property is annihilated and ownership is rendered a barren right. Therefore, a law which forbids the use of a certain kind of property, strips it of an essential attribute and in actual result proscribes its ownership. O'Conner v. City of Moscow, 69 Idaho 37.

EXAMPLE 65: Ladies and Gentlemen of the Jury, you are instructed that "Highways are public roads which every Citizen has a right to use. 3 Angel Highways 3.

EXAMPLE 66: Ladies and Gentlemen of the Jury, you are instructed that the ownership of property implies its use in the prosecution of any legitimate business which is not a nuisance in itself. In re Wong Wah, 82 F. 623

EXAMPLE 67: Ladies and Gentlemen of the Jury, you are instructed that "It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognizes no such rights, which held the lives, the liberty, and the property of its Citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power, is after all but a despotism. It is true it is a despotism of the many, of the majority, if your choose to call it so, but it is nevertheless a despotism. Loan Association v. Topeka, 20 Wall 655, 662

EXAMPLE 68: Ladies and Gentlemen of the Jury, you are instructed that "Where rights secured by the Constitution are involved there can be no rule making or legislation which would abrogate them." Miranda v. Arizona, 384 U.S. 432,491

EXAMPLE 69: Ladies and Gentlemen of the Jury, your are instructed that "The individual may stand upon his constitutional rights as a Citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation so far as it may tend to incriminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights. Hale v. Henkel, 201 U.S.43

EXAMPLE 70: Ladies and Gentlemen of the Jury, you are instructed that "Arbitrary power, enforcing its edicts to the injury of the persons and property of its subjects, is not law, whether manifested as the decree of a personal monarch or of an impersonal multitude. And the limitations imposed by our constitutional law upon the action of the governments, both State and national, are essential to the preservation of public and private rights, notwithstanding the representative character of our political institutions. The enforcement of these limitations by judicial process is the device of self-governing communities to protect the rights of individuals and minorities, as well against the power of numbers, as against the violence of public agents transcending the limits of lawful authority, even when acting in the name and wielding the force of the government. Hurtado v. California, 110 U.S. 516,536.

EXAMPLE 71: Ladies and Gentlemen of the Jury, you are instructed that the Idaho Code 18-114 states that "In every crime or public offense there must exist a union, or joint operation, of act and intent, or criminal negligence.

EXAMPLE 72: Ladies and Gentlemen of the Jury, you are instructed that all men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety. Idaho Constitution, Article I, Section 1.

EXAMPLE 73: Ladies and Gentlemen of the Jury, you are instructed that the state of Idaho is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land. Idaho Constitution, Article I, Section 3.

EXAMPLE 74: Ladies and Gentlemen of the Jury, you are instructed that the Idaho Code 18-201 states that" All persons are capable of committing crimes, except those belonging to the following classes: 1. Persons who committed the act or made the omission charged, under an ignorance or mistake of fact which disproves any criminal intent. 2. Persons who committed the act charged without being being conscious thereof. 3. Persons who committed the act or made the omission charged, through

misfortune or by accident, when it appears that there was not evil design, intention or culpable negligence. 4. Persons (unless the crime be punishable with death) who committed the act or made the omission charged, under threats or menaces sufficient to show that they had reasonable cause to and did believe their lives would be endangered if they refused.

EXAMPLE 75: Ladies and Gentlemen of the Jury, you are instructed that the following essential elements are required to be proved beyond a reasonable doubt by the prosecution in order to establish the guilt of the defendant, John W. Curtis, as charged in the Summons and Complaint:

1. That John W. Curtis was driving a vehicle.

page 150 of 184 2. That John W. Curtis and the vehicle he was driving was approaching a stop sign.

3. That he was not directed to proceed by a police officer.

4. That he was not directed to proceed by a traffic control signal.

5. That he did not stop at a clearly marked stop line or before entering the crosswalk on the near side of the intersection, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway roadway before entering it. That there existed either a clearly marked stop line or an intersecting roadway with a crosswalk on the near side of the intersection. Idaho Code 49-643

EXAMPLE 76: Ladies and Gentlemen of the Jury, you are instructed that the words 'life, liberty and property' and constitutional terms and are to be taken in their broadest sense. They indicate the three great subdivisions of all civil rights. The term 'property' in this clause embraces all valuable interests which a man may possess outside himself. That is to say, outside of his life and liberty. It is not confined to mere technical property, but literally to every species of vested right. Camp v. Holt, 115 U.S. 620

EXAMPLE 77: Ladies and Gentlemen of the Jury, you are instructed that "Undoubtedly the right of locomotion, the right to remove from one place to

another according to inclination, is an attribute of personal liberty, and the right, ordinarily, of free transit from or through the territory of any State is a right secured by the Fourteenth Amendment and by other provisions of the Constitution." Williams v. Fears, 179 U.S. 270, 274

EXAMPLE 78: Ladies and Gentlemen of the Jury, you are instructed that "A highway is a passage, road, or street, which every Citizen has a right to use." Bouvier's Law Dictionary 1870 p. 667

EXAMPLE 79: "I must tell the jury the laws are constitutional and they are bound by them. Then what they do is up to them. That is why we developed the jury system, you know, so the king could not put bad laws over on the people. While the jury is told to obey the law, if they don't, they is nothing anybody can do about it. That is our system of justice and it has worked out pretty well." Pre-trial hearing, June 8, 1979 Boise, Idaho CR 10027,U.S. District Court for District of Idaho Judge Ray Mc Nichols.

EXAMPLE 80. Ladies and Gentlemen of the Jury, you are instructed that IC 19-201A Legal jeopardy in cases of self-defense and defense of other threatened parties. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting himself or his family by reasonable means necessary, or when coming to the aid of another whom he reasonably believes to be in imminent danger of or the victim of aggravated assault, robbery, rape, murder or other heinous crime.

Natural Right to Court Transcripts

COMES NOW the Appellant, In Propria Persona, to request relief from the required filing fee, and to be allowed to file an Appeal without cost. The provisions of IC 31-3220 do not apply in this case. Appellant has a natural right to enter the courts without cost, and bases this position on the following law and facts:

Pauper and Fees

1. Appellant is a pauper. On record with the court is an Affidavit of Poverty, showing that Appellant has no lawful money of the United States with which to tender a payment of costs, fees, etc. Appellant asks that the Court

review that document as a matter of pertinent fact along with the Report to the Gold Commission on Reserve at the Law Library, together with the arguments of law that follow.

Appellant cannot be charged a fee, as no charge can be placed upon a Citizen as a condition precedent to his exercise of a constitutional right. A fee is: "A charge fixed by law for services of public officers or for use of a privilege under control of government." Fort Smith Gas Co. v. Wiseman 189 Ark. 675 74 SW. 2d 789,790, from Black's Law Dictionary 5th Ed.

The accused / appellant sought no service or use of any privilege. It is a rule of law that governments were instituted by the people for the fundamental reason of protection of property rights, as this is the basis of a free society. It is a moot point that the officials of my government should not charge me for the opportunity to exercise this fundamental right of due process. How can mere rules overrun the Law of the Land? They cannot. While members of the bar may be required to tender filing fees for the privilege of entering court, this Defendant in this circumstance cannot.

2. Charging Citizens for filing fees appears to be based upon these premises:

A. ALL CASES ARE HANDLED BY LICENSED ATTORNEYS: Usually the defendant is represented by an attorney, who is an officer of the court, practicing law, and requiring a fee for services. As this privilege of being represented by such officer is granted by government to the defendant so choosing it follows that a fee could be charged for filing appearances in the courts.

It must be remembered that attorneys come into the courts as a matter of business. They enter the courts at the grace of, and as members of the court; not as a matter of fundamental right. It is fundamental that the grantor of any privilege can certainly impose any requirement (filing fees) as a condition on the privilege.

However, in this case, the government has charged this Citizen with a crime, and this Citizen is simply defending his or her rights. When the 5th and 14th Amendments guarantee the right to an "opportunity to defend life,

liberty, or property" in a court of justice, how can the Clerk of the Court seek to demand, as a condition of this right, a filing fee?

It is an individual's right to be able to defend one's Life, Liberty, and property in the Courts. Therefore, it is the duty of the Clerk of the Court to file an answer or response for a Defendant, if he appears In Propria Persona, and not by attorney.

This Appellant is appearing In Propria Persona (in his own person) not Pro Se, which term means "as his or her own attorney". This Appellant does not choose to be represented by a member of the bar, but chooses to appear in court in person on his own behalf to defend his or her Life, Liberty, and Property against the claims of the government.

B. HE WHO SEEKS EQUITY MUST PAY: In Equity, the rule is that one comes to equity voluntarily. If two parties of interest wish to enter equity proceedings in order to settle a dispute then, as a minimum, the Plaintiff may be charged a fee to file pleadings. In addition, any attorney may be charged a filing fee whether he represents a party as a Plaintiff or a Defendant and all corporations and regulated enterprises must also pay filing fees. However, this is a criminal case. The Appellant did not bring the action, nor consent to the jurisdiction, as Appellant did not consider the alleged act a proper cause of action.

Where the government seeks to enforce a claim upon rights, and when the Defendant is a Citizen and natural person, the due process clauses of our constitutions prevail. This is a substantive rights issue. Due process means at least notification and opportunity to defend. How can the Appellant defend when the rules apply a condition to the right of appeal? Let me remind the Court that: "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v. Arizona 384 US 436, 491p " ... right and justice shall be administered without sale, denial, delay, or prejudice." Idaho Constitution. Article 1, Sec. 18.

State Bias and Rules

The Appellant is in possession of a document from the Court entitled "ESTIMATED OF CLERK'S RECORD", stating that the clerk of the District Court must have $$$$ for transcript costs for papers needed with the appeal.

The Appellant would like to remind the Court that the Appellant is not in the Court as a Plaintiff, but as a Defendant who has been accused of a crime by his government. The Appellant has been compelled into the judicial system, and does not appear on his own volition. Appellant has been compelled into the judicial system to seek redress of grievance, or his State will deprive him of his Life, Liberty, and/or Property.

The Appellant does not desire to have the transcripts, or even to move forward in this case, but since the State has found it necessary to prosecute the Citizen, the Citizen has no alternative but to defend against the action. In order to properly prepare and adequately defend against the charges of the government, the Appellant must demand and use any and all information available, and all Rights secured by the Constitutions of the United States and the State of Idaho, to include transcripts of past hearings required by the Appellate Court.

In reviewing the Idaho Criminal Rule 5.2 , the Appellant notices that both the "Prosecuting Attorney and the Defendant" are entitled to copies of the transcript. Appellant recognizes that Rule 5.2 does not relate to appeals, but must bring it up to show favoritism toward government and bias against the Citizen.

From the wording of Idaho Criminal Rule 5.2, it is only the Defendant who is required to "pay" for justice, as the Prosecuting Attorney is not required to pay for transcripts. Courts cannot adhere to the position that a system of Due Process "without sale" is only for the Prosecuting Attorney at taxpayer expense, and that the State has a right to "sell" justice to the Defendant.

Need the Appellant remind the Court that the Idaho State Constitution states: "Article I, Section 18. justice to be freely and speedily administered and Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property, or character, and "right and justice shall be administered without sale" denial, delay, or

"prejudice" (emphasis added) Isn't freely giving transcripts to the Prosecuting

Attorney and "selling" transcripts to the Defendant somewhat "prejudicial"? Isn't this administering justice "for sale" rather than "without sale"?

No Accused Person should have to petition his government for justice or, "buy" or "purchase" justice from his government; and no person should be discriminated against or provided "prejudicial" justice "for sale" because a Citizen is the Defendant/Appellant rather than a Prosecuting Attorney.

The question becomes, less expensive to whom? The Plaintiff or the Appellant? Justice cannot be sold to the Appellant, and it is not appropriate that the Court should order the Appellant to defray any costs to receive Justice, Due Process, and equal protection under the law. The Plaintiff brought the charges forward against the Appellant. Now let the Plaintiff fully accept the burden of defending these wrongful allegations, at public expense, all the way to the United States Supreme Court.

It should also be noted that the estimated cost of the transcript is $$$$$. The penal judgement assessed by the Summary Proceedings of the lower Court was only $$$$$. As stated above, it appears on the surface, that charges for transcripts are to prohibit and discourage the average Citizen from appealing, as it would be far cheaper and much easier to simply submit to the charges of the "king's agents" and his "chancery" traffic court than appeal to prove one's innocence on appeal.

It is the position of this Appellant that filing an appeal and having it heard in any criminal case is a matter of Right, and there can be no charges to exercise a Right.

Appellant recognizes the excessive cost of preparing transcripts for all appeals, but the Plaintiff is the keeper of the public monies. It is the Plaintiff who brings criminal charges before the Courts. It is the Plaintiff who made the requirement for transcripts and it is the Plaintiff who provides itself transcripts at no cost while charging a sovereign Citizen. Therefore, The Plaintiff should be prepared to pay for defense of those charges, at public

expense, all the way to the Supreme Court of the United States, and it is the

Plaintiff who should be charged the filing fees not the sovereign Citizen. If the Plaintiff is not so prepared, then the Plaintiff should be a little more selective in whom is charged, arrested, and taken to trial.

The Appellant objects to any "costs for justice" and "Due Process", and shudders to conclude that the only reason the rules require an Appellant to bear the burden of these costs in defense of Life, Liberty, and Property, is to cause an undue expense upon the Appellant in an effort to thwart, hinder, and discourage Appellants from appealing beyond the District Court.

Failure of the Appellant to pay this imposed cost thereby allows the Appellate Court to dismiss the appeal under the provisions of Rule 21 which provides for the dismissal of appeals for failure " ... of a party to timely take any other step in the Appellant process ."

Natural Citizens v. CORPORATIONS

It appears that the filing fee rule was made for subjects of the State, but is being applied to Natural Citizens domicil and citizens residing within the State. The State is the creator and regulator or most trade, commerce, and industry through the corporate licensing scheme. " ... the corporation is a creature of the State. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the State and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a State, having chartered a corporation to make certain franchises, could not in the exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, ... " Hale v. Henkel, 201 U. S. 43; 74, 75.

The State is sovereign over any trade, commerce, and industry it regulates under the police powers of the State. Therefore, the State can pass any

statute it desires to control or regulate those entities, to include statutes that would, if applied to a natural Citizen, violate Constitutional Rights. The State can control every action of regulated enterprises but cannot apply that class of statutes to a Natural Citizen.

The Supreme Court of the United States fully understands the difference between a Natural Citizen and a corporation or regulated enterprise and they have stated: " .. we are of the opinion that there is a clear distinction ... between an individual and a corporation, ... The individual may stand upon his Constitutional Rights as a Citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to intimidate him. He owes no such duty to the State, since he receives nothing therefore, beyond the protection of his life and property. His rights are as existed by the law of the land long antecedent to the organization of the State, and can only be taken away from him by due process of law, and in accordance with the Constitution ... He owes nothing to the public so long as he does not trespass upon their rights." (emphasis added) Hale v. Henkel, supra.

Since a Natural Citizen "owes no duty to the State", the State cannot require any specific performance from him in the exercise of a right, or that performance abrogates the right.

The legislature can pass any statute, and the courts can make any rule desired, to require corporations, regulated enterprises, and other licensed entities or professions to file fees with the Court or any administrative agency. But where an issue pertaining to a Natural Citizen who has constitutional rights is concerned, it becomes an issue of substance not mere form, because: "Where rights secured by the constitution are concerned there can be no legislation or rule making that can abrogate them." Miranda v. Arizona, 384 U. S. p. 491

If the legislature or the courts, through legislation and rule making, can impose a tax or a fee upon the right of a Natural Citizen to petition the courts, then they have abrogated that right, and justice is only for the rich. The principle behind this issue was clearly resolved by the Supreme Court in "The Passenger Cases" where they stated: " ... every Citizen of the

United States from the most remote States or territories, is entitled to free access, not only to the principle departments established at Washington, but also to its judicial tribunals and public offices in every State in the Union ... " 2 Black 620; Also see Crandell v. Nevada, 6 Wall 35.

The term here is Citizen not corporation or regulated enterprises. If the legislature or the judiciary can charge a Citizen $1.00 a page to exercise the right of appeal, it can charge $1,000 per page. Any costs demanded from a Natural Citizen is a limitation and restriction upon the use of these courts, which amounts to nothing more than a blatant abrogation of rights.

This principle was further expounded upon in an Illinois case in a civil action where a Citizen petitioned for a writ of mandate because he couldn't afford the filing fees, and the Court held that a person need not be a pauper to proceed as a poor person. They stated that: "In no event can the court legally require that the application for leave to sue as a poor person should be accompanied by the agreements and the affidavit which are required by the rule and which have been herein above in this opinion particularly referred to. We are also of the opinion that it is unnecessary that either the applicant's attorney or the court should be satisfied that the applicant is a pauper. Many persons who are not paupers may rightfully be permitted by the courts to commence and prosecute actions as poor persons. There are other meritorious objections to this rule, but we deem it unnecessary to discuss them." The People v. Chytraus, 228 III 194.

Illinois recognizes a difference between poor persons and paupers. It appears that a pauper has no boot nor anything to pour out of it, whereas a poor person may have a boot, but little to pour out of it because of debt servitude to the welfare State. Therefore, in Illinois, Citizens have the right to sue in civil cases even when they have limited funds. Can the requirements to appeal in criminal cases be more stringently applied in civil cases?

As pointed out in "The Passenger Cases", Citizen have the unalienable right of entry to the Judicial system and cannot be regulated or controlled as can creations of the State.

This Appellant will follow all of the Rules as understood and will not knowingly violate them unless said Rule violates a Constitutional Right, and the Court should not need reminding that Persons acting in their own behalf are held: " ... to less stringent standard than formal pleadings by lawyers." Haines v. Kerner, 404 U.S. 519.

The Appellant again reminds the Court that this Citizen does not appear in this case of his own volition and the record will clearly show than he has been compelled into an alien and foreign jurisdiction from the Common Law and has been forced to defend or lose Life, Liberty, or Property. Had the Appellant been the moving party in this action, then there may have been some validity in attempting to charge for transcripts. However, in this case the State has criminally prosecuted and the Appellant has the right to all transcripts or any other documentation the State requires for an appeal, and the Appellant hereby demands, as a matter of right, all such documentation.

Wherefore, due to the above mentioned circumstances and facts the Appellant moves the Court to provide the Idaho Supreme Court the transcripts requested as a matter of right and "without sale".

Code has no Force of Law

COMES NOW the Accused, appearing specially and not generally or voluntarily herein, to move the court to dismiss the charges against this Free and Natural Person as the Your City Code has no force of law over this Accused person.

1. IC 1-701. District courts established.--- The District courts were established in each county for "the purpose of hearing and determining all matters and causes arising under the laws of the state."

2. IC 1-2208 allows the District Court to assign any and all cases within its jurisdiction to the magistrates division for misdemeanor and quasi-criminal actions and proceedings to prevent the commission of crimes.

3. The CITY of _____ is a CORPORATION, an administrative AGENCY, of an incorporated town with certain privileges and has no

Sovereign powers. The CITIES privileges are quite limited by its master, the State, and like any artificial being, it must petition its master for any privileges it desires.

4. Since a CORPORATE CITY OR TOWN has no sovereignty it cannot create laws pertaining to the Citizens of the state. It can only enforce the laws of its master (Laws of the state) however, the CITY can regulate those artificial beings it creates or natural persons it employs.

5. In this case, CITY Code has no authority of law as the Accused is not an employee of the CITY nor a created being of the CITY; nor has he a license, permit, or any other agreement or contract with the CITY. Therefore, this proposed action is in direct violation of the laws of the state and cannot be enforced against this free and natural person. It is axiomatic that no municipality WORKING IN CORPORATE CAPACITY can create any code that is in conflict with its creator's law. The Idaho State Constitution states:

"Any County or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws." Article 12, Section 2, Idaho State Const.

This has been upheld numerous times by the Idaho Supreme Court and a few of the cases are as follows: "This provision of the Constitution authorizes the council of City of Boise City to make and enforce ordinances that are not in conflict with the general laws, and forbids the making and enforcing of any ordinance in conflict with the general laws. " (emphasis added) In re Ridenbaugh, 5 Idaho 371, 375.

"This power, vested by direct grant, is as broad as that vested in the legislature itself, subject to two exceptions: It must be local to the county or municipality and must not conflict with general laws." (emphasis added) State v. Musser, 67 Idaho 214,219.

The CITY OF _____ Code is administrative in nature, and only applies to those it regulates or employs. If this city code were construed to apply to persons other than those mentioned, it would violate the rights of other

classes of persons and exceed its authority under Article 12, Section 2, of the Idaho State Constitution and IC 50-302 which states in part: "Cities shall make all such ordinances, by laws, rules, regulation (regulations) and resolutions not inconsistent with the laws of the state of Idaho .... to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry."

In this regard, it is only fitting and proper that the CITY OF _____ code regulate those whom it controls. IC 50-302 talks about the "welfare of the corporation and its trade, commerce, and industry." There can be no doubt that the CITY OF _____ code applies to those artificial entities as well as natural persons hired by the city. However, the CITY Code cannot be stretched to apply to other persons not within its control (State v. Musser) or there exists a conflict between the Idaho Code and the CITY OF _____ Code. Or perhaps the CITY OF _____ believes their code supersedes the Idaho Code, and that the Idaho Code does not pertain within its geographical boundaries. Therefore, the CITY code abrogates the Idaho Code. If so, the CITIES logic is ad absurdism. In any event, this Court has jurisdiction over the subject matter only so long as the charges being brought before it are authorized by the District Court. The District Court has delegated certain classes of cases to the magistrate court, and any complaint filed under any provisions of the CITY OF _____ Code is not within the jurisdiction of the Court. In this case, the Court has no authority to proceed as a complaint based upon a CITY OF _____ Code cannot be heard in the District Court, as the District Court only has the power to hear cases pertaining to the laws of the state and the laws of the state are those passed by the legislature not the CITY OF_____ Council.

"The legislative power of the state shall be vested in a senate and house of representatives." Article III, Section 1, Idaho State Constitution.

The legislature of this state is the only body that can pass laws of the state. This is further explained under the enabling clause for corporations, municipal. "The legislature shall provide by general laws for the incorporation, organization and classification .... which laws may be altered .... by the general laws." (emphasis added) Article XII, Section 1, Idaho State Constitution.

Only the legislature can pass general laws or laws of the state as no where in the Idaho State Constitution did the Sovereign People give any entity, other than the state legislature, the ability to pass laws of the state. Local municipalities.(counties, cities, and towns) were only authorized to make regulations. "Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws." (emphasis added) Article XII, Section 2, Idaho State Constitution. The state legislature is authorized to enact general laws of the state and any other governmental entity or municipality are only authorized to make regulations ---- not enact laws of the state.

Regulations do not have the force and effect of law on all Citizens. Regulations only pertain to certain classes of persons. Regulations are defined as: "Such are issued by various governmental departments to carry out the intent of the law." Black's law Dictionary, 5th edition, p. 1156 "Regulations are implementary to existing law." Gibson Wine Co. v. Snyder, 194 F. 2d 329,331 Regulations then, are things issued to carry out the intent of law but of and by themselves are not law. In short, they can only be considered administrative procedures and edicts."Agencies issue regulations to guide the activity of those regulated by the agency and of their own employees and to ensure uniform application of the law." (emphasis added) Black's supra Regulations, within constitutional provisions that municipalities may enforce such local police, sanitary and other regulations as are not in conflict with general laws, refers to rules relating for instance, to operation of a police department, ... " (emphasis added) State ex rel. Lynch v. City of Cleveland, 132 N.E. 2d 118, 121 Regulations then, are written to guide a specific agency in its operation, to guide those being regulated by the agency, and to guide the employees of the agency. In the case of the municipality of example “Boise”, their code is to guide in the operation of the corporation, to guide those controlled by the corporation, and to guide the employees of the corporation not the Citizenry at large. "Regulations are not the work of the legislature and do not have the effect of law ... " Black's supra.

"The terms by-laws, ordinances, and municipal regulations have substantially the same meaning, and are the laws of the CORPORATE

district made by the authorized AGENCY body, in distinction from the general laws of the state. They are local regulations for the government of the inhabitants of the particular place. They are not laws in the legal sense, though binding on the community affected. They are not prescribed by the supreme power of the state, from which alone a law can emanate, and therefore cannot be statutes, which are the written will of the Legislature, expressed in the form necessary to constitute parts of the law." (emphasis added) Rutherford v. Swink, 35 S.W. 554,555.

"An ordinance of a municipal corporation is a local law, and binds persons within the jurisdiction of the corporation." (BY YOUR CORPORATE NAME ...emphasis added) Pittsburgh, c., C. & St L. Ry. Co. v. Lightheiser, 71 N.E. 218,221; Pennsylvania Co. v. Stegemeier, 20 N.E. 843.

"An ordinance is a local law, a rule of conduct prospective in its operation, applying to persons and things subject to local jurisdiction." (emphasis added) c.I.R. v. Schnackenberg, C.C.A., 90 F. 2d 175, 176.

"Ordinances ... are laws passed by the governing body KNOWN AS THE AGENCY of a municipal corporation for the regulation of the corporation." (emphasis added) Bills v. City of Goshen, 20 N.E. 115, 117.

"The terms ordinance, by-law, and municipal regulation ... are local regulations for the government of the inhabitants of a particular place, and though given the force of law by the charter for the purposes of the municipal government, yet relate to that solely, and prosecutions for their violation have no reference, as a general rule to the administration of criminal justice of the state." (emphasis added) State v. Lee, 13 N.W. 913.

"Ordinances are laws of municipality made by authorized municipal AGENCY body in distinction from general laws of the state and constitute local regulations for government of inhabitants of particular place." (emphasis added) State v. Thomas, 156 N.W. 2d 745.

" ... defining the term criminal offense as any offense for which any punishment by imprisonment or fine, or both, may by law be inflicted, a violation of a city ordinance is not a criminal offense ... an ordinance being

a regulation adopted by a municipal corporation and not a law in the legal sense." (emphasis added) Meredith v. Whillock, 158 S.W. 1061, 1062.

"A CITY ordinance is not a law of the same character as a statute. It is merely a regulation; a rule of conduct passed by the common council for the direction and supervision of its citizens." (emphasis added) People v. Gardner, 106 N.W. 541,545.

"An ordinance prescribes a permanent rule for conduct of government." (emphasis added) 76 N.W. 2d 1,5; 61 A.L.R. 2d 583.

"An ordinance is not, in the constitutional sense, a public law. It is a mere local rule or by-law, a police or domestic regulation, devoid in many respects of the characteristics of the public or general laws." (emphasis added) State v. Fourcade, 13 So. 187, 191; McInerney v. City of Denver, 29 P. 516.

Since regulations are the work of a corporation, they can only apply to members of that corporation. From IC 50-302 we know that the CITY OF _____ can only make regulations: "to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry." IC 50-302 does not even mention persons either natural or artificial but it does specifically mention the corporation and its trade, commerce, and industry. Trade commerce and industry are all artificial entities and either licensed by the state and city or are corporations both of with have an agreement with the state or city and through that agreement, those businesses must adhere to the CITY OF_____ Code. However, Natural citizens who are not engaged in trade, commerce, or industry and do not have any agreements with their state or city, cannot be bound by the CITY OF _____ Code. The CITY OF _____ code is not the law of the State and, this Court has no jurisdiction to proceed. Therefore, if the Plaintiff wishes to proceed in this case with charges brought about based upon the CITY OF_____ Code, this case will have to be dismissed and a new action brought before a court of proper jurisdiction. Since this natural person is not a member of the municipal corporation CORPORATE AGENCY; nor licensed by, nor has any other legal connection with the CITY; and since the CITY has no courts, there is no proper court of

jurisdiction to hear an action against this Accused natural citizen under the provisions of the CITY OF _____ Code.

Free and natural citizens are only subject to the Idaho Code, as stated in IC 19-301, and said Code states, in part: "Every person is liable to punishment by the laws of this state ... " The Accused may be subject to the laws of the State under the provisions of this Code, but nowhere does this Code charge the Accused, or any other person, to be liable to punishment by the code of the CITY OF _____. Laws of this state are those brought into being by the legislature of the state of Idaho, not by an administrative municipality WORKING IN CORPORATE CAPACITY. The courts have often said that the state of the law in Idaho is the Idaho Code. The Idaho Code is very specific in what laws a person is liable to, that being laws of the state, not laws of the municipality. This Court may have jurisdiction over those persons who voluntarily submit to the CITY OF_____ Code. However, this Court can have no jurisdiction over a free and natural person who challenges the jurisdiction of this Court over a complaint based upon the CITY OF _____ Code, and once jurisdiction has been challenged by the Accused, the Court can not proceed until the Plaintiff has not only asserted, but proven jurisdiction. The Plaintiff must overcome every single argument of the Accused and have additional matter, before the Court can have jurisdiction and proceed. In addition, the Court can not assume jurisdiction by mere act or estoppel. It only follows that if a municipality has the authority to create a code, that code can only apply to its subjects or members. As the code pertains to those persons, it may grant them privileges and regulate their actions. However, this free and natural person is not a member, subject. or slave of the municipality and in no way depends upon the CITY for his or her welfare, nor is he a corporation, or involved with trade, commerce, or industry (see IC 50-302) with or within the CITY OF _____, and this person absolutely refuses to enter into any foreign jurisdiction asserted by CITY OF _____ for its subjects, employees, and members. I would like to remind the learned court that: "A municipal corporation possesses only such powers as the state confers upon it, .. "Any ambiguity of doubt arising out of the terms used by the legislature must be resolved in favor of the granting power. Regard must also be had to constitutional provisions intended to secure the liberty and to protect the rights of Citizens ... " (emphasis added) State v. Frederick, 28 Idaho 709, 715.

In this regard, the state legislature must preserve and protect the rights of Citizens at all times. The State must maintain legislative power over all Citizens throughout the state and therefore the laws of the state are the only laws applicable to Natural Citizens. "It is settled law, that the legislature in granting it, does not divest itself of any power over the inhabitants of the district which it possessed before the charter was granted. Laramie County v. Albany County et al, 92 U.S. 307, 308.

The CITY OF _____ is forbidden from making any regulations or from enforcing any ordinance in conflict with the general laws (re: Ridenbaugh, Supra) and the general law (IC 50-302) of Idaho has not granted the CITY OF _____ the power to make laws pertaining to free and Natural Citizens. It can only make regulations to affect its employees and the trade, commerce and industry it regulates. Therefore, for the above causes, the Accused moves the Court to dismiss the charges.

Statute Exceeds the Police Powers of the State

Each law relating to the police power of a state involves the questions:

First, is there a threatened danger? Second, does the regulation involve a Constitutional Right? Third, is the regulation reasonable? 1. First, is there a threatened danger? Here the question needs to be asked, just what is a threatened danger? Can there be a danger in simply carrying a firearm? Is it a threat to carry a flask of nitro? Is it a threat to have blasting caps in one's possession? Is it a threat to drive an automobile? Is it a threat to be a karate expert? Is it dangerous to carry a long pointed and sharpened pencil? What kills more people per year --- guns or automobiles? How about war or automobiles? Isn't it a fact that more people were killed in one single year from automobile accidents than there were Americans killed in ten years of fighting in Vietnam? What then is a threatened danger to society? Is it the mad husband or wife? 2. Second, does the regulation involve a Constitutional Right? The State possesses the police power to protect the public health, morals, and safety by any legislation appropriate to that end which does not encroach upon the rights guaranteed by the national Constitution. (emphasis added) Missouri K & T Ry. Co. v. Haber, 169 U.S. 628. Rights founded in law or statute are mere legal rights.

However, inalienable rights are not granted by government through codes or statutes and can only inhere in and exist between moral beings. The People of a country organize the government and give government its powers, and in the case of the United States of America, the People reserved for themselves all unalienable Rights and so declared them through the Declaration of Independence, the Constitution, and the Bill of Rights. Rights then, proceed government or the establishment of states. Rights are acknowledged above government and their states, which is better expressed by the maxim "Ne ex regula jus sumatur, sed ex jurequod est, regula fiat." Both legal rights and unalienable rights are protected by the Constitution of the United States and statutory laws enacted by Congress or legislative bodies. However, government does not create the idea of rights or original rights, it simply acknowledges them.

Unalienable Rights then, are claims of the People that in here in the very nature of man himself. Rights can only inhere in and exist between moral beings, not between government and man, nor government and government. Government can give Civil rights, or what are more commonly referred to as privileges, to any entity it regulates or creates as in the case of corporations, but since government is not a moral being it cannot give that which it does not itself possess, and government possesses no unalienable rights.

To secure the Rights of the People, the Declaration of Independence, the Constitution of the United States, and the Bill of Rights were penned and is the Supreme Law of the land. "The Constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and like other acts, is alterable when the legislature shall please to alter it. "If then, the courts are to regard the Constitution,and the constitution is superior to any ordinary act of legislation, the Constitution, and not such ordinary act must govern the case to which they both apply." Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void; and that courts as well as other departments, are bound by the instrument." Marbury v. Madison, 1 C 137, 176-179 It is also clear that no State Constitution can espouse anything that would be in contravention with the Federal Constitution. If any State Constitution

violates the principles stated in the Federal Constitution, that provision or statement is null and void from its inception as though it had never existed as:" An unconstitutional act is not law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed; ... "Norton v. Shelby County,p. 442.

And, "An unconstitutional law is void, and is as no law. An offense created by it is not a crime. A conviction under it is not merely erroneous, but is illegal or void, and cannot be a legal cause of imprisonment." Ex Parte Siebold, U. S. page 376.

For example, in the Constitution for the State of Idaho, Article VI, Section 3, it states that "No person is permitted to vote, serve as a juror, or hold any civil office who ... is living in what is known as a patriarchal plural or celestial marriage ... "

It should go without saying that this provision in our own State constitution abrogates a right granted by the Federal Constitution and is, therefore, null and void.

The general police power is reserved to the states, subject to the limitation that it may not trespass on the Rights and powers vested in the national government. (emphasis added)re Huff, 197 U.S. 488.

In addition, in exercising the police powers of a state, there are no limits except the restrictions outlined in the written constitution. (emphasis added) McLeon v. Arkansas, 211 U.S. 539; Jacobson v. Massachusetts, 197 U.S. 11; 1 Thayer Constitutional Law, 720. In this case the right which is being abridged or infringed is the right of personal liberty.

This person hereby lays claim to the absolute unalienable rights of contract, freedom, and liberty -- that is, the claim of unrestricted action except so far as the claim of others necessitates restriction, and the right to free locomotion ... Personal liberty is defined as: "Freedom from physical and personal restraint; .. .freedom to go where one chooses .... " " .... right to travel.. .. " " ... .freedom to move about as one pleases .... " Munn v. Illinois, 94 U.S. 142; Slaughter House Cases, 16 Wall, 106; Butcher's Union Co. v.

Slaughter House Co., 111 U.S. 757 It is ludicrous on one hand to say a person has the freedom of movement and on the other to say government has the authority to restrict or regulate that freedom of movement by foot, horse, automobile or whatever. However, it also goes without saying that government may exercise its authority to insure each person is capable of exercising said right. Personal liberty has also been defined as:" .... the power of locomotion, of changing situation, of removing one's person to whatever place one's inclination may direct...."l Bla. Com.134; Hare, Cons. Law 777.

And: "Liberty means .... the facility of willing, and the power of doing what has been willed without influence from without." Am. Republic; Ord. Cons. Leg. "Liberties are nothing until they have become rights -- positive rights formally recognized and consecrated. Rights, even when recognized, are nothing so long as they are not entrenched within guarantees. And guarantees are nothing so long as they are not maintained by forces independent of them in the limit of their right. Convert liberties into rights -- surround rights by guarantees --- entrust the keeping these guarantees to forces capable of maintaining them. Such are the successive steps in the process of free government." 1 Guizot, Rep. Gov. Lect. 6. However, it goes without saying that no person can do whatever he pleases when that act infringes, abridges, or abrogates the rights of another free and natural person." As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it."

Mill, Liberty.c. 4.

There is a monstrous difference in restricting or regulating the ability of a person to exercise a right than in prohibiting and commanding actions, or the lack of, and punishing by penalty, fines, and imprisonment persons who fail to comply when the action committed by the person has not, in fact, caused any loss or damage of another's life, liberty, or property as opposed to those classes of crimes where another's life, liberty, or property has been damaged or lost. Restriction and regulation of various functions and privileges on certain classes of commercial travelers and other juristic persons may be necessary; and in those cases government can certainly exercise its authority in prohibiting or commanding an action and may punish by penal action when a violation has occurred.

A penal action is nothing more than an action or information brought on by an "agent of the king" and in which the penalty goes to the "king" (government). (Bouvier Law Dictionary, P. 2551)

Any FREEMAN who claims his rights cannot be forced to comply with penal offenses. Under the Common Law there can be no constructive offenses. United States V. Lacher, 134 US624; Todd V. United States, 158 US 282. It should be understood that a constructive offense is nothing more than an act which may not be performed; the doing that which a penal law forbids to be done, or omitting to do what it commands.

Penal statutes are essentially those actions which impose a penalty or punishment arbitrarily extracted for some act or commission thereof on the part of some person. (Black's Law Dictionary, 5th Ed., P. 10 19) Such statutes operate to compel a performance (Black, P. 1020) and inflict a punishment by statute for its violation. (The Strathairly, 124 US 571)

In any appearance of the this Free and Natural Citizen, it must be noted that I recognize no jurisdiction other than the Common Law and expressly exclude executive chancery. This denial includes Idaho codes that are in violation of the rights of free and natural persons, and in this case a code demanding a specific performance commanding that a certain thing can or cannot be done, making said statute an unconstitutional statute if an attempt is made to apply that statute to this person. 3. Third, is the regulation reasonable? The definition of a criminal is one who takes what you have without your permission. When my government takes my gun in contravention of the Idaho Constitution, are they acting in a criminal capacity? When my government wants to limit my right to keep and bear arms, thereby abridging my rights, is my government acting as a criminal? When my government prosecutes me for exercising an unalienable right, are they acting as a criminal? Who, then, is the criminal? The free and Natural Citizen exercising his unalienable right, or an oppressive government abridging the free person's ability and inalienable rights?

Therefore in view of the above cause, the Accused moves the court to dismiss the charges as the code, in this case, exceeds the police powers of the State.

Act Alleging Crime Is A Bill Of Attainer

The Parking ticket or complaint is issued out of the mind and hand of the Executive Branch of City Government and imposes a predetermined punishment on persons in the form of a fine or penalty without any Judicial process or trial. A Bill of Attainder is defined as: "Legislative acts, no matter what their form, that apply to persons in such a way as to inflict punishment on them without a judicial trial is nothing more than a Bill of Attainder" (pains and penalties). U. S. vs Brown, 381 U.S. 437, 448-49. U.S. vs Lovett, 328 U. S. 303, 315.

"A special act of the legislature which inflicts a punishment less than death upon persons supposed to be guilty ... without any conviction in the ordinary course of judicial proceedings." 2 Wood. Lect. 625. "The clause in the constitution prohibiting bills of attainder includes bills of pains and penalties." Story, Const. Sec 1338; Hare Am. Const. L. 549; Cummings v. Missouri, 4 Wall. 323; Fletcher v. Peck, 6 Cran. 138.

The issue of what is a bill of attainder and of pains and penalties was well settled in the case of Cummings v. Missouri where the United States Supreme Court stated: "The theory upon which our political institutions rest is, that all men have certain inalienable rights -- that among those are life, liberty, and the pursuit of happiness: and that in the pursuit of happiness all avocations, all honors, all positions, are alike open to every one, and that in the protection of these rights all men are equal before the law. Any deprivation or suspension of any of these rights for past conduct is punishment, and can be in no otherwise defined." Cummings v. Missouri, supra, p. 321-2. "A bill of attainder is a legislative act which inflicts punishment without judicial trial." "If the punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties. In these cases, the legislative body, in addition to its legitimate functions, exercises the powers and and office of judge; it assumes, in the language of the textbooks, judicial magistracy; it pronounces upon the guilt of the party, without any of the forms or safeguards of trial; it determines the sufficiency of the proofs produced, whether conformable to the rules of evidence or

otherwise, and it fixes the degree of punishment in accordance with its own notions of the enormity of the offense." Cummings, supra, p. 323.

Obviously parking ticket meet all of the criteria elaborated upon by the Supreme Court. The parking ticket regulation allows the city to exercise the powers and office of judge (individual has been convicted by city and fined), pronounce guilt without trial (guilt announced by demand for payment of fine which can only transpire after conviction of guilty), determine proof (proof of guilt has been predetermined to be the person to whom the vehicle is registered), and fix punishment (as indicated on the parking citation).

The high Court went on to say: "Bills of this sort, ... have been most usually passed .... in .... periods, in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others." Cummings, supra. The Supreme Court reiterated the validity of the Cummings case in U.S. vs Lovett. In the Lovett case they also referred to Ex Parte Garland, 4 Wall 333, in which they stated that these type of bills. " ... stand for the proposition that legislative acts no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are bills of attainder prohibited by the Constitution." United States v. Lovett, 328 U.S. 303, 315. Continuing in the same case they said: "The Constitution outlaws this entire category of punitive measures. The amount of punishment is immaterial to the classification of a challenged statute. But punishment is a prerequisite. "Punishment presupposes an offense, not necessarily an act previously declared criminal, but an act for which retribution is exacted." U. S. V. Lovett, supra, p. 324; Also see Garner v. Los Angeles Board, 341 U.S. 716; and Christie v. Lueth, 61 N.W. 2d 338, 341. These type of acts clearly fall within the scope of Constitutional prohibition. United States Constitution, Article 1, Section 9, Clause 3; and Article 1, Section 10 states: "No Bill of Attainder or ex post facto law shall be passed." (emphasis added) And: "No State shall...pass any Bill of Attainder, ... " On the face of each parking complaint it plainly states: "The fine for this violation is $ if paid within 24 hours. You may pay this by placing $ in this envelope and mailing it to Ticket Section, City Hall... Delinquencies are subject to additional penalties." (emphasis added) The City is issuing complaints, determining

guilt of individuals, and imposing punishments in the form of a fine all without due process and judicial trial. Prima facia proof of this fact is in the wording of the alleged citation. On the face of the citation it states "the fine for this violation is ... " This statement amounts to a blatant confession that the city has charged the individual, found him guilty, and is requiring the individual to pay a specific dollar amount, all without the benefit of due process and Judicial trial. From the wording "Delinquencies are subject to additional penalties," it is obvious that guilt has been further predetermined. Since guilt has been predetermined, and when some individual does not pay the fine (punishment) entered on the face of the parking complaint, that person will be further subjected to additional punishment for his predetermined guilt through delinquency charges. This demand of and imposition of a delinquency charge for an unproven offense is further prima facie evidence of predetermined guilt without judicial trial. Offering some sort of delayed due process to those who forget, refuse or otherwise do not pay the appropriate amount for their predetermined guilt after filing the charge, predetermining guilt, and imposing of a fine does not negate the invalid status of the enactment creating the offense. As applied to Free and Natural Persons it is plainly a Bill of Attainder (Bill of Pains and Penalties) and violates the law of the land.

The full significance of the clause "law of the land" is said to be that statutes which would deprive a citizen of the rights of person or property without a regular trial according to the course and usage of the common law would not be the law of the land. Hoke v. Henderson, 15 N.C. 15, 25. "By law of the land is more clearly intended the general law, a law which hears before it condemns; which proceeds upon inquiry, and renders judgement only after trial. The meaning is that every citizen shall hold his life, liberty, property and immunities, under the protection of the general rules which govern our society. Everything which may pass under the form of an enactment is not, therefore, to be considered the law of the land." (emphasis added) Dartmouth College Case, 4 Wheat 518.

The enactment authorizing such summary proceedings by the city is clearly applied to Natural persons in such a way as to inflict punishment on them without judicial trial and is therefore unconstitutional bill of pains and penalties as applied to Natural persons. There can be no doubt that this act can and does pertain to those artificial subjects and members who are

wards or creations of the State and City, therefore, in those cases it is not unconstitutional. Government has the right to control, limit, restrict, and regulate the actions of those artificial persons they create, and therefore, those artificial persons are the legal subjects of parking citations. The Accused hereby declares to his accusers that he is a Free and Natural Person who is not engaged in any business, commerce, trade, or industry within the city, nor does he represent, nor is he a voluntary member or subject of any artificial being (person) or entity.

Therefore, the Accused moves the court to dismiss the charges against this Free and Natural Person because any enactment attempting to impose punishment without due process and judicial trial upon a Free and Natural Person is a bill of pains and penalties.

“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.” (Justice Matthews in Yick Wo v Hopkins, 118 US 356)

Look at the heated OBAMA CARE topic and ask yourself if OBAMA CARE is already nullified here in Idaho “IC 39-9003”, why are we still addressing it, instead of telling the truth to the people of our great state.

Which way do I go? Which way do I go? Which way do I go?

De Facto Corporate Democracy

De Jure Constitutional Republic

As previously legislated Obamacare is nullified for those Citizens with proper standing in the de jure constitutional state of Idaho. Title 39-9003.

The de facto CORPORATE STATE OF IDAHO which all current efforts of legislation of Obamacare have failed to be nullified! Wouldn't it have been easier if Butch would have stepped up to the plate and explained the difference between standing in the constitutional state of Idaho and

standing in the CORPORATE STATE OF IDAHO for those who don't know. However the real reason for the continued deception is to conceal the fraud this CORPORATE STATE OF IDAHO has placed on the citizens of Idaho.

What is Domicile? Domicile allows you to challenge the CORPORATE presumption.

Domicile of Origin: Is acquired by every person at birth and continues until replaced by the acquisition of another domicil. It is the domicile of the childs parents or of the persons upon whom the child is legally dependent at birth.

Domicile of Choice: Generally consists of a bodily presence in a particular locality and a concurrent intent to remain there permanently or at least indefinitely.

Domicile by Operation of Law: A domicile the attributes to a person independently of the person’s residence or intention. It applies to infants, incompetents, and other persons under disabilities that prevent them from acquiring a domicile of choice.

The key to any property is where does the jurisdiction lay. Once you have declared your Solemn Declaration of Domicile you have a new status that is un-rebuttable.

DID YOU KNOW YOU HAVE 2 TYPES OF BIRTH CERTIFICATES?

TITLE 39 HEALTH AND SAFETY CHAPTER 2 VITAL STATISTICS

39-245. CERTIFICATE FORMS. The form of certificates used under the provisions of this chapter shall be prescribed by the director and shall include as a minimum the items required by the respective standard certificates as recommended by the national agency in charge of vital statistics; provided, however, that the provisions of section 39-1005, Idaho Code, shall be given effect on a certificate to which that section is applicable. THIS IS THE ALL CAP “CORPORATE NAME”

39-249. TRANSMITTAL OF CERTIFICATES AND LOCAL RECORDS. Local registration officers shall transmit all certificates filed with them to the

state registrar in accordance with the regulations of the board. Complete and accurate copies of all certificates shall be made by the local registrar for local records purposes.

When you request your Live Birth Certificate it would be in your True name, upper and lower case. However unless you know where to look, they will presume you mean your all CAP Birth Certificate which turns you into a CORPORATION under the thumb of Administrative Rules and Policies which violate your Constitutional Protection of your Private Property and Civil Liberties. In the following page is the proof within the current form of Idaho Vital Statistics.

Notice the box on the bottom left, named FEES. The first line called Certified Copy is the all CAP CERTIFICATE which places the presumption that you are a CORPORATE ENTITY. "De Facto"

This is only recommended by the National Vital Statistics Idaho Statute 39-245.

Notice the third line called Certified PhotoCopy. This is the original family true name which is spelled correctly with Upper and Lower case letters. "De Jure Constitutional Protection"

THIS IS HOW ALL AGENCIES OPERATE IN FRAUD AND WHY YOUR RIGHTS HAVE BEEN VIOLATED According to Idaho Criminal Rules 54.1 (g) one may use a statute. This was just taken off.... back dated and repealed. We wonder why? Below is the criminal activity here in Idaho, perpetrated across the State of Idaho.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 1-2213(1) "pursuant to law" which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 19-3942 "TRIAL ON APPEAL" which protect you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 7-1303(3) "proves 2 forms of government exist at all times" which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 73-106 "accrued rights" which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 73-116 "common law enforced" which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 9-102 "questions of law" which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 18-3601 “forgery defined” in regards to the imposition of the CORPORATE NAME "ALL CAPS" example JOHN DOE, which protected you from malicious prosecution which is prima facia malice.

The STATE OF IDAHO commits forgery when they change your proper name “True Name, example John Doe” to a fictional ADMINISTRATIVE CORPORATE NAME "example JOHN DOE" which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 18-102 “intent to defraud” regards to the imposition of the CORPORATE NAME which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 9-303 "statutes public or private" dealing with difference in standing dejure v defacto which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 9-308 "oral evidence" which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 9-309 “conclusiveness” which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 9-321 “public or private record how proved” which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 18-7805 “racketeering” on how the current administrative judicial system has a conflict of interest which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 9-325 “certified copies of writings” which protected you from malicious prosecution which is prima facia malice.

You will be denied by District Judges and the Supreme Court Justices through Administrative Interpretive Rule Making substance due process of law to use Idaho Statutes IC 55-401 “personal property governed by your

domicile” in regards to your property “True Name” which protected you from malicious prosecution which is prima facia malice.

The intimidation under assertion of authority of law is a criminal act and unlawful under Idaho Code 18-3005 1(b)(c)(d) and 2(a)(c) subject to fine and arrest.

The STATE OF IDAHO leads the nation per capita in regards to incarceration. We are living in a CORPORATE POLICE STATE that disregards the fundamental principles of our founding fathers along with our family, friends and others who have died to protect our nation from such destruction, known as tyranny.

A REAL AMERICAN PATRIOT WOULD WANT TO KNOW THE TRUTH!

A REAL AMERICAN PATRIOT WOULD WANT TO KNOW HOW, WHEN, WHERE AND WHY ALL THE PROSECUTORS AND JUDGES ARE GETTING AWAY WITH WHAT THEY ARE DOING!

A REAL AMERICAN PATRIOT WOULD WANT TO KNOW HOW THEY SWAPPED OUT THE REAL CONSTITUTIONS AND REPLACED THEM WITH A MERE STATUTORY FAKE CONSTITUTIONS OF CORPORATE POLICY!

A REAL AMERICAN PATRIOT WOULD WANT TO KNOW HOW THEY SET THINGS UP TO MAKE THE ADMINISTRATIVE COURT RULES SUPERSEDE THE CONSTITUTION!

A REAL AMERICAN PATRIOT WOULD WANT TO LEARN HOW TO FIX THE PROBLEM!

HOW CAN YOU FIX THE PROBLEM WHEN YOU DON'T EVEN KNOW WHAT THE PROBLEM IS?

A REAL AMERICAN PATRIOT WOULD WANT TO KNOW THESE THINGS BECAUSE THEY WOULD WANT TO KNOW WHERE TO START OR HOW TO FIX THE PROBLEM, BUT YOU CANNOT EVEN TRY TO FIX THE PROBLEM IF YOU DON'T EVEN KNOW HOW THEY DID IT!

HERE IS THE ANSWER ! DEMAND IT!

Resolution for State of Idaho Legislation

Whereas the De Facto CORPORATE STATE OF IDAHO in compact with De Facto UNITED STATES OF AMERICA INC. has initiated administrative procedures, policies, fees and mandates against the Citizens of the state of Idaho. The State of Idaho entered the inseparable part of the union as a de jure constitutional state as well as a de facto incorporated State in 1890.

Since statehood, numerous Executive Orders such as 12803 - Infrastructure Privatization and Executive Order 13575 White House Rural Council along with federal compacts have placed the Citizens of the great state of Idaho under corporate administrative policies in opposite of a republic form of government, which we are guaranteed under the United States Constitution which is the supreme law of the land determined in Marbury v Madison 5 U.S. (2 Cranch) 137,180 in 1803.

Due to the continuation of the de facto STATE OF IDAHO and its Federal compacts our states resources, public education and judicial system depriving due process of law have been impacted greatly. Many of our elected officials throughout each county, have allowed our fundamental rights, privileges and immunities to be placed in jeopardy due to the financial handouts of the corporate special purpose entities of government.

Under the Ninth Amendment of the United States Constitution certain rights shall not be construed to deny or disparage others retained by the people. It is this secured right which allows each individual to protect the States rights under the Tenth Amendment.

Currently the Constitutional Defense Council (IC-67-6301) was initiated to protect the Citizens of Idaho from encroachment of federal rules and regulations. However this has failed, due to the power play of corporate slavery which is governed by Democracy.

Life, Liberty and the Pursuit of Happiness can only be achieved through the prevention of the presumption, a person is not a corporation and is not

governed by administrative policies which allows political correctness to dictate color of law which violates ones substantial rights, privileges and immunities.

Be it therefore resolved:

That the people of the State of Idaho be able to determine which form of government De Jure / Constitutional or De Facto / Corporate (IC-7-1303 (3)) on an individual basis applies to the welfare of their family, community and state. It is the duty of the Governor and Attorney General to allow such action to take place under the State Constitution and IC-73-106, IC-73-116. It is the duty of the people of the state of Idaho to take all steps necessary to re-assert the authority of a republic form of government known as “Constitutional Protection” and to prevent pillaging of our rights, privileges and immunities as guaranteed by Article IV Section IV if the United States Constitution.

Be it further resolved:

That the legislature should coordinate with other states and take any and all steps necessary to reinstate the balance of power between the federal government and the States by repealing the Seventeenth Amendment as non constitutional.

Be it further resolved:

The legislature and the governor are directed by the people of the state of Idaho to establish a Constitutional Round Table to study the impact of rescinding certain federal inimical compacts as well to initiate per county a council to educate elected officers starting with the Sheriff on the reform of corporate policy to comply with constitutional law.

The legislature is requested to redirect a portion of 35% of the one million dollars maintained annually in the Constitutional Defense Council budget to

provide funding, facilities and accommodations in conjunction with protecting the sovereignty of the individual and state.

The Round Table shall include one District judge of each judicial district, selected member of the House of Representatives, selected member of the Senate, all which are non-voting members. A mediator " under IC 53-707", attorney and a Constitutional Citizen of each county, all which are voting members. The Round Table shall be funded for a time not to exceed 3 years unless re-established by the people of the state of Idaho, and will be required to release all agenda’s and reports when requested in the appropriate time, governed by the Freedom of Information Act. Transparency of the Round Table is crucial to the success of liberty throughout our great state.

M. “BT” Esquibel dejure, Citizens of Idaho (U1777)

We are looking for people throughout each county of the state to assist us in our petition and to set up seminars so we may bring the truth to the people of our great state of Idaho.