THE LAW OF THIS CASE:

THE LAW OF THIS CASE IS DECREED AS FOLLOWS:

THE COURT:
COURT. The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. [Black's Law Dictionary, 5th Edition, 318.]

COURT. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority. [Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425]

COURT OF RECORD. This Court is a "court of record" and it is a judicial tribunal having the following attributes "a-e" defined below with authorities cited:

a) A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689] [Black's Law Dictionary, 4th Ed., 425, 426]

b) Proceeding according to the course of common law [Jones v. Jones, 188 Mo. App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689] [Black's Law Dictionary, 4th Ed., 425, 426]

c) Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231] [Black's Law Dictionary, 4th Ed., 425, 426]

d) Has power to fine or imprison for contempt. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

e) Generally possesses a seal. [3 Bl. Comm. 24; 3 Steph. Comm.

383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.] [Black's Law Dictionary, 4th Ed., 425, 426]

The word "magistrate" does not necessarily imply an officer exercising any judicial functions, and might very well be held to embrace notaries and commissioners of deeds. Shultz v. Merchants' Ins. Co., 57 Mo. 336.

…no statutory or constitutional court (whether it be an appellate or supreme court) can second guess the judgment of a court of record. "The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it." Ex BUSTAMONTE, 412 U.S. 218, 255 (1973)]

The acts of a court of record are known by its records. Judicial records are not only necessary but indispensable to the administration of justice. The court judgments can be evidenced only by its records. The acts of a court of record are known by its records alone and cannot be established by parol testimony. The court speaks only through its records, and the judge speaks only through the court. Herren v. People, 147 Colo. 442, 363 P.2d 1044 (1961).

"Inferior courts" are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law." Ex Parte Kearny, 55 Cal. 212; Smith v. Andrews, 6 Cal. 652

The Illinois Constitution of 1818 Art. II sec 25.
No judge of any court of law or equity, secretary of state, attorney general, attorney for the state, register, clerk of any court of record, sheriff, or collector, member of either house of congress, or person holding any lucrative office under the United States, or this, (provided that appointments in the militia, postmasters, or justices of the peace shall not be considered lucrative offices,) shall have a seat in the general assembly; nor shall any person holding an office of honor or profit under the government of the United States, hold any office of honor or profit under the authority of this state.

The terms "equity" and "chancery," "court of equity" and "court of chancery," are constantly used as synonymous in the United States. It is presumed that this custom arises from the circumstance that the equity jurisdiction which is exercised by the courts of the various states is assimilated to that possessed by the English courts of chancery. Indeed, in some of the states it is made identical therewith by statute, so far as conformable to our institutions. Wagner v. Armstrong, 93 Ohio St. 443, 113

N.E. 397, 401.

To constitute a court as a superior court as to any class of actions, within the common-law meaning of that term, its jurisdiction of such actions must be unconditional, so that the only thing requisite to enable the court to take cognizance of them is the acquisition of jurisdiction of the persons of the parties. Simmons v. De Bare, 4 Bosw., N.Y., 547

A petit jury is twelve people made up of the peerage. Arkansas State Citizens.

THE RULES OF THIS COURT ARE AS FOLLOWS:

"Every court has exclusive control of its process, and no other tribunal can properly interfere with it." Nelson v. Brown, 23 Mo, 13; Boyle v. Bloom.

The rules of this court are according to the course of the common law, or unless decreed otherwise by the plaintiff.

The rules shall be construed and administered to secure the just, speedy, and inexpensive determination of the actions, claims, writs, and orders of this Superior Court of Record.

Hearings regarding any writ, action, motion, or other instrument, filed with this court shall only be scheduled by the Plaintiff or special master, be made by a written request, and sealed with the seal of this court.

Orders, writs, judgments, and findings of this court, to be valid, shall be signed by the clerk of the court, and or magistrate or special master of this court, sealed with the seal of this court, and filed with the clerk of the court.

If any claim, statement, fact, or portion in this petition and writ is held inapplicable or not valid, such decision does not affect the validity of any other portion of this petition and writ.

The singular includes the plural and the plural the singular.

The present tense includes the past and future tenses; and the future the present, and the past the present.

The masculine gender includes the feminine and neuter.

The Plaintiffs and Defendants both have the right to make their own visual and audio recordings of the proceedings of this court.

28 U.S. Code 1361 - Action to compel an officer of the United States to perform his duty. The district courts shall have original jurisdiction of any action in the nature of a mandamus

to compel an officer or employee of the United States or an agency thereof to perform a duty owed to the plaintiff.

Special Masters of this court shall have the power to affirm marshals of this court of record, take depositions, conduct hearings, sign writs, hold the seal of this court and affix it to instruments from this court, create instruments in the name of this court, collect and hold instruments, papers, and records of this court, issue orders in the capacity of the sovereign in his absence and with his full authority when the sovereign so allows, and file any of the forgoing with the clerk of said court.

This Superior court and special masters of this Superior court of record have lawful authority to affirm its own marshals to enforce and uphold the orders, fines, writs, judgments, and findings of this Superior court of record.

The sovereign of the court and the special masters of the court shall not be bound by legalese laches.

No statute, act, ordinance, code, proclamation, bill, decree, instrument, deed, policy, contract, bond, letter, pledge, promise, obligation, judgment, hold, custody, consideration, information, reservation, privilege, immunity, suit, prescription, responsibility, administrative management, term, or condition, from any person, or man shall interfere with the law, procedure, judgment, decree, jurisdiction, findings, writs, or orders of this Superior Court of Record, save a twelve member jury of the peerage of the republics of the several united States, or a grand jury of twenty five of the same.

"Litigants can be assisted by unlicensed laymen during judicial proceedings. Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1; v. Wainwright, 372 U.S. 335; Argersinger v. Hamlin, Sheriff 407 U.S. 425

Bradley v. Fisher, 80 U.S. 335, 351 (1872). The Court offered a hypothetical example of the distinction. A judge of a probate court who held a criminal trial would act in clear absence of all jurisdiction over the subject matter, whereas a judge of a criminal court who held a criminal trial for an offense that was not illegal would act merely in excess of his jurisdiction. Id. At 352.

"Statements of counsel in brief or in argument are not facts before the court and are therefore insufficient for a motion to dismiss or for summary judgment." Trinsey v. Pagliaro, D.C. Pa. 229 F. Supp. 647.

SEALING OF COURT RECORDS:
The Court has the inherent power to seal materials submitted to it. See United States v. Wuagneux,,683 F.2d 1343, 1351 (1 11h

Cir. 1982);State of Arizona v. Maypenny, 672 F.2d 76 1, 765 (9th Cir. 1982); Times Mirror Company v. United States, 873 F.2d 1210 (9th Cir. 1989): see also Shea v. Gabriel, 520 F.2d 879 (1 st Cir. 1975); United States v. Hubbard, 650 F.2d 293 (D.C. Cir. 1980); In re Braughton, 520 F.2d 765, 766 (9th Cir. 1 975).

"The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests." In re Knight Pub. Co., 743 F.2d 231, 235 (4th Cir. 1984).

"Sealing is appropriate to protect the reputational and privacy interests of third parties." See , e.g., United States v. Smith, 776 F.2d 1104, 1 1 15 (3d Cir. 1985) (finding that the trial court properly sealed a Bill of Particulars to protect the identities of third party individuals and "the reputational and privacy interests "of those third parties); United States v. Gerena, 869 F.2d 82, 85 (2d Cir. 1989) (finding the need to consider the privacy interests of innocent third parties that may be harmed by disclosure); United States v. Bracy, 67 F.3d 1421, 1426-27 (9th Cir. 1995) (finding that the need to protect the safety of potential witnesses justified scaling of indictment).

CONTROLLING TERMS AND DEFINITIONS:

All definitions, words, phrases and terms in all actions, declarations, motions, statements, depositions, answers, demurs, orders, findings, facts, opinions, writs, documents, and judgments, filed in this court of record, shall be controlled by the definitions stated for same in "A LAW DICTIONARY ADAPTED TO THE CONSTITUTION AND LAWS OF THE UNITED STATES OF AMERICA AND OF THE SEVERAL STATES OF THE AMERICAN UNION With References to the Civil and Other Systems of Foreign Law by John Bouvier, 1856 Ed." unless specifically stated or decreed otherwise by the Plaintiff.

All words, in all documents filed with this court of record, or stated in open court, or in deposition, are as the Plaintiff, in this court of record, understands them.

SOVEREIGNTY; RIGHTS:

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

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

"'Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree." Moscow Fire Ins. Co. of Moscow, Russia v. Bank

of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903.

"The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative." Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829). 21 Am. Dec. 89.

A consequence of this prerogative is the legal *ubiquity* of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. (Fortesc.c.8. 2Inst.186) His judges are the mirror by which the king's image is reflected. 1 Blackstone's Commentaries, 270, Chapter 7, Section 379.

"Our government is founded upon compact. Sovereignty was, and is, in the people." Glass v. Sloop Betsey, Supreme Court, 1794.

"The governments are but trustees acting under derived authority and have no power to delegate what is not delegated to them. But the people, as the original fountain might take away what they have delegated and entrust to whom they please… The sovereignty in every state resides in the people of the state and they may alter or change their form of government at their own pleasure." Luther v. Borden, 48 U.S.1, 12 L. Ed.581.

" 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." Yick Wo v. Hopkins, 118 U.S. 356, page 370.

"Formality should never be permitted to work injustice or deny substantial right." Wolf v. Cook, 40 Fed R, 482.

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

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

"The people, or sovereign are not bound by general words in statutes, restrictive of prerogative right, title or interest, unless expressly named. Acts of limitation do not bind the King or the people. The people have been ceded all the rights of the King, the former sovereign ... It is a maxim of the common law,

that when an act is made for the common good and to prevent injury, the King shall be bound, though not named, but when a statute is general and prerogative right would be divested or taken from the King (or the People) he shall not be bound." The People v. Herkimer, 4 Cowen (NY) 345, 348 (1825)

"A Sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends." Kawananakoa v. Polyblank, 205 U.S. 349, 353, 27 S. Ct. 526, 527, 51 L. Ed. 834 (1907). Kawananakoa v. Polyblank, 205 U.S. 349, 353, 27 S. Ct. 526, 527, 51 L. Ed. 834 (1907)

"A grant of corporate existence is a grant of special privileges to the corporators enabling them to act for certain designated purposes as a single individual, and exempting them (unless otherwise specially provided) from individual liability. The corporation, being the mere creation of local law, can have no legal existence beyond the limits of the sovereignty where created. It must dwell in the place of its creation, and cannot migrate to another sovereignty." (Paul v. Virginia, (1868) 8 Wall U.S. 181.)

"The term 'citizen' as understood in our law, is precisely analogous to the term 'subject' in the common law, and the change of phrase has entirely resulted from the change of government. The sovereignty has been transferred from one man to the collective body of the people and he who before was a 'subject of the King' is now a 'citizen of the state.'"(State v. Manuel, (1838) 4 Dev. & B.L. (N.Car.) 26; quoted in U.S. v. Rhodes (1866) 1 Abb. (U.S.) 39.)

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

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

"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.

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

"The practice of Law is an occupation of common right, the same being a secured liberty right." (Sims v. Aherns, 271 S.W. 720 (1925))

Bennett v. Boggs, 1 Baldw 60, "Statutes that violate the plain

and obvious principles of common right and common reason are null and void"

No state may convert a secured liberty right into a privilege, issue a license and fee for it. (Murdock vs Pennsylvania 319 US 105 (1943))

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [Constitution for the United States of America, Article VI, Clause 2.]

The bill of rights of The United States of America, Article IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The bill of rights of The United States of America, Article X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

"Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable Rights, as sacred as the Right to private property …and is regarded as inalienable." 16 C.J.S., Constitutional Law, Sect. 202, p.287.

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

Under the doctrine of trespass ab initio, where a party exceeds an authority given by law, the party loses the benefit of the justification and is considered a trespasser ab initio, although to a certain extent the party followed the authority given. The law will then operate retrospectively to defeat all acts done under the color of lawful authority. *American Mortg. Corp. v. Wyman 41 S.W.2d 270 (Tex. Civ. App. Austin 1931)*

Thus, a person who enters on real property lawfully pursuant to a conditional or restricted consent and remains

after his or her right to possession terminates and demand is made for his or her removal becomes a trespasser from the beginning, and the law will then operate retrospectively to defeat all acts done by him under color of lawful authority. *Williams v. Garnett, 608 S.W.2d 794 (Tex. Civ. App. Waco 1980).*

"Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." Murdock v. Penn., 319 US 105

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." Sherar v. Cullen, 481 F. 946.

"The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of practice." Davis v. Wechsler, 263 US 22

A state official who violates federal law is generally stripped of official or representative character and may be personally liable for their conduct; a state cannot cloak an officer in its sovereign immunity. Ex Parte Young, 209 U.S. 123(1908).

Every people unlawfully committed, detained, confined or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint.

RESERVATION OF SOVEREIGNTY: "Even if the Tribe's power to tax were derived solely from its power to exclude non-Indians from the reservation, the Tribe has the authority to impose the severance tax. Non-Indians who lawfully enter tribal lands remain subject to a tribe's power to exclude them, which power includes the lesser power to tax or place other conditions on the non-Indian's conduct or continued presence on the reservation. The Tribe's role as commercial partner with petitioners should not be confused with its role as sovereign. It is one thing to find that the Tribe has agreed to sell the right to use the land and take valuable minerals from it, and quite another to find that the Tribe has abandoned its sovereign powers simply because it has not expressly reserved them through a contract. To presume that a sovereign forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head. Merrion, Et Al, dba Merrion & Bayless, Et Al v. Jicarilla Apache Tribe, Et Al. (1982) 455 U.S. 130, 131, 102 S.Ct. 894, 71 L.Ed.2d 21 (1981)

"A constitution is designated as a supreme enactment, a fundamental act of legislation by the people of the state. A

constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior authority." Ellingham v. Dye, 178 Ind. 336; 99 NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; Sage v. New York, 154 NY 61; 47 NE 1096

"Common law and constitutional principles of governmental or sovereign immunity have never permitted government agents to commit trespasses in violation of property rights." Little v. Barreme 2 Cranch (6 US) 170; 2 L Ed 243 (1804); Wise v. Withers, 3 Cranch (7 US) 331; 2 L Ed 457 (1806); Osborn v. Bank of United States, 9 Wheat (22 US) 738; 6 L Ed 204 (1824); Mitchell v. Harmony, 13 How (54 US) 115; 14 L Ed 75 (1852); Bates v. Clark, 95 US 204; L Ed 471 (1877)

REPUBLICAN GOVERNMENT: One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. [In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happensett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627. Black's Law Dictionary, 5th Ed. 626.]

We the people of the Territory of Arkansas by our Representatives in Convention Assembled at Little Rock on Monday the 4th day of January A. D. 1836 and of the Independence of the United States the sixtieth year having the rights of admission into the Union as one of the United States of America, consistent with the Federal Constitution and by virtue of the Treaty of Cession by France to the United States of the Province of Louisiana, in order to Secure to ourselves and our posterity the enjoyment of all the rights of life liberty and property and the free pursuit of happiness do mutually agree with each other to form ourselves into a free and independent state….

Effect of Congressional Consent:
Where required, the nature of the compact changes significantly once congressional consent is granted. It no longer stands solely as an agreement between the states but is transformed into the "law of the United States" under the law of the union doctrine. See, Cuyler v. Adams, 449 U.S. 433, 440 (1981); in accord Energy Solutions, LLC v. State of Utah et al., 625 F.3d 1261, 1271 (2010). Therefore, Congressional consent "transforms the States' agreement into federal law under the Compact Clause." Id. Although articulated in Cuyler, the rule that congressional consent transforms the states' agreement into federal law has been recognized for some time. See, Delaware River Joint Toll Bridge Comm'n v. Colburn, 310 U.S. 419, 427 (1940) ("In People v. Central Railroad, 79 U.S. (12 Wall.) 455, jurisdiction of this Court to review a judgment of a state court construing a compact

between states was denied on the ground that the Compact was not a statute of the United States and that the construction of the Act of Congress giving consent was in no way drawn in question, nor was any right set up under it. This decision has long been doubted . . . and we now conclude that the construction of such a compact sanctioned by Congress by virtue of Article I, § 10, Clause 3 of the Constitution, involves a federal 'title, right, privilege or immunity'.]"). For example, the Interstate Agreement on Detainers (to which the United States is also a signatory) is considered a law of the United States whose violation is grounds for habeas corpus relief under 28 U.S.C. § 2254. See, Bush v. Muncy, 659 F.2d 402, 407 (4 Cir. 1981), cert. denied, 455 U.S. 910 (1982)

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

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

"The citizen cannot complain, because he has **voluntarily** submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and, within their respective spheres, must pay the penalties which each exacts for disobedience to its laws." **U.S. v. Cruikshank, 92 542, at page 551**

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

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

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

"Taxpayers are not [de jure] State Citizens." Belmont v. Town of Gulfport, 122 So. 10.

State v. Manuel, 20 NC 122: "the term 'citizen' in the United States, is analogous to the term `subject' in common law; the change of phrase has resulted from the change in government."

Supreme Court: Jones v. Temmer, 89 F. Supp 1226:
"The privileges and immunities clause of the 14th Amendment protects very few rights because it neither incorporates the Bill of Rights, nor protects all rights of individual citizens. Instead this provision protects only those rights peculiar to being a citizen of the federal government; it does not protect those rights which relate to state citizenship."

Supreme Court: US vs. Valentine 288 F. Supp. 957:
"The only absolute and unqualified right of a United States citizen is to residence within the territorial boundaries of the United States."

The Amendment (14th) recognized that "an individual can be a Citizen of one of the several states without being a citizen of the United States," (U.S. v. Anthony, 24 Fed. Cas. 829, 830), or, "a citizen of the United States without being a Citizen of a state." (Slaughter-House Cases, supra; cf. U.S. v. Cruikshank, 92 US 542, 549 (1875)).

A more recent case is Crosse v. Bd. of Supervisors, 221 A.2d 431 (1966) which says: "Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state." Citing U.S. v. Cruikshank, supra.

The courts presume you to be a federal citizen, without even telling you that there are different classes of citizens. It is up to you dispute this. Use your passport and the actual birth certificate. See...

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

"There are, then, under our republican form of government, two classes of citizens, one of the United States and one of the state".
Gardina v. Board of Registrars of Jefferson County, 160 Ala. 155; 48 So. 788 (1909)

"The governments of the United States and of each state of the several states are distinct from one another. The rights of a citizen under one may be quite different from those which he has under the other".
Colgate v. Harvey, 296 U.S. 404; 56 S.Ct. 252 (1935)

"...rights of national citizenship as distinct from the fundamental or natural rights inherent in state citizenship".
Madden v. Kentucky, 309 U.S. 83: 84 L.Ed. 590 (1940)

"There is a difference between privileges and immunities belonging to the citizens of the United States as such, and those belonging to the citizens of each state as such".
Ruhstrat v. People, 57 N.E. 41 (1900)

"Therefore, the U.S. citizens residing in one of the states of the union, are classified as property and franchises of the federal government as an "individual entity"", Wheeling Steel Corp. v. Fox, 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773

"...the first eight amendments have uniformly been held not to be protected from state action by the privilege and immunities clause [of the 14th Amendment]."
Hague v. CIO, 307 US 496, 520

"The right to trial by jury in civil cases, guaranteed by the 7th Amendment...and the right to bear arms guaranteed by the 2nd Amendment...have been distinctly held not to be privileges and immunities of citizens of the United States guaranteed by the 14th Amendment...and in effect the same decision was made in respect of the guarantee against prosecution, except by indictment of a grand jury, contained in the 5th Amendment...and in respect of the right to be confronted with witnesses, contained in the 6th Amendment...it was held that the indictment, made indispensable by the 5th Amendment, and trial by jury guaranteed by the 6th Amendment, were not privileges and immunities of citizens of the United States, as those words were used in the 14th Amendment. We conclude, therefore, that the exemption from compulsory self-incrimination is not a privilege or immunity of National citizenship guaranteed by this clause of the 14th Amendment."
Twining v. New Jersey, 211 US 78, 98-99

"The acceptance of a license, in whatever form, will not impose upon the licensee an obligation to respect or to comply with any provision of the statute or with the regulations prescribed that are repugnant to the Constitution of the United States." W. W. CARGILL CO. v. STATE OF MINNESOTA, 180 U.S. 452 (1901) 180 U.S. 452

"A "US Citizen" upon leaving the District of Columbia becomes involved in "interstate commerce", as a "resident" does not have the common-law right to travel, of a Citizen of one of the several states." Hendrick v. Maryland S.C. Reporter's Rd. 610-625. (1914)

The persons declared to be citizens are "all persons born or naturalized in the United States, and subject to the jurisdiction thereof." The evident meaning of these last words is not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their political jurisdiction and owing them direct and immediate allegiance. And

the words relate to the time of birth in the one case, as they do to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired. Elk v. Wilkins, 112 U.S. 94 (1884)

"The right to trial by jury in civil cases, guaranteed by the Seventh Amendment…and the right to bear arms guaranteed by the Second Amendment…have been distinctly held not to be privileges and immunities of citizens of the United States guaranteed by the Fourteenth Amendment…and in effect the same decision was made in respect of the guarantee against prosecution, except by indictment of a grand jury, contained in the Fifth Amendment…and in respect of the right to be confronted with witnesses, contained in the Sixth Amendment…it was held that the indictment, made indispensable by the Fifth Amendment, and the trial by jury guaranteed by the Sixth Amendment, were no privileges and immunities of citizens of the United States, as those words were used in the fourteenth Amendment. We conclude, therefore, that the exemption from compulsory self-incrimination is not a privilege of immunity of national citizenship guaranteed by this clause of the Fourteenth Amendment." Twining v. New Jersey, 211 US 78, 98-99.

As Mr. Chief Justice Marshall said in Cohen v. Virginia, "It is most true that this Court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgment and conscientiously to perform our duty" Cohen v. Virginia, 19 U. S. 264, 405

"No white person born within the limits of the United States, and subject to their jurisdiction, or born without those limits, and subsequently naturalized under their laws, owes the status of citizenship to the recent amendments to the Federal Constitution. The history and aim of the Fourteenth Amendment is well known, and the purpose had in view in its adoption well understood. Van Valkenberg v. Brown, 43 Cal. 43

"As a practical fact, the sovereignty is vested in those persons who by the constitution of the State are allowed to exercise the elective franchise" Cooley, Const. Lim. 29.

"In the original States, and all others subsequently admitted to the Union, the power to amend or revise their constitutions resides in the great body of the people as an organized body politic, who, being vested with the ultimate sovereignty, and the source of all State authority, have power to control and alter the law which they have made at their will. But the people in the legal sense, must be understood to be those who, by the existing constitution, are clothed with political rights, and who, while that instrument remains, will be the sole organs through which the will of the body politic can be expressed" Cooley, Const. Lim. 31.

U.S. District Court, Judge Babcock stated,
"The privileges and immunities clause of the Fourteenth Amendment protects very few rights because it neither incorporates any of the Bill of Rights nor protects all rights of individual citizens. "Instead, this provision protects only those rights peculiar to being a citizen of the federal government; it does not protect those rights which relate to state citizenship. See Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873). 829 F.Supp. 1226, 1232, 1233 (1993)

"Taxpayers are not [de jure] State Citizens." Belmont v. Town of Gulfport, 122 So. 10.

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

UNITED STATES IS A CORPORATION:
"THE UNITED STATES GOVERNMENT IS A FOREIGN CORPORATION WITH RESPECT TO A STATE." Volume 20: Corpus Juris Sec. §1785: NY re: Merriam 36 N.E. 505 1441 S.Ct.1973, 41 L.Ed.287.

HABEAS CORPUS:
Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf. [28 USC Sec. 2242]

APPLICATION FOR WRIT [28 USC Sec. 2242]

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.
It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known. It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.
If addressed to the Supreme Court, a justice thereof or a

circuit judge shall state the reasons for not making application to the district court of the district in which the applicant is held.

ISSUANCE OF WRIT; RETURN; HEARING; DECISION [28 USC Sec. 2243, with modification]

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day may be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.

Constraint by Reasonable Apprehension of Force. To justify issuance of the writ of habeas corpus, constraint need not consist of actual physical force. Conduct inducing a reasonable apprehension of force may be sufficient to restrain one of his/her liberty (In re Rider (1920) 50 al App 797, 802, 195 P. 965).

Constructive Custody. The availability of the writ of habeas corpus does not depend on the actual detention of petitioner in prison. It is also available where petitioner is constructively in custody and subject to restraint (In re Petersen (1958) 51 Cal2d 177, 181, 331 P2d 24).

Unlawful Restraint Within Lawful Custody. The writ of habeas corpus may be sought by one lawfully in custody for the purpose of vindicating rights to which he/she is entitled even in confinement. (In re Allison (1967) 66 Cal2d 282, 285 57 CalRptr 593, 425 P2d 193).

Petitioner as normally bearing burden of proving facts on which claim for relief is based, but if possibility that increased or additional charges violating due process supporting charge of prosecutorial vindictiveness is at issue, petitioner as only needing to demonstrate facts giving rise to presumption of vindictiveness at which time, even on habeas corpus, burden shifts to people to rebut presumption. In re Bower (1985) 38 Cal3d 865, 872, 215 CalRptr 267, 700 P2d 1269.

Strict Compliance with Statutory Prerequisites. Where a person is committed pursuant to a statutory civil commitment proceeding which is in the nature of a special civil proceeding unknown at common law, jurisdiction to enter an order of commitment depends on strict compliance with each of the statutory prerequisites or maintenance of the proceeding, and the requirement of the statute must be at least substantially, if not strictly, followed in order to give the court hearing the proceedings jurisdiction. The lack of jurisdiction entitles the petitioner to relief by writ of habeas corpus. (In re Raner (1963) 59 Cal2d 635, 639, 30 CalRptr 814, 301 P2d 638).

Broad Meaning of Jurisdiction on Habeas Corpus. For purposes of the writ of habeas corpus, as for purposes of prohibition or certiorari, the term "jurisdiction" is not limited to its fundamental meaning, and in such proceedings judicial acts may be restrained or annulled if they are determined to be in excess of the court's powers as defined by constitutional provision, statute, or rules developed by courts (In re Zerbe (1964) 60 Cal2d 666, 667-668, 36 CalRptr 286, 388 P2d 192).

"Jurisdiction of the person and of the subject matter is not alone conclusive [and] the jurisdiction of the court to make or render the order or judgment" depends upon due observance of the constitutional rights of the accused.
25 Am.Jur., Habeas Corpus, sec. 27, p. 161.
See also Palmer v. Ashe, [342 U.S. 134, 72 S.Ct. 191, 96 L.Ed. 154].

The constitutional and statutory provisions governing habeas corpus cannot be ignored, minimized, or rendered ineffective by the courts, or at all. Stilley v. Tinsley, 153 Colo. 66, 385 P.2d 677 (1963).

Writ of habeas corpus traditionally has been accepted as the specific instrument to obtain release from unlawful confinement. 28 U.S.C.A. ß 2254(a). Wilkinson v. Dotson, 125 S. Ct. 1242, 161 L. Ed. 2d 253 (U.S. 2005).

At the absolute minimum, the Suspension Clause protects the writ of habeas corpus as it existed in 1789. U.S. Const. Art. 1, ß 9, cl. 2. I.N.S. v. St. Cyr, 121 S. Ct. 2271, 150 L. Ed. 2d 347 (U.S. 2001).

39 Am Jur 2d Habeas Corpus and Postconviction Remedies ß 1

"Habeas corpus" is a generic term, [n1] which was applied under English statutory and common law to several different kinds of writs, a number of which are in use in the American legal system. [n2] Much the most important of these is the writ of habeas corpus ad subjiciendum, which is the remedy provided for a person illegally deprived of his liberty. [n3] Where the term "habeas corpus" is used alone, it is the writ of habeas corpus ad subjiciendum, sometimes known as the "Great Writ," [n4] that is generally meant; this is the sense in which the term was known at early common law [n5] and in which it is used in the Constitution of the United States. [n6]

The writ of habeas corpus ad subjiciendum is referred to as a "high prerogative writ," [n7] the vital purposes of which are to obtain immediate relief from illegal confinement, [n8] or to deliver someone from unlawful custody. [n9] Considered the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action, [n10] the writ serves as a procedural device for subjecting executive, judicial, or private restraints on liberty to judicial scrutiny; where it is available, it assures, among other things, that a prisoner may require his jailer to justify the detention under the law. [n11]

The writ of habeas corpus cum causa, sometimes called habeas corpus ad faciendum et recipiendum, is another of the forms, and a rather unusual form, of the writ of habeas corpus that existed under English law. [n22] It issued where a person was sued in some inferior jurisdiction and wanted to remove the action to a superior court. [n23] The writ of habeas corpus cum causa, whose existence has been recognized by at least one early American court, [n24] is said to be grantable of common right without any motion in court, and to instantly supersede all proceedings in the court below. [n25]

n1 Ex parte Bollman, 8 U.S. 75, 2 L. Ed. 554 (1807).
n2 Carbo v. U. S., 364 U.S. 611, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961); Ex parte Bollman, 8 U.S. 75, 2 L. Ed. 554 (1807).
n3 Carbo v. U. S., 364 U.S. 611, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961).
n4 Stone v. Powell, 428 U.S. 465, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976), reh'g denied, 429 U.S. 874, 97 S. Ct. 197, 50 L. Ed. 2d 158 (1976) and reh'g denied, 429 U.S. 874, 97 S. Ct. 197, 50 L. Ed. 2d 158 (1976).
n5 Carbo v. U. S., 364 U.S. 611, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961).
n6 Ex parte Bollman, 8 U.S. 75, 2 L. Ed. 554 (1807).

n7 In re Renfrow, 247 N.C. 55, 100 S.E.2d 315 (1957).
n8 Olson v. Anstreicher, 327 A.2d 603 (Del. 1974); Jolly v. Avery, 220 Kan. 692, 556 P.2d 449 (1976); Chamblee v. Chamblee, 248 S.W.2d 422 (Ky. 1952); Snyder on Behalf of Snyder v. Talbot, 652 A.2d 100 (Me. 1995); In re Lockhart, 157 Ohio St. 192, 47 Ohio Op. 129, 105 N.E.2d 35 (1952); Adams v. Circuit Court of Randolph County, 173 W. Va. 448, 317 S.E.2d 808 (1984).
The unique purpose of habeas corpus is to release the applicant from unlawful confinement. Allen v. McCurry, 449 U.S. 90, 101 S. Ct. 411, 66 L. Ed. 2d 308 (1980).
The essence of a writ of habeas corpus is the immediate release of a party deprived of his personal freedom. Stokes v. Superintendent, Massachusetts Correctional Inst., Walpole, 389 Mass. 883, 452 N.E.2d 1123 (1983).
Habeas corpus provides a special and extraordinary legal remedy for illegal detention. Valle v. Commissioner of Correction, 244 Conn. 634, 711 A.2d 722 (1998).
n9 Fleury v. Langlois, 94 R.I. 412, 181 A.2d 244 (1962).
The writ of habeas corpus may be used for the purpose of effecting a speedy release of persons who are or illegally detained from the control of those who are entitled to the custody of them. Ex parte McGuire, 135 Cal. 339, 67 P. 327 (1902); Porter v. Porter, 60 Fla. 407, 53 So. 546 (1910).
n10 Harris v. Nelson, 394 U.S. 286, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969), reh'g denied, 394 U.S. 1025, 89 S. Ct. 1623, 23 L. Ed. 2d 50 (1969).
n11 Peyton v. Rowe, 391 U.S. 54, 88 S. Ct. 1549, 20 L. Ed. 2d 426 (1968).
n22 Ex parte Perrin, 124 N.J.L. 280, 11 A.2d 412 (N.J. Sup. Ct. 1940).
n23 Ex parte Bollman, 8 U.S. 75, 2 L. Ed. 554 (1807) (pointing out that under common law, the writ commanded the inferior judges to produce the body of the defendant and to state the day and cause of his caption and detainer); Ex parte Perrin, 124 N.J.L. 280, 11 A.2d 412 (N.J. Sup. Ct. 1940).
n24 Ex parte Perrin, 124 N.J.L. 280, 11 A.2d 412 (N.J. Sup. Ct. 1940).
n25 Ex parte Bollman, 8 U.S. 75, 2 L. Ed. 554 (1807).
39 Am Jur 2d Habeas Corpus and Postconviction Remedies ß 1

39 Am Jur 2d Habeas Corpus and Postconviction Remedies ß 6
A proceeding for the purpose of restoring a person held under illegal restraint to liberty must be summary in order to be effectual, [n67] and in fact, habeas corpus has been classified as a summary remedy. [n68] It is analogous to a proceeding in rem, where instituted for the sole purpose of having the person restrained produced before the judge in order that the cause of his detention may be inquired into and his status fixed. [n69]
Moreover, the writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody. [n70] In a habeas corpus proceeding, the only parties before the trial court are the petitioner and the person holding the petitioner in custody, and

the only question to be resolved is whether the custodian has authority to deprive the petitioner of his liberty. [N71]

n67 Ex parte Brugneaux, 51 Wyo. 103, 63 P.2d 800 (1937).
The writ of habeas corpus must be administered with initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected. Harris v. Nelson, 394 U.S. 286, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969), reh'g denied, 394 U.S. 1025, 89 S. Ct. 1623, 23 L. Ed. 2d 50 (1969).

The fundamental purpose of writ of habeas corpus is to benefit prisoners, and the writ is designed to accomplish speedy inquiry into allegedly unlawful detention through a summary judicial proceeding. In Interest of Stevens, 652 A.2d 18 (Del. 1995).

The writ of habeas corpus, the primary instrument for safeguarding individual liberty against unlawful state action, is designed to provide a speedy and efficient medium for judicial inquiry. State ex rel. Clark v. Marullo, 352 So. 2d 223 (La. 1977).
n68 Wilkinson v. Lee, 138 Ga. 360, 75 S.E. 477 (1912); Ex parte Reynolds, 48 Okla. Crim. 189, 290 P. 357 (1930); Unnamed Prisoners of Temporary Waterbury Correctional Facility v. Maranville, 154 Vt. 279, 576 A.2d 132 (1990).

The federal habeas statute provides for a swift, flexible, and summary determination of a state prisoner's claim. Preiser v. Rodriguez, 411 U.S. 475, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973) (overruling on other grounds recognized by, Picrin-Peron v. Rison, 930 F.2d 773 (9th Cir. 1991)) and (overruling on other grounds recognized by, Deters v. Collins, 985 F.2d 789 (5th Cir. 1993)).
n69 Simmons v. Georgia Iron & Coal Co., 117 Ga. 305, 43 S.E. 780 (1903).
n70 Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973).

Habeas Corpus Act of 1867: (sess. ii, chap. 28, 14 Stat. 385) is an act of Congress that significantly expanded the jurisdiction of federal courts to issue writs of habeas corpus.[1] Passed February 5, 1867, the Act amended the Judiciary Act of 1789 to grant the courts the power to issue writs of habeas corpus "in all cases where any person may be restrained of their liberty in violation of the constitution, or any treaty or law of the United States."[2] Prior to the Act's passage, prisoners in the custody of one of the states who wished to challenge the legality of their detention could petition for a writ of habeas corpus only in state courts; the federal court system was barred from issuing writs of habeas corpus in their cases.[1][3] The Act also permitted the court "to go beyond the return" and question the truth of the jailer's stated justification for detaining the petitioning prisoner, whereas prior to the Act courts were technically bound to accept the jailer's word that the prisoner was actually being held for the reason stated.[4] The Act largely restored habeas corpus following its 1863 suspension by Congress, ensuring that anyone arrested after its passage could challenge their detention in the federal courts, but denied habeas

relief to anyone who was already in military custody for any military offense or for having aided the Confederacy.[21]
Another feature of the 1867 Act is that it extended the reach of habeas to include interpersonal detention as well as official detainment:
"in addition to the authority already conferred, [US Courts, and judges and justices therein] shall have power to grant writs of habeas corpus in all cases where any person may be restrained of their liberty in violation of the constitution, or of any treaty or law of the United States; and it shall be lawful for such person so restrained of their liberty to apply to either of said justices or judges for a writ of habeas corpus...and shall set forth the facts concerning the detention of the party applying, in whose custody they are detained, and by virtue of what claim or authority, if known..."[21]

EX-PARTE MILLIGAN,71 U.S. 2(1866:
It is unconstitutional to try civilians by military tribunals unless there is no civilian court available.
Circuit Courts, as well as the judges thereof, are authorized, by the fourteenth section of the Judiciary Act, to issue the writ of habeas corpus for the purpose of inquiring into the cause of commitment, and they have jurisdiction, except in cases where the privilege of the writ is suspended, to hear and determine the question whether the party is entitled to be discharged.
2. The usual course of proceeding is for the court, on the application of the prisoner for a writ of habeas corpus, to issue the writ, and, on its return, to hear and dispose of the case; but where the cause of imprisonment is fully shown by the petition, the court may, without issuing the writ, consider and determine whether, upon the facts presented in the petition, the prisoner, if brought before the court, would be discharged.
3. When the Circuit Court renders a final judgment refusing to discharge the prisoner, he may bring the case here by writ of error, and, if the judges of the Circuit Court, being opposed in opinion, can render no judgment, he may have the point upon which the disagreement happens certified to this tribunal.
4. A petition for a writ of habeas corpus, duly presented, is the institution of a cause on behalf of the petitioner, and the allowance or refusal of the process, as well as the subsequent disposition of the prisoner is matter of law, and not of discretion.
5. A person arrested after the passage of the act of March 3d, 1863, "relating to habeas corpus and regulating judicial proceedings in certain cases," and under the authority of said act, was entitled to his discharge if not indicted or presented by the grand jury convened at the first subsequent term of the Circuit or District Court of the United States for the District.
6. The omission to furnish a list of the persons arrested to the judges of the Circuit or District Court as provided in the said act did not impair the right of said person, if not indicted or presented, to his discharge.
7. Military commissions organized during the late civil war, in a State not invaded and not engaged in rebellion, in which the Federal

courts were open, and in the proper and unobstructed exercise of their judicial functions, had no jurisdiction to try, convict, or sentence for any criminal offence, a citizen who was neither a resident of a rebellious State nor a prisoner of war, nor a person in the military or naval service. And Congress could not invest them with any such power.

8. The guaranty of trial by jury contained in the Constitution was intended for a state of war, as well as a state of peace, and is equally binding upon rulers and people at all times and under all circumstances.

9. The Federal authority having been unopposed in the State of Indiana, and the Federal courts open for the trial of offences and the redress of grievances, the usages of war could not, under the Constitution, afford any sanction for the trial there of a citizen in civil life not connected with the military or naval service, by a military tribunal, for any offence whatever.

10. Cases arising in the land or naval forces, or in the militia in time of war or public danger, are excepted from the necessity of presentment or indictment by a grand jury, and the right of trial by jury in such cases is subject to the same exception.

Page 71 U. S. 4

11. Neither the President nor Congress nor the Judiciary can disturb any one of the safeguards of civil liberty incorporated into the Constitution except so far as the right is given to suspend in certain cases the privilege of the writ of habeas corpus.

12. **A citizen not connected with the military service and a resident in a State where the courts are open and in the proper exercise or their jurisdiction cannot, even when the privilege of the writ of habeas corpus is suspended, be tried, convicted, or sentenced otherwise than by the ordinary courts of law.**

13. Suspension of the privilege of the writ of habeas corpus does not suspend the writ itself. The writ issues as a matter of course, and, on its return, the court decides whether the applicant is denied the right of proceeding any further.

14. **A person who is a resident of a loyal State, where he was arrested, who was never resident in any State engaged in rebellion, nor connected with the military or naval service, cannot be regarded as a prisoner of war.**

This case came before the court upon a certificate of division from the judges of the Circuit Court for Indiana, on a petition for discharge from unlawful imprisonment.

The case was thus:

An act of Congress -- the Judiciary Act of 1789, [Footnote 1] section 14 -- enacts that the Circuit Courts of the United States "Shall have power to issue writs of habeas corpus. And that either of the justices of the Supreme Court, as well as judges of the District Court, shall have power to grant writs of habeas corpus for the purpose of an inquiry into the cause of commitment. *Provided,*" &C.

Another act -- that of March 3d, 1863, [Footnote 2] "relating to habeas corpus, and regulating judicial proceedings in certain cases" -- an act passed in the midst of the Rebellion -- makes various provisions in regard to the subject of it.

The first section authorizes the suspension, during the Rebellion,

of the writ of habeas corpus, throughout the United States, by the President.

Two following sections limited the authority in certain respects. The second section required that lists of all persons, being citizens of States in which the administration of the laws had continued unimpaired in the Federal courts, who were then held, or might thereafter be held, as prisoners of the United States, under the authority of the President, otherwise than as prisoners of war, should be furnished by the Secretary of State and Secretary of War to the judges of the Circuit and District Courts. These lists were to contain the names of all persons, residing within their respective jurisdictions, charged with violation of national law. And it was required, in cases where the grand jury in attendance upon any of these courts should terminate its session without proceeding by indictment or otherwise against any prisoner named in the list, that *the judge* of the court should forthwith make an order that such prisoner, desiring a discharge, should be brought before him or the court to be discharged, on entering into recognizance, if required, to keep the peace and for good behavior, or to appear, as the court might direct, to be further dealt with according to law. Every officer of the United States having custody of such prisoners was required to obey and execute *the judge's* order, under penalty, for refusal or delay, of fine and imprisonment.

The third section enacts, in case lists of persons other than prisoners of war then held in confinement or thereafter arrested, should not be furnished within twenty days after the passage of the act, or, in cases of subsequent arrest, within twenty days after the time of arrest, that any citizen, after the termination of a session of the grand jury without indictment or presentment, might, by petition alleging the facts and verified by oath, obtain *the judge's* order of discharge in favor of any person so imprisoned, on the terms and conditions prescribed in the second section.

This act made it the duty of the District Attorney of the United States to attend examinations on petitions for discharge.

By proclamation, [Footnote 3] dated the 15th September following, the President, reciting this statute, suspended the privilege of the writ in the cases where, by his authority, military, naval, and civil officers of the United States "hold persons in their custody either as prisoners of war, spies, or aiders and abettors of the enemy, . . . or belonging to the land or naval force of the United States, or otherwise amenable to military law, or the rules and articles of war, or the rules or regulations prescribed for the military or naval services, by authority of the President, or for resisting a draft, or for any other offence against the military or naval service."

With both these statutes and this proclamation in force, Lamdin P. Milligan, a citizen of the United States, and a resident and citizen of the State of Indiana, was arrested on the 5th day of October, 1864, at his home in the said State, by the order of Brevet Major-General Hovey, military commandant of the District of Indiana, and by the same authority confined in a military prison at or near Indianapolis, the capital of the State. On the 21st day of the same month, he was placed on trial before a "military commission," convened at Indianapolis, by order of the said General, upon the

following charges, preferred by Major Burnett, Judge Advocate of the Northwestern Military Department, namely:
1. "Conspiracy against the Government of the United States;"
2. "Affording aid and comfort to rebels against the authority of the United States;"
3. "Inciting insurrection;"
4. "Disloyal practices;" and
5. "Violation of the laws of war."
Under each of these charges, there were various specifications. The substance of them was joining and aiding, at different times between October, 1863, and August, 1864, a secret society known as the Order of American Knights or Sons of Liberty, for the purpose of overthrowing the Government and duly constituted authorities of the United States; holding communication with the enemy; conspiring to seize munitions of war stored in the arsenals; to liberate prisoners of war, &c.; resisting the draft, &c.; . . .
"at a period of war and armed rebellion against the authority of the United States, at or near Indianapolis [and various other places specified] in Indiana, a State within the military lines of the army of the United States and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy."
These were amplified and stated with various circumstances.
An objection by him to the authority of the commission to try him being overruled, Milligan was found guilty on all the charges, and sentenced to suffer death by hanging, and this sentence, having been approved, he was ordered to be executed on Friday, the 19th of May, 1865.
On the 10th of that same May, 1865, Milligan filed his petition in the Circuit Court of the United States for the District of Indiana, by which, or by the documents appended to which as exhibits, the above facts appeared. These exhibits consisted of the order for the commission; the charges and specifications; the findings and sentence of the court, with a statement of the fact that the sentence was approved by the President of the United States, who directed that it should "be carried into execution without delay;" all "by order of the Secretary of War."
The petition set forth the additional fact that, while the petitioner was held and detained, as already mentioned, in military custody (and more than twenty days after his arrest), a grand jury of the Circuit Court of the United States for the District of Indiana was convened at Indianapolis, his said place of confinement, and duly empaneled, charged, and sworn for said district, held its sittings, and finally adjourned without having found any bill of indictment, or made any presentment whatever against him. That at no time had he been in the military service of the United States, or in any way connected with the land or naval force, or the militia in actual service; nor within the limits of any State whose citizens were engaged in rebellion against the United States, at any time during the war, but, during all the time aforesaid, and for twenty years last past, he had been an inhabitant, resident, and citizen of Indiana. And so that it had been "wholly out of his power to have acquired belligerent rights or to have placed himself in such relation to the government as to have enabled him to violate the

laws of war." The record, in stating who appeared in the Circuit Court, ran thus:

"Be it remembered, that on the 10th day of May, A.D. 1865, in the court aforesaid, before the judges aforesaid, comes Jonathan W. Gorden, Esq., of counsel for said Milligan, and files here, in open court, the petition of said Milligan, to be discharged.. . . . At the same time comes John Hanna, Esquire, the attorney prosecuting the pleas of the United States in this behalf. And thereupon, by agreement, this application is submitted to the court, and day is given." **The prayer of the petition was that, under the already mentioned act of Congress of March 3d, 1863, the petitioner might be brought before the court and either turned over to the proper civil tribunal to be proceeded with according to the law of the land or discharged from custody altogether.**

At the hearing of the petition in the Circuit Court, the opinions of the judges were opposed upon the following questions:

I. On the facts stated in the petition and exhibits, ought a writ of habeas corpus to be issued according to the prayer of said petitioner?

II. On the facts stated in the petition and exhibits, ought the said Milligan to be discharged from custody as in said petition prayed?

III. Whether, upon the facts stated in the petition and exhibits, the military commission had jurisdiction legally to try and sentence said Milligan in manner and form, as in said petition and exhibit is stated?

And these questions were certified to this court under the provisions of the act of Congress of April 29th, 1802, [Footnote 4] an act which provides "that whenever any question shall occur before a Circuit Court upon which the opinions of the judges shall be opposed, the point upon which the disagreement shall happen shall, during the same term, upon the request of *either party* or their counsel, be stated under the direction of the judges and certified under the seal of the court to the Supreme Court, at their next session to be held thereafter, and shall by the said court be *finally* decided, and the decision of the Supreme Court and their order in the premises shall be remitted to the Circuit Court and be there entered of record, and shall have effect according to the nature of the said judgment and order; *Provided*, That nothing herein contained shall prevent the cause from proceeding if, in the opinion of the court, further proceedings can be had without prejudice to the merits."

The three several questions above mentioned were argued at the last term. And along with them, an additional question raised in this court, namely:

IV. A question of jurisdiction, as -- 1. Whether the Circuit Court had jurisdiction to hear the case there presented? -- 2. Whether the case sent up here by certificate of division was so sent up in conformity with the intention of the act of 1802? in other words, whether this court had jurisdiction of the questions raised by the certificate?

Mr. Justice DAVIS delivered the opinion of the court.

On the 10th day of May, 1865, Lambdin P. Milligan presented a petition to the Circuit Court of the United States for the District of Indiana to be discharged from an alleged unlawful

imprisonment. The case made by the petition is this: Milligan is a citizen of the United States; has lived for twenty years in Indiana, and, at the time of the grievances complained of, was not, and never had been, in the military or naval service of the United States. On the 5th day of October, 1864, while at home, he was arrested by order of General Alvin P. Hovey, commanding the military district of Indiana, and has ever since been kept in close confinement.

On the 21st day of October, 1864, he was brought before a military commission, convened at Indianapolis by order of General Hovey, tried on certain charges and specifications, found guilty, and sentenced to be hanged, and the sentence ordered to be executed on Friday, the 19th day of May, 1865.

On the 2d day of January, 1865, after the proceedings of the military commission were at an end, the Circuit Court of the United States for Indiana met at Indianapolis and empaneled a grand jury, who were charged to inquire whether the laws of the United States had been violated. and, if so, to make presentments. **The court adjourned on the 27th day of January, having, prior thereto, discharged from further service the grand jury, who did not find any bill of indictment or make any presentment against Milligan for any offence whatever, and, in fact, since his imprisonment, no bill of indictment has been found or presentment made against him by any grand jury of the United States.**

Milligan insists that said military commission had no jurisdiction to try him upon the charges preferred, or upon any charges whatever, because he was a citizen of the United States and the State of Indiana, and had not been, since the commencement of the late Rebellion, a resident of any of the States whose citizens were arrayed against the government, and that the right of trial by jury was guaranteed to him by the Constitution of the United States.

The prayer of the petition was that, under the act of Congress approved March 3d, 1863, entitled, "An act relating to habeas corpus and regulating judicial proceedings in certain cases," he may be brought before the court and either turned over to the proper civil tribunal to be proceeded against according to the law of the land or discharged from custody altogether.

With the petition were filed the order for the commission, the charges and specifications, the findings of the court, with the order of the War Department reciting that the sentence was approved by the President of the United States, and directing that it be carried into execution without delay. The petition was presented and filed in open court by the counsel for Milligan; at the same time, the District Attorney of the United States for Indiana appeared and, by the agreement of counsel, the application was submitted to the court. The opinions of the judges of the Circuit Court were opposed on three questions, which are certified to the Supreme Court:

1st. "On the facts stated in said petition and exhibits, ought a writ of habeas corpus to be issued?"

2d. "On the facts stated in said petition and exhibits, ought the said Lambdin P. Milligan to be discharged from custody as in said

petition prayed?"

3d. "Whether, upon the facts stated in said petition and exhibits, the military commission mentioned therein had jurisdiction legally to try and sentence said Milligan in manner and form as in said petition and exhibits is stated?"

The importance of the main question presented by this record cannot be overstated, for it involves the very framework of the government and the fundamental principles of American liberty. During the late wicked Rebellion, the temper of the times did not allow that calmness in deliberation and discussion so necessary to a correct conclusion of a purely judicial question. *Then*, considerations of safety were mingled with the exercise of power, and feelings and interests prevailed which are happily terminated. *Now* that the public safety is assured, this question, as well as all others, can be discussed and decided without passion or the admixture of any element not required to form a legal judgment. We approach the investigation of this case fully sensible of the magnitude of the inquiry and the necessity of full and cautious deliberation.

But we are met with a preliminary objection. It is insisted that the Circuit Court of Indiana had no authority to certify these questions, and that we are without jurisdiction to hear and determine them.

The sixth section of the "Act to amend the judicial system of the United States," approved April 29, 1802, declares "that whenever any question shall occur before a Circuit Court upon which the opinions of the judges shall be opposed, the point upon which the disagreement shall happen shall, during the same term, upon the request of either party or their counsel, be stated under the direction of the judges and certified under the seal of the court to the Supreme Court at their next session to be held thereafter, and shall by the said court be finally decided, and the decision of the Supreme Court and their order in the premises shall be remitted to the Circuit Court and be there entered of record, and shall have effect according to the nature of the said judgment and order: *Provided*, That nothing herein contained shall prevent the cause from proceeding, if, in the opinion of the court, further proceedings can be had without prejudice to the merits."

It is under this provision of law that a Circuit Court has authority to certify any question to the Supreme Court for adjudication. The inquiry, therefore, is, whether the case of Milligan is brought within its terms.

It was admitted at the bar that the Circuit Court had jurisdiction to entertain the application for the writ of habeas corpus and to hear and determine it, and it could not be denied, for the power is expressly given in the 14th section of the Judiciary Act of 1789, as well as in the later act of 1863. Chief Justice Marshall, in Bollman's case, [Footnote 5] construed this branch of the Judiciary Act to authorize the courts as well as the judges to issue the writ for the purpose of inquiring into the cause of the commitment, and this construction has never been departed from. But it is maintained with earnestness and ability that a certificate of division of opinion can occur only in a

cause, and that the proceeding by a party moving for a writ of habeas corpus does not become a cause *until after the writ has been issued and a return made.*

Independently of the provisions of the act of Congress of March 3, 1863, relating to habeas corpus, on which the petitioner bases his claim for relief and which we will presently consider, can this position be sustained?

It is true that it is usual for a court, on application for a writ of habeas corpus, to issue the writ, and, on the return, to dispose of the case, but the court can elect to waive the issuing of the writ and consider whether, upon the facts presented in the petition, the prisoner, if brought before it, could be discharged. One of the very points on which the case of Tobias Watkins, reported in 3 Peters, [Footnote 6] turned was whether, if the writ was issued, the petitioner would be remanded upon the case which he had made.

The Chief Justice, in delivering the opinion of the court, said: "The cause of imprisonment is shown as fully by the petitioner as it could appear on the return of the writ; consequently, the writ ought not to be awarded if the court is satisfied that the prisoner would be remanded to prison."

The judges of the Circuit Court of Indiana were therefore warranted by an express decision of this court in refusing the writ if satisfied that the prisoner. on his own showing. was rightfully detained.

But, it is contended, if they differed about the lawfulness of the imprisonment, and could render no judgment, the prisoner is remediless, and cannot have the disputed question certified under the act of 1802. His remedy is complete by writ of error or appeal, if the court renders a final judgment refusing to discharge him; but if he should be so unfortunate as to be placed in the predicament of having the court divided on the question whether he should live or die, he is hopeless, and without remedy. He wishes the vital question settled not by a single judge at his chambers, but by the highest tribunal known to the Constitution, and yet the privilege is denied him because the Circuit Court consists of two judges, instead of one.

Such a result was not in the contemplation of the legislature of 1802, and the language used by it cannot be construed to mean any such thing. The clause under consideration was introduced to further the ends of justice by obtaining a speedy settlement of important questions where the judges might be opposed in opinion. The act of 1802 so changed the judicial system that the Circuit Court, instead of three, was composed of two judges, and, without this provision or a kindred one, if the judges differed, the difference would remain, the question be unsettled, and justice denied. The decisions of this court upon the provisions of this section have been numerous. In *United States v. Daniel,* [Footnote 7] the court, in holding that a division of the judges on a motion for a new trial could not be certified, say: "That the question must be one which arises in a cause depending before the court relative to a proceeding belonging to the cause." Testing Milligan's case by this rule of law, is it not apparent that it is rightfully here, and that we are compelled to answer the

questions on which the judges below were opposed in opinion? If, in the sense of the law, the proceeding for the writ of habeas corpus was the "*cause*" of the party applying for it, then it is evident that the "cause" was pending before the court, and that the questions certified arose out of it, belonged to it, and were matters of right, and not of discretion.

But it is argued that the proceeding does not ripen into a cause until there are two parties to it.

This we deny. It was the *cause* of Milligan when the petition was presented to the Circuit Court. It would have been the *cause* of both parties if the court had issued the writ and brought those who held Milligan in custody before it. Webster defines the word "cause" thus: "A suit or action in court; any legal process which a party institutes to obtain his demand, or by which he seeks his right, or supposed right" -- and he says,

"this is a legal, scriptural, and popular use of the word, coinciding nearly with case, from *cado*, and action, from *ago*, to urge and drive."

In any legal sense, action, suit, and cause, are convertible terms. Milligan supposed he had a right to test the validity of his trial and sentence, and the proceeding which he set in operation for that purpose was his "cause" or "suit." It was the only one by which he could recover his liberty. He was powerless to do more; he could neither instruct the judges nor control their action, and should not suffer, because, without fault of his, they were unable to render a judgment. But the true meaning to the term "suit" has been given by this court. One of the questions in *Weston v. City Council of Charleston*, [Footnote 8] was whether a writ of prohibition was a suit, and Chief Justice Marshall says:

"The term is certainly a comprehensive one, and is understood to apply to any proceeding in a court of justice by which an individual pursues that remedy which the law affords him."

Certainly Milligan pursued the only remedy which the law afforded him. Again, in *Cohens v. Virginia*, [Footnote 9] he says: "In law language, a suit is the prosecution of some demand in a court of justice." Also,

"To commence a suit is to demand something by the institution of process in a court of justice, and to prosecute the suit is to continue that demand."

When Milligan demanded his release by the proceeding relating to habeas corpus, he commenced a suit, and he has since prosecuted it in all the ways known to the law. One of the questions in *Holmes v. Jennison, et al.*, [Footnote 10] was whether, under the 25th section of the Judiciary Act, a proceeding for a writ of habeas corpus was a "suit." Chief Justice Taney held that,

"if a party is unlawfully imprisoned, the writ of habeas corpus is his appropriate legal remedy. It is his suit in court to recover his liberty."

There was much diversity of opinion on another ground of jurisdiction, but that, in the sense of the 25th section of the Judiciary Act, the proceeding by habeas corpus was a suit was not controverted by any except Baldwin, Justice, and he thought that "suit" and "cause," as used in the section, mean the same thing.

The court do not say that a return must be made and the parties appear and begin to try the case before it is a suit. When the petition is filed and the writ prayed for, it is a *suit* -- the suit of the party making the application. If it is a suit under the 25th section of the Judiciary Act when the proceedings are begun, it is, by all the analogies of the law, equally a suit under the 6th section of the act of 1802.

But it is argued that there must be two parties to the suit, because the point is to be stated upon the request of "either party or their counsel."

Such a literal and technical construction would defeat the very purpose the legislature had in view, which was to enable any party to bring the case here when the point in controversy was a matter of right, and not of discretion, and the words "either party," in order to prevent a failure of justice, must be construed as words of enlargement, and not of restriction.

Although this case is here *ex parte,* it was not considered by the court below without notice having been given to the party supposed to have an interest in the detention of the prisoner. The statements of the record show that this is not only a fair, but conclusive, inference. When the counsel for Milligan presented to the court the petition for the writ of habeas corpus, Mr. Hanna, the District Attorney for Indiana, also appeared, and, by agreement, the application was submitted to the court, who took the case under advisement, and on the next day announced their inability to agree, and made the certificate. It is clear that Mr. Hanna did not represent the petitioner, and why is his appearance entered? It admits of no other solution than this -- that he was informed of the application, and appeared on behalf of the government to contest it. The government was the prosecutor of Milligan, who claimed that his imprisonment was illegal and sought, in the only way he could, to recover his liberty. The case was a grave one, and the court unquestionably directed that the law officer of the government should be informed of it. He very properly appeared, and, as the facts were uncontroverted and the difficulty was in the application of the law, there was no useful purpose to be obtained in issuing the writ. The cause was therefore submitted to the court for their consideration and determination.

But Milligan claimed his discharge from custody by virtue of the act of Congress "relating to habeas corpus, and regulating judicial proceedings in certain cases," approved March 3d, 1863. Did that act confer jurisdiction on the Circuit Court of Indiana to hear this case?

In interpreting a law, the motives which must have operated with the legislature in passing it are proper to be considered. This law was passed in a time of great national peril, when our heritage of free government was in danger…..

WRITS:

The following officers are authorized to help enforce the writs and judgments of this court: Lawfully elected sheriffs, constables, united states marshals, coroners, state militia,

marshals of this court of record, and members of the peerage who wish to help in a lawful manner according to the commands, the writs, and judgments of this court.

When a writ is delivered or a final judgment, summary or otherwise, is to be enforced, or a fine for contempt is to be collected, or someone is to be imprisoned for contempt, it is the duty of the officers of this court to execute the commands emanating from this court and instruments thereof promptly and vigorously.

MONEY: as used in this case shall mean:
No State shall…coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts…. Article I, Section 10, Clause 1, U.S. Constitution.

"Dollars and Units" - each to be of the value of a Spanish milled dollar as the same is now current and to contain three hundred and seventy-one grains and four sixteenth parts of a grain of pure or four hundred and sixteen grains of standard silver. 1 U.S. Stat. 246, Sec. 9 (1792).

CONTRACT:
"The required elements of a contract are an offer, acceptance, and valuable consideration." Armstrong v. Collins, 366 S.C. 204, 621 S.E.2d 368 (Ct. App. 2005) (Am Jur 2d §19 Contracts).

"An action will not lie to recover money or property which is the fruit of an employment involving a violation of law, where a recovery would have to be based on the illegal contract." Boylston Bottling Co. v. O'Neill, 231 Mass. 498, 121 N.E. 411, 2 A.L.R. 902 (1919); Woodson v. Hopkins, 85 Miss. 171, 38 So. 298 (1905). (Am Jur 2d §39 "Actions")

"All the powers of the government must be carried into operation by individual agency, either through the medium of public officers, or contracts made with individuals." [Osborn v. Bank of U.S., 22 U.S. 738 (1824)

CONSIDERATION:
"Consideration is an essential element of, and is necessary to the enforceability or validity of, a contract." Voelker v. Porsche Cars North America, Inc., 348 F.3d 639 (7th Cir. 2003), opinion superseded on reh'g, 2003 WL 22930364 (7th Cir. 2003) (applying Illinois law); Steinberg v. Chicago Medical School, 69 Ill. 2d 320, 13 Ill. Dec. 699, 371 N.E.2d 634 (1977); (Am Jur 2d §19 Contracts).

It follows from this rule that a promise not supported by any consideration cannot amount to a contract … American Equity Ins. Co. v. Lignetics, Inc., 284 F. Supp. 2d 399 (N.D. W. Va. 2003); Maurice O'Meara Co. v. National Park Bank of New York, 239

N.Y. 386, 146 N.E. 636, 39 A.L.R. 747 (1925); Carlisle v. T & R Excavating, Inc., 123 Ohio App. 3d 277, 704 N.E.2d 39 (9th Dist. Medina County 1997) (Am Jur 2d §19 "Contracts").

"A lawful consideration must exist and be tendered to support the [Federal reserve] Note…. The Jury found there was no lawful consideration and I agree. Only God can create something of value out of nothing." Justice Martin V. Mahoney's Memorandum in support of his Judgment and Decree of December 9th 1968 in the Credit River Township, Scott County, Minnesota case, First National Bank of Montgomery Bank vs. Jerome Daly.

"Federal reserve notes lack lawful consideration." [Credit River Township, Scott County, Minnesota case: [cf. First National Bank of Montgomery Bank vs. Jerome Daly, 1968]

CLAIMS:

"The general rule in appraising the sufficiency of a complaint for failure to state a claim is that a complaint should not be dismissed '***unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.' CONLEY VS. GIBSON (1957), 355 U.S. 41, 45, 46, 78 S.Ct. 99, 102, 2LEd 2d 80; SEYMOUR VS. UNION NEWS COMPANY, 7 Cir., 1954, 217 F.2d 168; and see rule 54c, demand for judgment, FEDERAL RULES OF CIVIL PROCEDURE, 28 USCA: "***every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings." U.S. V. WHITE COUNTY BRIDGE COMMISSION (1960), 2 Fr Serv 2d 107, 275 F2d 529, 535

"A complaint may not be dismissed on motion if it states some sort of claim, baseless though it may eventually prove to be, and inartistically as the complaint may be drawn. Therefore, under our rules, the plaintiff's allegations that he is suing in 'criminal libel' should not be literally construed. [3] The complaint is hard to understand but this, with nothing more, should not bring about a dismissal of the complaint, particularly is this true where a defendant is not represented by counsel, and in view of rule 8{f} of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do substantial justice BURT VS. CITY OF NEW YORK, 2Cir., (1946) 156 F.2d 791. Accordingly, the complaint will not be dismissed for insufficiency. [4,5] Since the Federal Courts are courts of limited jurisdiction, a plaintiff must always show in his complaint the grounds upon which that jurisdiction depends." STEIN VS. BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPER HANGERS OF AMERICA, DCCDJ (1950), 11 F.R.D. 153.

"A complaint will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in allegations of essential facts, it cannot be said that under no circumstances will the party be able to recover." JOHN EDWARD CROCKARD VS.

PUBLISHERS, SATURDAY EVENING POST MAGAZINE OF PHILADELPHIA, PA (1956) Fr Serv 29, 19 F.R.D. 511, DCED Pa 19 (1958)

"FRCP 8f: CONSTRUCTION OF pleadings. All pleadings shall be so construed as to do substantial justice." DIOGUARDI VS. DURNING, 2 CIR., (1944) 139 F2d 774

"Counterclaims will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in allegations of essential facts, it cannot be said that under no circumstances will the party be able to recover." LYNN VS VALENTINE VS. LEVY, 23 Fr 46, 19 FDR, DSCDNY (1956)

PUBLIC OFFICERS:

Public officials are properly subject to public scrutiny in the performance of their duties. Anchorage v. Anchorage Daily News (Alaska) 794 P2d 584, 18 Media L R 1020.

The acceptance of every public office implies an agreement on the part of the officer that he or she will execute its duties with diligence and fidelity. Nelson v. West Va. Pub. Employees Ins. Bd., 171 W. Va. 445, 300 SE2d 86, 34 ALR4th 438.

A public official is held in public trust. Madlener v. Finley (1st Dist.) 161 Ill App 3d 796, 113 Ill Dec 712, 515 NE2d 697, app gr 117 Ill Dec 226, 520 NE2d 387.

Under Federal Tort Claims Act similarly, federal law enforcement officers who generally enjoy absolute immunity from tort liability may nonetheless be held liable for the tort of trespass. Black v Sheraton Corp. of America, 184 US App DC 46,564 F2d 531, 541 (1977)

RIGHT TO TRAVEL:

The roads and highways belong to the people, for it is the tax on gasoline, as an indirect tax, that creates the funds to build and maintain them for the people, for their use and enjoyment, by the prerogative of the people, in a non-commercial capacity.

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment." Robertson v. Department of Public Works, 180 Wash 133, 147.

"The right of the citizen to travel upon the public highways and to transport his property thereon, either by a carriage, or automobile, is not a mere privilege which a City may prohibit or permit at will, but a common right which he has under the right

to Life, Liberty and the Pursuit of Happiness." Thompson v. Smith 154 SE 579.

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

"The right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary. Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781. (Note: the word "Citizen" in this case means a de jure Citizen of one of the republics of the united States of America.)

The definition of the word Driver for this case is as follows. Driver. "One employed in conducting a coach, carriage, wagon, or other vehicle… Bouvier's Law Dictionary, 1914 Ed., pg. 940.

"The term 'motor vehicle' is different and broader than the word 'automobile.'" City of Dayton vs. DeBrosse. 23 NE. 2d 647, 650; 62 Ohio App. 232.

The definition of the term 'Motor vehicle' for this case is as follows - 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, or passengers and property, or property or cargo. Title 18 U.S.C. Section 31.

The definition of the term 'Used for commercial purposes' in this case is as follows. - 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. Title 18 U.S.C. Section 31.

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

"It is well settled that the Constitutional Rights protected from

invasion by the police power, include Rights safeguarded both by express and implied prohibitions in the Constitutions." Tiche vs. Osborne, 131 A. 60.

"There should be no arbitrary deprivation of Life or Liberty…." Barbour vs. Connolly. 113 US 27, 31;Yick Wo vs. Hopkins, 118 US 356.

"…the only limitation found restricting the right of the state to condition the use of the public highways as a means of vehicular transportation for compensation are (1) that the state must not exact of those it permits to use the highways for hauling for gain that they surrender any of their inherent U.S. Constitutional Rights as a condition precedent to obtaining permission for such use…" Riley vs. Lawson, 142, So. 619; Stephenson vs. Binford, supra.

"No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution." 16 Am Jur 2d, Const. Law, Sect. 70.

"The right of a citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's rights, he will be protected, not only in his person, but in his safe conduct." Thompson v. Smith.

Thompson v. Smith, 154 SE 579, 11 American Jurisprudence, Constitutional Law, section 329, page 1135 "The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business." -

Thompson vs. Smith, supra.; Teche Lines vs. Danforth, Miss., 12 S.2d 784 "… the right of the citizen to drive on a public street with freedom from police interference… is a fundamental constitutional right"

Caneisha Mills v. D.C. 2009 "The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the Constitutional guarantees. . ."

Berberian v. Lussier (1958) 139 A2d 869, 872, See also: Schecter v. Killingsworth, 380 P.2d 136, 140; 93 Ariz. 273 (1963). "The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a mere privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and state constitutions."

Adams v. City of Pocatello, 416 P.2d 46, 48; 91 Idaho 99 (1966). "A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use."

Campbell v. Walker, 78 Atl. 601, 603, 2 Boyce (Del.) 41. "The owner of an automobile has the same right as the owner of other vehicles to use the highway,* * * A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle."

Simeone v. Lindsay, 65 Atl. 778, 779; Hannigan v. Wright, 63 Atl. 234, 236. "The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts." People v. Horton 14 Cal. App. 3rd 667 (1971) "The right to make use of an automobile as a vehicle of travel along the highways of the state, is no longer an open question. The owners thereof have the same rights in the roads and streets as the drivers of horses or those riding a bicycle or traveling in some other vehicle."

House v. Cramer, 112 N.W. 3; 134 Iowa 374; Farnsworth v. Tampa Electric Co. 57 So. 233, 237, 62 Fla. 166. "The automobile may be used with safety to other users of the highway, and in its proper use upon the highways there is an equal right with the users of other vehicles properly upon the highways. The law recognizes such right of use upon general principles.

Brinkman v Pacholke, 84 N.E. 762, 764, 41 Ind. App. 662, 666. "The law does not denounce motor carriages, as such, on public ways. They have an equal right with other vehicles in common use to occupy the streets and roads. It is improper to say that the driver of the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the easement."

Indiana Springs Co. v. Brown, 165 Ind. 465, 468. U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary. "A highway is a public way open and free to anyone who has occasion to pass along it on foot or with any kind of vehicle." Schlesinger v. City of Atlanta, 129 S.E. 861, 867, 161 Ga. 148, 159;

Holland v. Shackelford, 137 S.E. 2d 298, 304, 220 Ga. 104; Stavola v. Palmer, 73 A.2d 831, 838, 136 Conn. 670 "There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts." Liebrecht v. Crandall, 126 N.W. 69, 110 Minn. 454, 456 "The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways."

-American Mutual Liability Ins. Co., vs. Chaput, 60 A.2d 118, 120; 95 NH 200 Motor Vehicle: 18 USC Part 1 Chapter 2 section 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…" 10) 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. "A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received."

-International Motor Transit Co. vs. Seattle, 251 P. 120 The term 'motor vehicle' is different and broader than the word 'automobile.'"

-City of Dayton vs. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232 "Thus self-driven vehicles are classified according to the use to which they are put rather than according to the means by which they are propelled" - Ex Parte Hoffert, 148 NW 20 "

The Supreme Court, in Arthur v. Morgan, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825, held that carriages were properly classified as household effects, and we see no reason that automobiles should not be similarly disposed of."

Hillhouse v United States, 152 F. 163, 164 (2nd Cir. 1907). "…a citizen has the right to travel upon the public highways and to transport his property thereon…" State vs. Johnson, 243 P. 1073; Cummins vs. Homes, 155 P. 171; Packard vs. Banton, 44 S.Ct. 256; Hadfield vs. Lundin, 98 Wash 516, Willis vs. Buck, 263 P. 1 982;

Barney vs. Board of Railroad Commissioners, 17 P.2d 82 "The use of the highways for the purpose of travel and transportation is

not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived."

Chicago Motor Coach vs. Chicago, 169 NE 22; Ligare vs. Chicago, 28 NE 934; Boon vs. Clark, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163 "the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business… is the usual and ordinary right of the Citizen, a right common to all." -

Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781 "Every Citizen has an unalienable RIGHT to make use of the public highways of the state; every Citizen has full freedom to travel from place to place in the enjoyment of life and liberty." People v. Nothaus, 147 Colo. 210. "No State government entity has the power to allow or deny passage on the highways, byways, nor waterways… transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurances."

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22. "Traffic infractions are not a crime." People v. Battle "Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right… may ignore the law and engage with impunity in exercise of such right."

Shuttlesworth v. Birmingham 394 U.S. 147 (1969). U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary "The word 'operator' shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation."

Statutes at Large California Chapter 412 p.83 "Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen." Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27 "RIGHT – A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . . "Bouvier's Law Dictionary, 1914, p. 2961. "Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless."

City of Chicago v Collins 51 NE 907, 910. "A license means leave to do a thing which the licensor could prevent." Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639. "The object

of a license is to confer a right or power, which does not exist without it."

Payne v. Massey (1946) 196 SW 2nd 493, 145 Tex 273. "The court makes it clear that a license relates to qualifications to engage in profession, business, trade or calling; thus, when merely traveling without compensation or profit, outside of business enterprise or adventure with the corporate state, no license is required of the natural individual traveling for personal business, pleasure and transportation."

Wingfield v. Fielder 2d Ca. 3d 213 (1972). "If [state] officials construe a vague statute unconstitutionally, the citizen may take them at their word, and act on the assumption that the statute is void." -

Shuttlesworth v. Birmingham 394 U.S. 147 (1969). "With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority." Donnolly vs. Union Sewer Pipe Co., 184 US 540; Lafarier vs. Grand Trunk R.R. Co., 24 A. 848; O'Neil vs. Providence Amusement Co., 108 A. 887. "The right to travel (called the right of free ingress to other states, and egress from them) is so fundamental that it appears in the Articles of Confederation, which governed our society before the Constitution."

(Paul v. Virginia). "[T]he right to travel freely from State to State … is a right broadly assertable against private interference as well as governmental action. Like the right of association, it is a virtually unconditional personal right, guaranteed by the Constitution to us all." (U.S. Supreme Court,

Shapiro v. Thompson). EDGERTON, Chief Judge: "Iron curtains have no place in a free world. …'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 Constitution.'

Williams v. Fears, 179 U.S. 270, 274, 21 S.Ct. 128, 45 L.Ed. 186. "Our nation has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases." Id., at 197.

Kent vs. Dulles see Vestal, Freedom of Movement, 41 Iowa L.Rev. 6, 13–14. "The validity of restrictions on the freedom of movement of particular individuals, both substantively and procedurally, is precisely the sort of matter that is the peculiar domain

of the courts." Comment, 61 Yale L.J. at page 187. "a person detained for an investigatory stop can be questioned but is "not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest." Justice White, Hiibel "Automobiles have the right to use the highways of the State on an equal footing with other vehicles."

Cumberland Telephone. & Telegraph Co. v Yeiser 141 Kentucy 15. "Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road."

Swift v City of Topeka, 43 U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary Kansas 671, 674. The Supreme Court said in U.S. v Mersky (1960) 361 U.S. 431: An administrative regulation, of course, is not a "statute." A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle.

Cecchi v. Lindsay, 75 Atl. 376, 377, 1 Boyce (Del.) 185. Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages.

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 205; See also: Christy v. Elliot, 216 Ill. 31; Ward v. Meredith, 202 Ill. 66; Shinkle v. McCullough, 116 Ky. 960; Butler v. Cabe, 116 Ark. 26, 28-29. …automobiles are lawful vehicles and have equal rights on the highways with horses and carriages. Daily v. Maxwell, 133 S.W. 351, 354.

Matson v. Dawson, 178 N.W. 2d 588, 591. A farmer has the same right to the use of the highways of the state, whether on foot or in a motor vehicle, as any other citizen.

Draffin v. Massey, 92 S.E.2d 38, 42. Persons may lawfully ride in automobiles, as they may lawfully ride on bicycles. Doherty v. Ayer, 83 N.E. 677, 197 Mass. 241, 246;

Molway v. City of Chicago, 88 N.E. 485, 486, 239 Ill. 486; Smiley v. East St. Louis Ry. Co., 100 N.E. 157, 158. "A soldier's personal automobile is part of his 'household goods[.]'

U.S. v Bomar, C.A.5(Tex.), 8 F.3d 226, 235" 19A Words and Phrases - Permanent Edition (West) pocket part 94. "[I]t is a jury question whether … an automobile … is a motor vehicle[.]"

JURISDICTION:

We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Cohens v. Virginia, 19 U.S. 264, 6 Wheat. 265, 5 L.Ed. 257 (1821).

The law provides that once State and Federal Jurisdiction has been challenged, it must be proven. Main v. Thiboutot, 100 S. Ct. 2502 (1980).

Jurisdiction can be challenged at any time and once challenged, cannot be assumed and must be decided. Basso v. Utah Power & Light Co., 495 F 2d 906, 910.

A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking. Bradbury v. Dennis, 310 F.2d 73 (10th Cir. 1962)

...if the issue is presented in any way the burden of proving jurisdiction rests upon him who invokes it. Latana v. Hopper, 102 F. 2d 188;

When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction. Melo v. United States, 505 F. 2d 1026

Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted. Latana v. Hopper, 102 F. 2d 188; Chicago v. New York, 37 F Supp. 150.

No officer can acquire jurisdiction by deciding he has it. The officer, whether judicial or ministerial, decides at his own peril. Middleton v. Low (1866), 30 C. 596, citing Prosser v. Secor (1849), 5 Barb. (N.Y) 607, 608.

Where a court has jurisdiction, it has a right to decide any question which occurs in the cause, and whether its decision be correct or otherwise, its judgments, until reversed, are regarded as binding in every other court. But if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers. Elliott v Peirsol, 1 Pet. 328, 340, 26 U.S. 328, 340, 7L.Ed. 164 (1828)

Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term. Dillon v. Dillon, 187 P 27.

Lawful Executor has been appointed by will on public record and supersedes all other authority

A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance. Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8; 331 US 549, 91 L. ed. 1666, 67 S.Ct. 1409.

"A universal principle as old as the law is that a proceedings of a court without jurisdiction are a nullity and its judgment therein without effect either on person or property." Norwood v. Renfield, 34 C 329; Ex parte Giambonini, 49 P. 732

"Jurisdiction is fundamental and a judgment rendered by a court that does not have jurisdiction to hear is void ab initio." In Re Application of Wyatt, 300 P. 132; Re Cavitt, 118 P2d 846

"The burden of proof of jurisdiction lies with the asserter." McNutt v. GMAC, 298 US 178.

"A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction." Wuest v. Wuest, 127 P2d 934, 937. Outboard Marine Corp. v. Thomas, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985) Wuest v. Wuest, 127 P2d 934, 937. Outboard Marine Corp. v. Thomas, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985)

"Acting without statutory power at all, or misapplying one's statutory power, will result in a finding that such action was ultra vires. The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." Davis v. Wechsler, 263 US 22, 24 Davis v. Wechsler, 263 US 22, 24

"An affirmance results when a judge acts in the clear absence of all jurisdiction, i. e., of authority to act officially over the subject-matter in hand, the proceeding is coram non judice. In such a case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for the damages resulting from his unauthorized acts. Such has been the law from the days of the case of The Marshalsea," 10 Coke 68. It was recognized as such in Bradley v. Fisher, 13 Wall. (80 U.S.) 335, 351, 20 L. Ed. 646. In State ex rel. Egan v. Wolever, 127 Ind. 306, 26 N. E. 762, 763, the court said: `The converse statement of it is also ancient. Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.' Manning v. Ketcham, 58 F.2d 948 (1932)

Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders

are regarded as nullities. They are not voidable, but simply void, and this is even prior to reversal." Valley v. Northern Fire and Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920). See also Old Wayne Mut. I. Assoc. v. McDonough, 204 U.S. 8, 27 S.Ct. 236 (1907); Williamson v. Berry, 8 How. 495, 540, 12 L. Ed, 1170, 1189, (1850); Rose v. Himely, 4 Cranch 241, 269, 2 L.Ed. 608, 617 (1808)

A "void" judgment as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus hereby). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen the old wound and once more probe its depths. And it is then as though trial and adjudication had never been. 10/13/58 FRITTS v. KRUGH. SUPREME COURT OF MICHIGAN, 92 N.W.2d 604, 354 Mich. 97

"When a judge acts as a trespasser of the law, when a judge does not follow the law, he then loses subject matter jurisdiction and the Judges orders are void, of no legal force or affect" (see *Ulrich v. Butler*, 599 U.S.908(2010))

"When a judge acts intentionally and knowingly to deprive a person of his constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge, but as a "minister" of his own prejudices." 386 U.S. 547, 568.

Nordloh v. Packard, 45 Colo. 515, 521, 101 P. 787, 790 (1909). 'The duty to be impartial cannot be fulfilled where a judge takes an active role in the presentation of the prosecution's case, acting as an advocate and not a judge.

"The semblance of due process is a sham when the judge is both prosecutor and judge." People v. Martinez, 523 P.2d 120,121, 185 Colo. 187, (Colo. 1974

Courts must meticulously avoid any appearance of partiality. Harthun v. District Court, 178 Colo. 118, 495 P.2d 539 (1972).

Although the trial judge believes in his own impartiality, it is the court's duty to "eliminate every semblance of reasonable doubt or suspicion that a trial by a fair and impartial tribunal may be denied." Zoline v. Telluride Lodge Ass'n, 732 P.2d 635 (Colo.1987). People v. District Court, 192 Colo. 503, 560 P.2d 828 (1977).

TREASON:
The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. U.S. v. Will, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L.Ed. 2d 392, 406 (1980): Cohens v. Virginia, 19 U.S. (6 Wheat)

264, 404, 5 L.Ed 257 (1821)

We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Cohens v. Virginia, 19 U.S. 264, 6 Wheat. 265, 5 L.Ed. 257 (1821)

"Standing is typically treated as a threshold issue, in that without it no justiciable controversy exists. As a general principle, standing to invoke the judicial process requires an actual justiciable controversy as to which the complainant has a real interest in the ultimate adjudication because he or she has either suffered or is about to suffer an injury." People v. Superior Court (Plascencia) (2002) 103 Cal.App.4th 409, 126 Cal.Rptr.2d 793 People v. Superior Court (Plascencia) (2002) 103 Cal.App.4th 409, 126 Cal.Rptr.2d 793.

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

In these cases he is not sued as, or because he is, the officer of the government, but as an individual, and the court is not ousted of jurisdiction because he asserts authority as such officer. To make out his defense he must show that his authority was sufficient in law to protect him... It is no answer for the defendant to say I am an officer of the government and acted under its authority unless he shows the sufficiency of that authority. Cunningham v. Macon, 109 U.S. 446, 452, 456, 3 S.Ct. 292, 297 and Poindexter v. Greenhow, 114 U.S. 270, 287, 5 S. Ct. 903, 912

"Because of what appear to be Lawful commands [Statutory Rules, Regulations and -codes-ordinances- and Restrictions] on the surface, many citizens, because of their respect for what appears to be law, are cunningly coerced into waiving their rights, due to ignorance… [deceptive practices, constructive fraud, barratry, legal plunder, conversion, and malicious prosecution in inferior administrative State courts]." (United States v. Minker, 350 U.S. 179, 187, 765 S.Ct. 281, 100 L.Ed. 185 (1956)

DUE PROCESS:

When the stakes are this high, the detached judgment of a neutral magistrate is essential if the Fourth Amendment is to furnish meaningful protection from unfounded interference with liberty. Accordingly, we hold that the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest. *GERSTEIN v. PUGH ET AL, 95 S. Ct. 854, 420 U.S. 103, 43 L. Ed. 2d 54, 1975.SCT.40602*

"Moreover, if Heath's arrest had been authorized by the statutes, his subsequent detention as pleaded proved would make a case of false imprisonment against Boyd. The undisputed facts are that after his arrest Heath rode with the sheriff to the former's car, which he then entered and drove several miles to the courthouse, followed by Boyd. There he was detained in Boyd's office from one to three hours, while Boyd was seeking advice by telephone as to what to do, in the face of a plain statutory command as to what must be done in all cases of arrest without warrant. Art. 217, C.C.P., 1925, provides, "In each case enumerated in this chapter, the person making the arrest shall immediately take the person arrested * * before the nearest magistrate where the arrest was made without an order." Substantially the same requirement appears in Art. 325, C.C.P., 1925, and Art. 487, P.C., 1925. Presumably, there was a magistrate in Mertzon, the county seat. Yet Boyd offers no reason why he did not take Heath before that official. Neither in his pleadings nor in his testimony does he suggest that a magistrate was not reasonably available, although the arrest and detention all occurred between 8 o'clock in the morning and noon. If he had taken Heath to that official, he could have gotten the information and assistance he was seeking by telephone. He was under no obligation to seek advice or aid from Johnson. He was under a positive duty immediately to seek a magistrate. That such failure, unexcused, makes a case of false imprisonment, as a matter of law, is held by all the authorities. Newby v. Gunn et al, 74 Texas, 455, 12 S.W. 67; McBeath v. Campbell, 12 S.W. (2d) 118; Alamo Downs, Inc., et [***14] al v. Briggs (Civ. App.), 106 S.W. (2d) 733 (er. dism.); Box v. Fluitt (Civ. App.), 47 S.W. (2d) 1107; Maddox v. Hudgeons (Civ. App.), 72 S.W. 414 (er. ref.); [**218] Karner et al v. Stump (Civ. App.), 34 S.W. 656; Petty v. Morgan et al (Civ. App.), 116 S.W. 141; Bishop v. Lucy et al (Civ. App.) 50 S.W. 1029; 35 C.J.S., p. 546, sec. 31." Heath v Boyd, 141 Tex. 569; 175 S.W.2d 214; 1943 Tex. LEXIS 370

In evaluating the constitutionality of conditions or restrictions of pretrial detention that implicate only the protection against deprivation of liberty without due process of law, we think that the proper inquiry is whether those conditions amount to punishment of the detainee. A detainee may not be punished prior to an adjudication of guilt in accordance with due process of law. See Ingraham v. Wright,

430 U.S. 651, 671-672 n. 40, 674 (1977); Kennedy v. Mendoza-Martinez, 372 U.S. 144, 165-167, 186 (1963); Wong Wing v. United States, 163 U.S. 228, 237 (1896).

'The record offers, as the government's only justification, evidence that the magistrate, who issued the warrants, advised of his unavailability after the early evening of Friday, September 8, 1989. There are three other magistrates in the District. The record is bereft of any evidence as to their availability. Likewise, the record is bereft of any evidence as to the availability of any of the district Judges. Absent evidence of other than the unavailability of the duty magistrate (the propriety of which is not here questioned), there is no basis to find that the delay for the entire period from the arrest to presentment was necessary. To be sure, it was a weekend. The court was closed. But those facts do not entitle the government to presume the absence of an obligation to try to arrange the appearance of an arrestee before one of the other possible judicial officers. The law remains a force in life even outside usual business hours and all judicial officers have the obligation to respond to the needs of parties as they are mandated by the law. Relater to their reasonable non-judicial activities, all judicial officers stand ready to fulfill that obligation. Here, the government has not shown the unavailability of all the possible judicial officers. The obligation of complying with the law lies with the government, which thus has the burden of proving that an arrestee was brought before a judicial officer without unnecessary delay. Its proof of the unavailability of one judicial officer does not prove that the delay to the next regular business hours, some sixty to sixty-five hours later, did not constitute unnecessary delay if it does not exhaust the possibility of an appearance before one of the other judicial officers in the district." See United States v. Colon, 835 [*21] F.2d 27, 30-31 (2d Cir. 1987). *UNITED STATES v. MORGAN, et al. 1990 U.S. Dist. LEXIS 6206*

VENUE:

"First. The canon of construction which teaches that legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States," FOLEY BROS. V. FILARDO, 336 U.S. 281 (1949)

"I take leave to say that if the principles thus announced should ever receive the sanction of a majority of this Court, a radical and mischievous change in our system of government will be the result. We will in that event pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism....The idea prevails with some -- indeed, it found expression in arguments at the bar -- that we have in this country substantially or practically two national governments -- one to be maintained under the Constitution, with all its

restrictions, the other to be maintained by Congress outside and independently of that instrument, by exercising such powers as other nations of the earth are accustomed to exercise. It is one thing to give such a latitudinarian construction to the Constitution as will bring the exercise of power by Congress, upon a particular occasion or upon a particular subject, within its provisions. It is quite a different thing to say that Congress may, if it so elects, proceed outside of the Constitution. The glory of our American system of government is that it was created by a written constitution which protects the people against the exercise of arbitrary, unlimited power, and the limits of which instrument may not be passed by the government it created, or by any branch of it, or even by the people who ordained it, except by amendment or change of its provisions. "To what purpose," Chief Justice Marshall said in Marbury v. Madison, 1 Cranch 137, 5 U. S. 176, "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 acts allowed are of equal obligation."... It will be an evil day for American liberty if the theory of a government outside of the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violation of the principles of the Constitution." Downes v Bidwell, 182 U.S. 244 (Dissenting Opinion)

WARRANTS:

"It is the duty of every person who is charged with the execution of process to explain what would otherwise be a trespass, by showing his warrant and his official character. If he choose to conceal these, he puts himself outside of the protection they give him, and becomes, in the eye of all to whom he refuses to state them, an aggravated trespasser… and he who withholds such information not only takes all the risk of being treated as an insolent trespasser, but is guilty of bringing odium on the law of which he is the unworthy minister." State ex rel. v. Claudius, 1 Mo. Ap., 551; Barton v. Wilkinson, 18 Vt., 186.

"A warrant of commitment must be in writing, under the hand and seal of the magistrate and express the causes of the commitment, in order to be examined into (if necessary) upon habeas corpus. If there be no cause expressed the gaoler (jailor) is not bound to detain the prisoner; for the law judges in this respect, saith Sir Edward Coke, like Festus the Roman governor, that it is unreasonable to send a prisoner, and not to signify withal the crimes against him." Sir William Blackstone, 1 Black. Com., 187.

"The question is, what authority has the jailer to detain him?

To ascertain this we must look at the warrant of commitment only. It is that only which can justify his detention. That warrant states no offense. It does not allege that he was convicted of any crime. It states merely that he had been brought before a meeting of many Justices, who had required him to find sureties for his good behavior. It does not charge of their own knowledge or suspicion, or upon the oath of any person whomsoever… The judges of this court unanimously of opinion that the warrant of commitment was illegal for want of stating some good cause certain, supported by oath." Chief Justice Marshall, Ex parte Burford 3 Cranch, 448.

"That where a warrant cannot legally issue without oath, but is so issued, all the parties concerned in the arrest under such process are trespassers." Gold v. Bissell, 1 Wendell, 218.

The judicial officer must exercise his or her own judgment and not act on the judgment of the accuser, and probable cause does not exist for the issuance of a warrant unless the judicial officer is convinced from the complaint that there is reasonable ground to suspect that the accused is guilty of the offense. People v. Greer, 91 Ill. App.3d 304 (1980).

"They conferred, as against the Government, the right to be let alone -- the most comprehensive of rights, and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment. And the use, as evidence" Olmstead v. U.S., 277 US 438,478, (1928)

LAND RIGHTS:

Nothing passes a perfect title to public lands, with the exception of a few cases, but a patent. Wilcox v. Jackson 38 U.S. 498 (1839).

A warranty deed of conveyance is a "color of title,"[see Dempsey v. Burns, 281 Ill, 664].

A purchase at tax sale is a purchase of "color of title" United States v. Beggerly 524 U.S. 38 (1998).

Color of title is not title in fact or in law. Mecoy v. Lowrie, 253 P.2d 415, 418.

Wish statutory presumptions and constitutional prohibitions brought into issue by the Plaintiff in Ejectment, the Court takes judicial cognizance that constitutional rights may not be infringed simply because the majority of the people choose that they be. Nor may a Constitutional prohibition be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment; the power to create

presumption is not a means of escape from constitutional restriction. California Jurisprudence 3d. Volume 13, pg 412 sub section 229.

"Patents are issued between sovereigns… and deeds are executed by persons and private corporation" - Leading Fighter v. Country of Gregory. 230 N.W. 2D 114, 116 (1975)

"A patent is the highest evident of title, and is conclusive, against the government and all claiming under junior titles, until it set aside or annulled by some judicial tribunal." Stone v U.S. 69 U.S. 2 Wall. 525, 535 (1864)

"As we said in the case of Smelting Company v. Kemp; 'It is this unassailable character [of the patent] which gives it its chief, indeed its only value, as a means of quieting its possessor in the enjoyment of the lands it embraces.'" The validity of the patent could not be attacked except under fraud or clerical error and either of these circumstances has to be proven in a court of law, and the challenge must be brought within six months of the granting of the patent. In fact, in a court of law, the patent is the conclusive proof of legal title. Id. 452 "It is among the elementary principles of the law that in actions of ejectment the legal title must prevail. The patent of the United States passes that title. Whoever holds it must recover against those who have only unrealized hopes to obtain it, or claims which it is the exclusive province of a court of equity to enforce. However great these may be, they constitute no defense in an action at law based upon the patent. That instrument must first be got out of the way, or its enforcement enjoined, before others having mere equitable rights can gain or hold possession of the lands it covers. This is so well established, so completely embedded in the law of ejectment that no one ought to be misled by any argument to the contrary." See also Johnson v. Christian,128 U.S. 374, 382 (1888) and Carter v Ruddy, 166 U.S. 493, 496 (1897) See also Johnson v. Christian,128 U.S. 374, 382 (1888) and Carter v Ruddy, 166 U.S. 493, 496 (1897)

"That the plaintiff in ejectment must in all cases prove a legal title to the premises in himself, at the time of the demise laid in the declaration, and that evidence of an equitable estate will not be sufficient for a recovery, are principles so elementary and so familiar to the profession as to render unnecessary the citation of authority in support of them… This legal title the plaintiff must establish either upon a connected documentary chain of evidence, or upon proofs of possession of sufficient duration to warrant the legal conclusion of the existence of such written title." In the case of lands granted under a Land Patent, a "connected documentary chain of evidence" is on public record at the Recorder of Deeds for the county in which the land is located. Even the sovereign States themselves do not have the power to overturn Land Patents and their effects upon the land,

namely, the severance from the interference in them by the administration of government. Gibson v. Chouteau, 13 Wall. 92, 102 (1871)

"In the Federal Courts, where the distinction between legal and equitable proceedings is strictly maintained, and remedies afforded by law and equity are separately pursued, the action of ejectment can only be sustained upon the possession by the plaintiff of the legal title…in the action of ejectment in the Federal Courts, the legal title must prevail, and the patent, when regular on its face, is conclusive evidence of that title. So also in the action of ejectment in the State courts, when the question presented is whether the plaintiff or the defendant has the superior legal title from the United States, the patent must prevail. For, as said in Bagnell v. Broderick, 'Congress has the sole power to declare the dignity and effect of titles emanating from the United States; and the whole legislation of the Federal government in reference to the public lands declares the patent the superior and conclusive evidence of legal title…'" Furthermore, the states may not legislate a superior, or even an equal, instrument to the Land Patent. Bagnell et. al. v. Broderick, 13 Pet. 436, 451 (1839)

"It [the patent] passes whatever interest the United States may then have possessed in the premises. It operates in consequence as an absolute bar to all claims under the United States having their origin subsequent to the petition. But the patent has a still further operation and effect. It is not merely a deed of the United States, conveying whatever interest they may have held in the premises at the institution of the proceedings before the Land Commission. It is also a record of the Government, showing its action and judgment with respect to the title of the patentees at the date of the cession…This instrument, as we have stated, is the record of the Government upon the title of the patentee to the land described therein, declaring the validity of that title and that it rightfully attaches to the land. Upon all the matters of fact and law essential to authorize its issuance, it imports absolute verity; and it can only be vacated and set aside by direct proceedings instituted by the Government, or by parties acting in the name and by the authority of the Government. Until thus vacated it is conclusive, not only between the patentee and the Government, but between parties claiming in privity with either by title subsequent." 18 Cal. 571-572 (citation omitted). Leo Sheep Co v United States, 440 U.S. 668, 687 (1979)

Ferguson v. Mason (1884) Regarding Allodial land ownership; the court quoted the constitution and added its own commentary: "That is to say, the owner of land in this state holds the same of no superior. He has absolute dominion over it, owing no rent, service, or fealty to any, on account thereof. His obligation of fealty to the government is an obligation arising out of his

citizenship, and is no greater or different because he is a proprietor also. Even the government may not condemn his land to the public use without paying him a just compensation therefor."

FICTITIOUS NAME OR ADDRESS:

Whoever, for the purpose of conducting, promoting, or carrying on by means of the Postal Service, any scheme or device mentioned in section 1341 of this title or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be fined under this title or imprisoned not more than five years, or both. (cf. 18 U. S. Code § 1342)

Conspiracy against rights:

If two or more person conspire to injure, oppress, threaten, or intimidate any people in any State, Territory, Commonwealth, Possession, Land, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or the laws decreed by the people, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, and hinder his free exercise or enjoyment of any right or privilege so secured –

They shall be fined under this law or imprisoned not more than ten years, or both; and if such acts include kidnapping or an attempt to kidnap, or an attempt to kill, they shall be fined under this law and or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Deprivation of rights under color of law:

Whoever, under color of law, statute, ordinance, regulation, or custom, willfully subjects any people or person in any State, Territory, Commonwealth, Land, Possession, or District to the deprivation of any rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States, or the laws decreed by the people, shall be fined under this law or imprisoned not more than five years, or both; and if bodily injury results from acts committed in violation of this law, includes the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this law and or imprisoned not more than ten years or both; and if an attempt to kill is made shall be imprisoned for any term of years or for life, or be sentenced to death.

ABOLISHMENT OF A STATE OF EMERGENCY:

The state of emergency declared by President Abraham Lincoln in the year 1861 and subsequently continued by every president after him, in one form or another, by their own declaration of a state of emergency, or their failure to declare the original said state

of emergency at an end, is heretofore now decreed, declared, and ordained at an end, and is now and forever of no more force or effect regarding the rights, powers, position, dignity, and condition of the United States of America, and the People of the United States, furthermore the People of the United States are to be fully returned, and restored to their former state before said emergency was declared, forever abolishing the perpetual state of marshal law and the use of military courts against the People and their estates, and forever abolishing, repealing, and extinguishing every act, law, code, statute, ordinance, treaty, and executive order that has been based, in whole or in part, upon the declarations, or the executive orders of the aforementioned said states of emergency.

CONSTITUTION FOR THE UNITED STATES OF AMERICA 1787

BILL OF RIGHTS

ARTICLE [I.] Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE [II.] A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE [III.] No Soldier shall, in time of peace be quartered. in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE [IV.] The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE [V.] No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE [VI.] In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to

have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.
ARTICLE [VII.] In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.
ARTICLE [VIII.] Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
ARTICLE [IX.] The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.
ARTICLE [X.] The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.
ARTICLE [XIV.]
SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

DECLARATION OF RIGHTS, Arkansas constitution (1838):

That the great and essential principles of liberty and free government may be recognized and unalterably established. We declare:
SEC. 1. That all free men when they form a social compact are equal and have certain inherent and indefeasible rights amongst which are those of enjoying and defending life and liberty; of acquiring possessing and protecting property and reputation and of pursuing their own happiness.
SEC. 2. That all power is inherent in the people; and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends, they have, at all times an unqualified right to alter reform or abolish their government in such manner as they may think proper.
SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences, and no man can of right be compelled to attend erect or support any place of worship or to maintain any Ministry against his consent. That no human authority can in any case whatever interfere with the rights of conscience; and that no preference shall ever be given to any Religious establishment or mode of worship.
SEC. 4. That the civil rights privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of

his Religion.
SEC. 5. That all Elections shall be free and equal.
SEC. 6. That the right of trial by jury shall remain inviolate.
SEC. 7. That printing presses shall be free to every person and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak write and print on any subject-being responsible for the abuse of that liberty.
SEC. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity or where the matter published is proper for public information the truth thereof may be given in evidence; and in all indictments for libels the jury shall have the right to determine the law and the facts.
SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that general warrants whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described, and supported by evidence, are dangerous to liberty and shall not be granted.
SEC. 10. That no free man shall be taken or imprisoned or diseased of his free-hold liberties or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life liberty or property, but by the judgment of his peers or the law of the land.
SEC. 11. That in all criminal prosecutions the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment a speedy public trial by an impartial jury of the County or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.
SEC. 12. That no person shall for the same offence be twice put in jeopardy of life or limb
SEC. 13. That all penalties shall be reasonable and proportioned to the nature of the offence.
SEC. 14. That no man shall be put to answer any criminal charge but by presentment, indictment or impeachment.
SEC. 15. That no conviction shall work corruption of blood or forfeiture of estate.
SEC. 16. That all prisoners shall be bailable by sufficient securities unless in capital offences where the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless where in case of rebellion or invasion the public safety may require it.
SEC. 17. That excessive bail shall in no case be required nor excessive fines imposed.
SEC. 18. That no ex post facto law nor any law impairing the

obligation of contracts shall ever be made.
SEC. 19. That perpetuities and monopolies are contrary to the genius of a republic and shall not be allowed; nor shall any hereditary emoluments privileges or honors ever be granted or conferred in this state.
SEC. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good to instruct their representatives and to apply to those invested with the power of government for redress of grievances or other proper purposes by address or remonstrance.
SEC. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defense.
SEC. 22. That no soldier shall in time of peace be quartered in any house without the consent of the owners; nor in time of war but in a manner pre-scribed by law.
SEC. 23. The military shall be kept in strict subordination to the civil power.
SEC. 24. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto or to the other provisions herein contained, shall be void.

A valid form of Teste("witness ourself") in this court of record for all instruments emanating therefrom may be: Witness: [name of Authority] and [office held] holder of the seal of this court with said seal thereof hereunto affixed, verified and attested by his/her own hand, who stands upon the land of [Name of County and, or Republic], this [day] of [month], [year].

MAGNA CARTA:
But if the heir of any of the above persons shall be under age and in wardship, when he comes of age he shall have his inheritance without relief and without fine. [Magna Carta, Article 3]
The administrator of the land of such heir who shall be under age shall take none but reasonable issues from the land of the heir, and reasonable customs and services; and this without destruction and waste of men or goods. And if we shall have committed the custody of any such land to the sheriff or to any other man who ought to be responsible to us for the issues of it, and he cause destruction or waste to what is in his charge: we will fine him, and the land shall be handed over to two lawful and discreet men of that fee who shall answer to us, or to him to whom we shall have referred them, regarding those issues. And if we shall have given or sold to any one the custody of any such land, and he shall have caused destruction or waste to it,--he shall lose that custody, and it shall be given to two lawful and discreet men of that fee, who likewise shall answer to us, as has been explained.

[Magna Carta, Article 4]
The administrator, moreover, so long as he may have the custody of the land, shall keep in order, from the issues of that land, the houses, parks, warrens, lakes, mills, and other things pertaining to it. And he shall restore to the heir when he comes to full age, his whole land stocked with ploughs and wainnages, according as the time of the wainnage requires and the issues of the land will reasonably permit. [Magna Carta, Article 5]

A freeman shall only be amerced for a small offence according to the measure of that offence. And for a great offence he shall be amerced according to the magnitude of the offence, saving his contenement; and a merchant, in the same way, saving his merchandize. And a villein, in the same way, if he fall under our mercy, shall be amerced saving his wainnage. And none of the aforesaid fines shall be imposed save upon oath of upright men from the neighbourhood. [Magna Carta, Article 20]

Earls and barons shall not be amerced save through their peers, and only according to the measure of the offence. [Magna Carta, Article 21]

No sheriff, constable, coroners, or other bailiffs of ours shall hold the pleas of our crown. [Magna Carta, Article 24]

No sheriff nor bailiff of ours, nor any one else, shall take the horses or carts of any freeman for transport, unless by the will of that freeman. [Magna Carta, Article 30]

Henceforth the writ which is called Praecipe shall not be served on any one for any holding so as to cause a free man to lose his court. [Magna Carta, Article 34]

Henceforth nothing shall be given or taken for a writ of inquest in a matter concerning life or limb; but it shall be conceded gratis, and shall not be denied. [Magna Carta, Article 36]

No Bailiff, for the future, shall put any man to his law, upon his own simple affirmation, without credible witnesses produced for the purpose. [Magna Carta, Article 38]

No freeman shall be taken, or imprisoned, or disseized, or outlawed, or exiled, or in any way harmed, nor will we go upon or send upon him, save by the lawful judgment of his peers or by the law of the land. [Magna Carta, Article 39]
To none will we sell, to none deny or delay, right or justice. [Magna Carta, Article 40]

We will not make Justiciaries, Constables, Sheriffs, or Bailiffs, excepting of such as know the laws of the land, and are well disposed to observe them. [Magna Carta, Article 45]

If anyone shall have been disseized by us, or removed, without a legal sentence of his peers, from his lands, castles, liberties or lawful right, we shall straightway restore them to him. And if a dispute shall arise concerning this matter it shall be settled according to the judgment of the twenty-five barons who are mentioned below as sureties for the peace. But with regard to all those things of which any one was, by king Henry our father or king Richard our brother, disseized or dispossessed without legal judgement of his peers, which we have in our hand or which others hold, and for which we ought to give a guarantee: We shall have respite until the common term for crusaders. Except with regard to those concerning which a plea was moved, or an inquest made by our order, before we took the cross. But when we return from our pilgrimage, or if, by chance, we desist from our pilgrimage, we shall straightway then show full justice regarding them. [Magna Carta, Article 52]

All fines imposed by us unjustly and contrary to the law of the land, and all amercements made unjustly and contrary to the law of the land, shall be altogether remitted, or it shall be done with regard to them according to the judgment of the twenty five barons mentioned below as sureties for the peace, or according to the judgment of the majority of them together with the aforesaid Stephen archbishop of Canterbury, if he can be present, and with others whom he may wish to associate with himself for this purpose. And if he can not be present, the affair shall nevertheless proceed without him; in such way that, if one or more of the said twenty five barons shall be concerned in a similar complaint, they shall be removed as to this particular decision, and in their place, for this purpose alone, others shall be substituted who shall be chosen and sworn by the remainder of those twenty five. [Magna Carta, Article 55]

...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgment in all their points, that is to wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297, in Sources of Our Liberties, Edited by Richard L. Perry, American Bar Foundation].

MAXIMS OF LAW:

"An action is not given to one who is not injured" Actio non datur non damnificato. Maxim of Law. See Black, Law. Dict. 10th page 1898.

"A court of Admiralty has no jurisdiction over those things that are determined by common law." Admiralitas jurisdictionem non habet super iis quae communi lege dirimuntur. Maxim of Law. See Black, Law. Dict. 10th page 1899.

"An ecclesiastical court has no jurisdiction over matters of common law." Curia ecclesiastica locum non habet super iis quae juris sunt communis. Maxim of Law. See Black, Law. Dict. 10th page 1907

"Power that is derived cannot be greater than that from which it is derived" Derivativa potestas non postest esse major primitiva. Maxim of Law. See Black, Law. Dict. 10th page 1908.
"A deception practiced on one person does not give a cause of action to another." Alterius circumventio alii non praebet actionem. Maxim of Law. See Black, Law. Dict. 10th page 1900.
"The body of a human can have no price put on it." Corpus humanum non recipit aestimationem. Maxim of Law. See Black, Law. Dict. 10th
"An agreement induced by fraud will not stand." Dolo malo pactum se non seraturum. Maxim of Law. See Black, Law. Dict. 10th page 1909.
"The mind of the sovereign is presumed to be the same as that of the law, and the same as what ought to be, especially in ambiguous matters." Eadem mens Praesumitur Regis quae est juris et quae esse debet, praesertim in duiis. Maxim of Law. See Black, Law. Dict. 10th page 1910.
"No action arises out of a wrongful consideration." Ex turpi causa non oritur actio. Maxim of Law. See Black, Law. Dict. 10th page 1913.
"Fiction yields to truth; where the truth appears, there is no fiction of law." Fictio cedit veritati; fictio juris non est ubi veritas. Maxim of Law. See Black, Law. Dict. 10th page 1914
"Where truth is, fiction of law does not exist." Fictio juris non est ube veritas. Maxim of Law. See Black, Law. Dict. 10th page 1914.
"It is fraud to conceal a fraud." Fraus est cleare fraudem. Maxim of Law. See Black, Law. Dict. 10th page 1915.
"Inheritance is the succession to every right possessed by the late possessor." Haereditas est successio in universum jus quod defunctus habuerat. Maxim of Law. See Black, Law. Dict. 10th page 1916
"A man shall not be punished for suing out writs in the king's court, whether the person is right or wrong." Home ne sera puny pur suer des briefes en court le roy, soit il a droit ou a tort. Maxim of Law. See Black, Law. Dict. 10th page 1917.
" 'man' (homo) is a term of nature; 'person' (persona) is a term of civil law." Homo vocabulum est naturae; persona juris civilis. Maxim of Law. See Black, Law. Dict. 10th page 1917.
"In the presence of the superior, the power of the inferior ceases." In praesentia majoris cessat potentia minoris. Maxim of Law. See Black, Law. Dict. 10th page 1921.
"It is in the interest of the republic that people should be protected." Interest reipublicae quod hominess conserventur. Maxim of Law. See Black, Law. Dict. 10Th 1922.
"The rights of blood (or kinship) cannot be destroyed by any civil law." Jura sanguinis nullo jure civili dirimi possunt. Maxim of Law. See Black, Law. Dict. 10th page 1924.
"It is safe not to obey a person who has no right." Jus non habenti tute non paretur. Maxim of Law. See Black, Law. Dict. 10th page 1925.
"The law favors a man's life." La ley favour la vie d'un home.

Maxim of Law. See Black's, Law. Dict. 10th page 1,925.
"The law does not tolerate fractions and divisions of estates." 1 Coke 87a. lex non patitu fractiones et divisions statuum. Maxim of Law. See Black's, Law. Dict. 10th page 1,927.
"The law favors a man's inheritance." La ley favour l'inheritance d'un home. Maxim of Law. See Black, Law. Dict. 10th page 1925.
"Necessity makes lawful what otherwise is unlawful." Necessitas facit licitum quod alias non est licitum. Maxim of Law. See Black, Law. Dict. 10th page 1932.
"Necessity has no law." Necessitas non habet legem. Maxim of Law. See Black, Law. Dict. 10th page 1932
"Where blood has been spilled, the case is unpardonable." Nec veniam effuso sanguine casus habet. Maxim of Law. See Black, Law. Dict. 10th page 1932.
"A man who exercises his own rights injures no one." Neminem laedit qui jure suo utitur. Maxim of Law. See Black, Law. Dict. 10th page 1933.
"No one can be dragged (taken by force) from his own house." Nemo de domo suq extrahi potest. Maxim of Law. See Black, Law. Dict. 10th page 1933.
"What is void in the beginning does not become valid by passage of time." Quod initio non valet, tractu temporis non valet. Maxim of Law. See Black, Law. Dict. 10th page 1953.
"Persons taken by pirates or robbers remain free." A piratis out latronibus capti liberi permanent. See Black, Law. Dict. 10th page 1953. Maxim of Law.
"Things taken or captured by pirates and robbers do not change their ownership." A piratis et latronibus oapta dominium non mutant. See Maxim of Law. Black, Law. Dict. 10th page 1953.
"Ignorantia juris sui non praejudicat juri." Ignorance of one's right does not prejudice the right. See Black's Law Dictionary, page: 873, 5th, Ed. (1979) Maxim of Law.
"One who commands lawfully must be obeyed." Legitime imperanti parere necesse est. See Maxim of Law. Black, Law. Dict. 10th page 1926.
Minor ante tempus agere non potest in casu proprietatis, nec etiam convenire. A minor before majority cannot act in a case of property, nor even agree. 2 Inst. 291

SEAL:
The seal of this Superior Court of Record shall be the Arkansas State Superior Court seal; this seal is the property of the Arkansas state Common Law Court. Any use of this seal without the express written consent of the Arkansas state Common Law Court, in any form, carries with it the penalty of death.

The seal of this court shall be affixed to instruments by the hand of the sovereign of this court, or a Justice or Court Clerk or Special Master in good standing with this court, by drawing said seal onto said instruments or by crimping the instruments with the embossed seal of the court.

Directly below, to the right of the word Seal, is the image of the seal of the Arkansas state Common Law Court crimped with embosser or stamped or drawn by hand, and is to be recognized as such, by all who see it, regardless of minor changes in style from one hand to another who are authorized to draw and use it.

Seal:

RULES OF PROCEDURE: writs;
The rules of procedure for writs emanating from this court are as follows:
CONTENTS; AMENDMENTS

Contents. A writ must:
Name the court or sovereign from which it emanates;
Name the parties;
Give a list of commands to the ministerial / executive officer who is to execute them, and when he is to execute them or under what contingency he is to execute them; this list may be within the writ or attached to it; State the name and address of the plaintiff and / or prosecutor; notify the defendant that failure to appear and defend, in a way consistent with law, will result in a default judgment against the defendant for the relief demanded within the writ or accompanying complaint, claim, declaration, or action;
If judicial;
Be signed by a judge, magistrate, master, magistrate judge, special master, or sovereign of this court;
Bear the court's seal;
If original;
Be signed and attested by the sovereign and bear his seal;
If prerogative;
Be signed and attested by the sovereign of the state, bear the seal of the court, and run in the name of the sovereign of the state;
Be attested to;
Be directed to the defendant, or wrongdoer depending on the type of writ;
Have an endorsement on the back of the writ if it is a writ in the nature of a writ of execution;
Contain the description of the judgment, which discloses the authority to issue it.

Amendments. The court may permit a writ issued by the plaintiff to be amended in part or in its entirety.

ISSUANCE.
On or after signing of the teste and the sealing of the writ by the plaintiff, and /or the Special Master, and /or other

designated officer of the court, one may present the writ to the clerk for signature and file stamp. If the writ is properly completed, the clerk shall sign, file-stamp, and if required by the plaintiff, Special Master, or other designated officer, deliver the writ to the appropriate ministerial / executive officer, stated in the writ, for execution, and/ or service, according to the commands stated therein to the appropriate party or parties stated in the writ.

ENDORSEMENT.

After the writ has been issued from the court or the sovereign, the writ shall have an endorsement on the back in the amount certain to be collected with any other interest or other moneys added in, to be expressed in figures, i.e., $10,000.00, it shall state any credits, the items of costs and charges, the dates of interest, and contain the true demand of the plaintiff, with the exact specification of the amount the defendant is to pay. The endorsement must also state the names of the defendants who will have the amount claimed from them.

Example: Plaintiff John Doe is to collect from Mary Roe $35,000.00 and one red snow blower.

[signed by John Doe]_
Plaintiff John Doe

Example: The Superior court claims all records from B. Smith & Company regarding the sale of one 2010 green Dodge truck.

__[signed by Jay Ball]__
State Justice

Example: The Plaintiff Dan Smith is to be restored to freedom forthwith and be given return of all bond moneys from Case #'s 52 - 36 - 47 in the amount of $35,000.00 from the Sheriff or bondsman of Door County Jail.

[signed by Tim Roberts]__
Special Master

SERVICE; EXECUTION.

Service. Those authorized to serve writs shall be:
1. The sheriff of the county where the defendant and/or the defendant's property is to be found;
2. Marshals of the court of record on file with the court and in good standing with the court;
3. United States marshals in good standing with the court;
4. united states marshals in good standing with the court;
5. Coroners of the county where the defendant or the defendant's property is to be found if the sheriff of the county is a party to the suit or writ and therefore disqualified to serve.
6. Any individual who has come of full age not a party to or interested in the proceedings in which the writ issued.

Service. When the officer shall serve:
On or before the return day stated on the writ.

Execution: It shall be the duty of any officer, or other, authorized to serve writs from this court, upon being presented with a writ from this court, either given to him by hand, or placed in his office, or transmitted to him for the purpose of being executed, that is in compliance with the rules of procedure of this court concerning writs as so stated in the Law of the Case, with the full power of this court to shield said officer from liability from the defendant, to execute the commands within the writ without condition, within the time allowed, or upon any contingency stated therein, promptly and vigorously.

RETURN. The officer to whom a writ has been committed, and who has executed its commands, is then bound by duty to return it, by which is meant that he must write upon the writ, or a paper thereto attached, a statement, sworn to under oath, of his acts done in pursuance of its mandate, and deliver it again to the court, through its clerk, special master, or directly to the plaintiff if so commanded. Whatever it is necessary for the officer to do to effectually execute the writ committed to him must show in the return for having been done; if it not be done, he must give reason as to why.

Contents. A return must:
State the date and time the commands were executed, or were attempted to be executed;
State the name or names of the officer or officers who executed the writ;
Name the party the officer served the writ to;
Name the location where the officer executed the commands of the writ;
State what the actions of the officer were in the execution of the commands within the writ;
Contain an oath of the officer that all that he has been commanded to do has been done, or has not been done, and for what reason it was not done, and that all that he states within the return be true upon his or her oath;
Contain the signature of the officer, and his seal if he has one, or the seal of his office if the officer who executed the orders of the writ did so in his official capacity.