Notice, Contract, Declaration of Citizenship, Affidavit, Demand, and Jurisdiction Challenge

You have been served.

This Notice, Contract, Declaration of Citizenship, Affidavit, Demand, and Jurisdiction Challenge addresses federal jurisdiction, federal authority, jurisdiction and authority of federal agents, the Constitutionality and lawful character of the income tax and the Internal Revenue Service, and other agencies of the United States government including but not limited to the Department of the Treasury, and legal application of the Internal Revenue Code. It will be construed to comply with provisions necessary to establish presumed fact (Federal Rules of Civil Procedure, and attending State rules) should interested parties fail to rebut within 20 calendar days any given allegation or matter of law addressed herein. The position will be construed as adequate to meet requirements of judicial notice, thus preserving fundamental law. Matters addressed herein, if not rebutted within 20 calendar days, will be construed to have general application.

In federal criminal prosecutions involving jurisdictional type crimes, the government must prove the existence of federal jurisdiction by showing U.S. ownership of the place where the crime was committed and state cession of jurisdiction. If the government contends for the power to criminally prosecute for an offense committed outside "its jurisdiction," it must prove an extra-territorial application of the statute in question as well as a constitutional foundation supporting the same. Absent this showing, no federal prosecution can be commenced for offenses committed outside "its jurisdiction."

"Once jurisdiction is challenged, it must be proven." Hagins v Lavine, supra note 3 "No sanction can be imposed absent proof of jurisdiction." Standard v Olson, 74 S.Ct. 768 "It has also been held that jurisdiction must be affirmatively shown and will not be presumed." Special Indem. Fund v Prewitt, 205 F2d 306, 201 OK. 308.

All interested parties must make rebuttals to the address contained in item number 146 below.

Know all Men and Women by these presents

de jure, union state) of Arizona)) Ss. Affidavit of Fact) Apache County)

Whereas: The Eternal and Unchanging Principles of the Laws of commerce are:

1. A matter must be expressed to be resolved.

2. In commerce, Truth is Sovereign.

3. Truth is expressed in the form of an Affidavit

4. An undisputed Affidavit stands as Truth in Commerce.

5. An undisputed Affidavit becomes the judgment in commerce.

6. An Affidavit of Fact, under Commercial Law, can only be satisfied:

I. through a Rebuttal Affidavit of Fact, point for point;

II. by payment;

III. by agreement;

IV. by resolution by a jury according to the rules of Common Law;

7. A worker is worthy of his hire;

8. All are equal under the Law.

The foundation of Commercial Law is based upon certain eternally just, valid, moral precepts and truth, which have remained unchanged for at least six thousand (6,000) years, having its roots in Mosaic Law. Said Commercial Law forms the underpinnings of Western Civilization, if not all Nations, Law and Commerce in this world. Commercial Law is non-judicial and is prior and superior to the basis of and cannot be set aside or overruled by the statutes of any governments, Legislatures, Quasi-Governmental Agencies, Courts, Judges, and Law Enforcement Agencies, which are under an inherent obligation to uphold said Commercial Law.

Know all Men that William, Cooper hereinafter, "the Affiant", certifies in this Affidavit of Fact that the following facts are true, correct, certain and complete to the best of the Affiant's knowledge, belief and information.

I, William, Cooper a sui juris, Free, Good and Lawful, Christian, Man upon the Land, who was natural-born on the sixth day of the fifth month of the year of our Lord, nineteen hundred and forty-three in the de jure Los Angeles county of the De jure, union state of California, who is currently a Free

Inhabitant, Citizen of the de jure Apache county, of the de jure union state of Arizona in addition to Citizen of the union state of California, and whose mailing location is: All Rights Reserved, (c/o Harvest Trust, c/o P.O. Box 1970, Eagar, de jure, union state of Arizona) non-assumpsit to the venue of "AZ" (these united states of America) non-domestic, i.e., non-government mail delivery, non-assumpsit to the venue of (85925), does solemnly affirm, declare, attest and depose:

1. That the Affiant is of Lawful age to make this Affidavit.

2. That the Affiant is competent to make this Affidavit.

3. That the Affiant has personal knowledge of the facts as stated herein.

4. That the Affiant is not under the Lawful guardianship or disability of another.

5. That the Affiant makes this Affidavit of Fact as a matter of record of the Affiant's own Right, sui juris, in the Affiant's own proper self, in propria persona.

6. That the Affiant was natural-born a Citizen of the de jure union state of California in the de jure Los Angeles county on the sixth day of the fifth month of the year of our Lord, nineteen hundred and forty-three. That Affiant's wife, Annie Mordhorst was natural-born a Citizen of the de jure nation of Taiwan in the de jure city of Taipei on the eighth day of the eleventh month of the year of our Lord, nineteen hundred and fifty-three.

7. That as a natural-born, de jure, preamble Citizen of the de jure, union state of California, the Affiant declares the Affiant's sovereignty extended to the Affiant by All Mighty GOD.

8. That the de jure, union states of Arizona and California are of the freely associated, compact states of the American union.

9. That the Affiant is a Citizen under the 1776, Unanimous Declaration of the thirteen united States of America (also known as the Declaration of Independence); the 1777 Articles of Confederation; the 1787 Constitution for the United States of America; the Bill of Rights ratified in 1791, and precedent decisions of the Constitution for the United States of America, Article III justice Courts of Law. That Affiant's wife by virtue of the "Common Law" as the lawful wife of Affiant is a Citizen of the same.

10. That the Affiant and Affiant's lawful wife are possessed of unalienable,

GOD-given Rights from Affiant's creator.

11. That Affiant's unalienable Rights are memorialized in and secured by the 1787 Constitution for the United States of America and the 1791 Bill of Rights.

12. That the Affiant has not ever, does not now, and will not ever knowingly, willingly, voluntarily or intentionally waive any of the Affiant's Rights.

13. That the government of the United States may not assume any power over the Citizens of the de jure union states which is not specifically delegated to the United States by the creators of the United States, that is, the Citizens of the de jure, union states.

14. That the Affiant and Affiant's lawful wife do not owe their Citizenship to the so-called Fourteenth Amendment to the Constitution for the united States.

15. That the Affiant and Affiant's lawful wife ARE NOT LIABLE for the Title 26 United States Code/Internal Revenue Code, Subtitle-A, Section One graduated income taxes for reasons of the Affiant's and Affiant's lawful wife's alienage to the State of the forum of United States Tax Laws.

16. That the Affiant and Affiant's lawful wife were not born in a territory over which the United States is sovereign.

17. That the Affiant and Affiant's lawful wife are not citizens subject to the jurisdiction of the United States, as defined in

(26 Code of Federal Regulations 1.1-1(c)); to wit:

(c)Who is a citizen: Every person born or naturalized in the United States and subject to its jurisdiction is a citizen.

3A American Jurisprudence 1420, Aliens and Citizens. A person is born subject to the jurisdiction of the United States, for purposes of acquiring citizenship at birth, If this birth occurs in a territory over which the United States is sovereign.

18. That the Affiant and Affiant's lawful wife are "non-resident to" and "not a dweller within" the jurisdiction of the "State of the Forum" of Article One, Section Eight, Clause Seventeen, and Article Four, Section Three, Clause Two of the Constitution for the United States of America, in which the United States Congress "exercises exclusive Legislation in; all Cases whatsoever; over said District not exceeding ten Miles square." beyond the seat of Government of places legally ceded by the union states for the erection of Forts, Magazines,

Arsenals, dock-Yards, and other needful Buildings, or any other territories or properties "belonging to" the United States. Consequently, the Affiant is not liable for the (Title 26 United States Code, Subtitle-A, Section One), graduated income tax for reasons of the Affiant's non-residence to such State of Forum.

19. That "It is a well-established principle of law that all federal legislation applies only within the territorial jurisdiction of the United States unless a contrary intent appears." Foley Brothers v. Filardo, 336 U.S. 281.

20. That the Affiant and Affiant's lawful wife are not a "resident of", "inhabitant of", "franchise of", "subject of", "ward of", "chattel of", or "subject to the jurisdiction of" the State of the forum of any United States, the corporate State, corporate County, or corporate City, Municipal, body politics created under the primary authority of Article one, Section Eight, Clause seventeen, and Article Four, Section Three, Clause Two of the Constitution for the United States of America, therefore, the Affiant is not subject to any legislation created by such authorities; is not subject to the jurisdiction of any employees, officers or agents deriving the authority thereof; is not subject to Administrative, Constitution for the United States of America, Article One courts, and is not bound by precedents of such courts:

Legislation enacted by Congress applicable to the inferior federal courts in the exercise of power under Article III of the Constitution cannot be affected by legislation enacted by congress under Article 1, Section 8, Clause 17 of the Constitution. D.C. Code, Title 11, at page thirteen

21. That as a sovereign Citizen of one of the union states, under the constitution for the United States of America and Law, only Constitution for the United States of America, Article Three, Justice Courts of law decisions are applicable to the Affiant.

22. That the reader is hereby w a r n e d to TAKE NOTICE that through the Contract and Declaration of Citizenship/Affidavit of Fact, presently before the reader, the Affiant and Affiant's lawful wife hereby C A N C E L S any and all presumed election(s) made by the United States government or by any agency or department thereof, that has assumed that the Affiant is or ever has been a citizen or resident of any territory, possession, instrumentality, or enclave under the sovereignty or exclusive jurisdiction of the united states as defined and limited to the United States in Article One, Section Eight, Clause Seventeen and Article Four Section Three, Clause Two of the Constitution for the United States of America, and furthermore, the Affiant hereby C A N C E L S any presumption that the Affiant ever knowingly, willingly, voluntarily or

intentionally elected to be treated as such a citizen or resident.

23. That the reader is hereby w a r n e d to TAKE NOTICE that through the Contract and Declaration of Citizenship/Affidavit of Fact, presently before the reader, the Affiant and Affiant's lawful wife; hereby; a) R E S C I N D S all endorsements, subscriptions or presumed signatures attributed to the hand of the Affiant, on any form or document whatsoever, which may be construed or has been construed to give the International Monetary Fund; the United Nations; any entity that claims to have a treaty, compact, contract, agreement or understanding with the United States government; the Internal Revenue Service; the Social Security Administration; or any agency or entity of the United States government created under the authority of the Constitution for the United States or America, Article One, Section Eight, Clause Seventeen and Article Four, Section Three, Clause Two; or any other government - whether said government be de jure, de facto, foreign, domestic, local, state, national, international, hemispheric, global, secular or one which maintains the trappings, vestments and appearance of a true ecclesiastical organization - whatsoever, any authority or jurisdiction over the Affiant; through inadvertence, fraud (see 1 at bottom of page) or mistake; b) RESCINDS and makes V0ID ab initio, all powers of attorney, in fact, in presumption, or otherwise, endorsed or subscribed by the Affiant or which bear a presumed signature attributed to the hand of the Affiant, or signed by someone or some thing else, without the Affiant's prior, knowing, willing, voluntary and intentional consent, as such power of attorney pertains to the Affiant, but not limited to, any and all quasi-colourable, corporate governmental entities, private or public, on the grounds of constructive fraud and non-disclosure.

24. That the Affiant and Affiant's lawful wife are not now, and will not ever, knowingly, willingly, voluntarily or intentionally be an officer, employee, elected official or chattel of the United States; the District of Columbia; or an agency, franchise or instrumentality of the United States, the District of Columbia, the Royal Family of Great Britain, or the Vatican.

25. That the Affiant and Affiant's lawful wife are not an officer of a corporation under a duty to withhold.

26. That the Affiant and Affiant's lawful wife are not an "employee" as that "term" is defined in Law and in the Internal Revenue Code, Federal Register, Tuesday, September 7, 1943, section 404.104, page 12267, to wit:

Employee: The term "employee" specifically includes officers and employees whether elected or appointed of the United States, a State, territory, or

political subdivision thereof or of the District or Columbia or any agency instrumentality or any one or more of the foregoing.

Section 3401(c) EMPLOYEE For purposes of this chapter, the term employee Includes an officer, employee or elected official of the United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term also includes an officer of a corporation.

1 United States v. Throckmorton, 98 U.S. 65-66

27. That, because the Affiant and Affiant's lawful wife are NOT an "employee", the Affiant does not earn "wages" as such terms are defined in the Internal Revenue Code, to wit:

Section 3401(a) Wages...the term "wages' means all remuneration...for services performed by an employee for his employer... .

28. That, pursuant to the Public Salary Tax Act of 1939, Title One, Section One, the Affiant does not earn "gross income" as such term is defined therein. The Public Salary Tax Act of 1939, Title 1 - Section 1, Section 22(a) of the Internal Revenue Code relating to the definition of "gross income" (is amended after the words "compensation for personal service") includes [only] personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing.

29. That the Affiant and Affiant's lawful wife are not involved in any type of "revenue taxable activities" including but not limited to the manufacture, sale or distribution of alcohol, tobacco, or firearms; any wagering activities; or any other regulated industry, trade or profession.

30. That the Affiant and Affiant's lawful wife does not reside in or obtain income from any source within the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam or any other territory, insular possession, possession, enclave, franchise or instrumentality of the United States, the District of Columbia, the British Commonwealth, or the Vatican.

31. That the Affiant and Affiant's lawful wife are not a United States Person; United States Resident; United States Individual; United States Corporation "citizen subject to it's jurisdiction", or subject of the Royal Family of Great Britain, as such "words of art" are defined in the Internal Revenue Code and

other applicable United States Codes or treaties.

32. That the so-called Sixteenth Amendment to the Constitution for the united States did not repeal the Constitutional apportionment restrictions imposed on direct taxes by the Constitution for the United States of America, Article One, Section Two, Clause Three, and Article One, Section Nine, Clause Four, thus, taxes on personal property are direct taxes, not taxable by the federal government unless apportioned according to the census of the union states.

33. That the so-called Sixteenth Amendment to the Constitution for the united States was not properly lawfully and constitutionally ratified by the States of the Union. But if it had been properly ratified it specifies "...incomes, from whatever source derived,...".

Amendment XVI. "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

34. That the Secretary of the Department of the Treasury has defined and limited the tax to be applicable to only, "...taxable income of the taxpayer from specific sources and activities..." The income must be taxable and must come from specific sources and activities that are defined by the Secretary.

Code of Federal Regulations § 1.861- 8(a): "...The rules contained in this section apply in determining taxable income of the taxpayer from specific sources and activities under other sections of the Code referred to in this section as operative sections. See paragraph (f)(1) of this section for a list and description of operative sections."

35. That the Federal Regulations make reference to 'sources' within the United States.. below are the only sources listed from which income must derive in order for it to be taxable for the purpose of the Income Tax.

Code of Federal Regulations 1.861-8(f)(1)

(i) Overall limitation to the foreign tax credit.

(ii) [Reserved]

(iii) DISC and FSC taxable income. (note: DISC is Direct International Sales Corp, and FSC is a Foreign Sales Corp)

(iv) Effectively connected taxable income. Nonresident alien individuals and foreign corporations engaged in trade or business within the United

States,...

(v) Foreign base company income.

(vi) Other operative sections.

(A) "...foreign source items of tax..."

(B) "...foreign mineral income..."

(C) [Reserved]

(D) "...foreign oil and gas extraction income..."

(E) "...citizens entitled to the benefits of section 931 and the section 936 tax credit..."

(F) "...residents of Puerto Rico..."

(G) "...income tax liability incurred to the Virgin Islands..."

(H) "...income derived from Guam..."

(I) "...China Trade Act corporations..."

(J) "...income of a controlled foreign corporation..."

(K) "...income from the insurance of U.S. risks..."

(L) "...international boycott factor...attributable taxes and income under section 999..."

(M) "...income attributable to the operation of an agreement vessel under section 607 of the Merchant Marine Act of 1936..."

36. That the item 35. list explains clearly the "gross income" involvement in light of the fact that the U.S. Supreme Court has determined that the Congress acts intentionally and purposely in the inclusion or exclusion of something in a law. Or simply, if a particular source is not on the list, then it is effectively 'excluded' from the Income Tax Act and subsequently the legal definition of 'Gross Income'.

37. That the item 35. list/regulation can be described simply as a "fence". The U.S. Congress gave the Secretary the task to encircle and delineate the only area from which "Gross Income", and hence "taxable income", can be derived or accepted from... and the Secretary published his understanding of what was

expected of him in the regulations. The above list is in fact the only definition of "sources" anywhere in the regulations. "Whatever" is within the fence is "allowed" to be listed as "Gross Income". If it is not within the confines of the Secretary's "fence" or "regulation", it is "exempt".

38. That some with a vested interest in taking care of our money for us, will argue that the phrase "whatever sources" in the so-called 16th Amendment means "any and all sources"... we AGREE that it does... any and all "sources" within the list! The Secretary has defined them, then Congress agreed with the Secretary! And they are restricted to the above list, as it is the only list which defines sources! An entry for Citizens with domestic income does not exist on this list!

39. That the power of the Congress and the authority it gives to the Executive Branch is limited to the contents of the law.

40. What is not stated in the law is ALWAYS important; it is a fundamental legal principle and a basic maxim of statutory interpretation:

"Expressio unius est exclusio alterius" (the expression of one thing is the exclusion of another)

"When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded." (Black's, 6th ed.)

1.) Section 61 states that gross income is from 'sources' which are taxable.

2.) 26 USC § 861(a), states that the following items of gross income shall be treated as income from sources within the United States, and does not define the 'specific sources' of income from within the U.S., that are taxable.

3.) 26 CFR § 1.861 and following, are the Regulations promulgated by the Secretary of Treasury to implement 26 USC § 861, and prove that the items of gross income discussed in 26 USC § 861, are applicable only to foreigners and U.S. Citizens living abroad.

41. That all of the regulations applicable to 26 USC § 864, Definitions, are directed only to nonresident aliens and foreign corporations. Significantly, the only application of the federal income tax upon the income of U.S. Citizens in existence is with respect to:

(1) a U.S. Citizen's foreign earned income, and

(2) the income of U.S. Citizens living abroad.

42. That when you examine 861's regulations, you find the admission in 1.861-8 (a)(4), that income must come from a specific source to be taxable. If you examine the sources in 1.861-8 (f)(1), you will find that the domestic sources are plainly applicable to non-resident aliens and foreign corporations. The others listed are foreign sources that U.S. citizens would definitely be taxed upon.

43. That there is no direct mention of U.S. sources where U.S. Citizens can earn 'gross income'.

44. That of the five sources listed in (f)(1), four of them are repeated as non-exempt income pursuant to 26 CFR § 1.861-8 (T)(d)(2)(iii). And pursuant to 1.861-8 (T)(d)(2)(ii)(A), all income that is exempt, excluded (not listed), or eliminated from the law, is exempt income. Where are the other U.S. sources listed that are applicable to U.S. citizens living and working within the U.S.?

45. That since the law is plainly structured to be taxing foreigners, and foreign earned income, we must have some specific citation of law, specifically taxing U.S. citizens on their domestic source income, as the Secretary has made the list of U.S. sources that are taxable in 26 U.S.C. § 861, applicable only to foreigners.

46. That the only form required to be filed by U.S. Citizens, pursuant to section 1.1-1 of the Code of Federal Regulations, is the 2555 foreign earned income form. With regard to the filing of returns, the only filing requirement for an individual under Subtitle A "income" tax is found in code section 6012(a). Under section 6012(a) and its underlying regulations, "taxable income" is limited to certain income that has been "earned" while living and working in certain foreign countries or territories.

As proof of the above, under the 1980 Paperwork Reduction Act, the Office of Management and Budget (OMB) must assign an OMB approval number to any agency return that requests and collects information from a U.S. citizen. According to OMB approval control number 1545-0067 assigned to Treasury regulations 1.1-1 "Tax imposed" and 1.6012-0 "Person required to make returns of income" under 26 CFR part 600 to end, the required return for a U.S. citizen to report income is not Form 1040, but Form 2555 "Foreign Earned Income." The 1040 return for the "U.S. Individual" is merely a

supplemental worksheet for the required Form 2555. The top of Form 2555 instructs "attach to front of Form 1040" and "for use by U.S. citizens". Treasury Decision 2313 (TD 2313) clarifies that the Form 1040 individual income tax return is to be used only by the fiduciary of a nonresident alien and receiving interest and/or dividends from the stock of domestic (US) corporations on behalf of that alien. This decision was issued in 1916 to "collectors of internal revenue" pursuant to the U.S. Supreme Court under the Brushaber v. Union Pacific R.R. decision and still stands today.

For the above reasons, the income tax under Subtitle A is not "voluntary", as some have asserted. It is mandatory, but only for those to whom it applies as explained above. Since the law is limited in its application, the question of whether it is mandatory or voluntary is superfluous. The question is to whom and under what circumstances is the law applied? With regard to the wage tax under Subtitle C, certain legal requirements may be considered mandatory. But only for the payor of the wages (the "employer") and even then, only if both the "employer" and the "covered employee" has voluntarily agreed (via voluntary application on Form W-4) to participate in the entitlement programs. Since there is no legal requirement to have a social security number (SSN) in order to live and work in the U.S. (or simply for the sake of having one); no legal requirement to enter a SSN on Form W-4, sign or submit it, and; no legal requirement for an employer to obtain an employer identification number (EIN) in order to hire workers, neither party - "employee" or "employer" - can be compelled to participate in the entitlement programs, hence compliance under Subtitle C is correctly said to be voluntary.

IRS Publication 515 and Treasury regulation 1.1441-5 explain the proper use of the Statement of Citizenship (SOC), a copy of which is sent by the employer (who retains the original) to the IRS in Philadelphia only which makes sense since Philadelphia is the IRS international tax office. The SOC authorizes (and indemnifies) the employer to stop withholding income taxes from the worker who chooses not to have his or her taxes withheld.

47. That attempting to pass off § 61 defining "Gross income" as the section of Code as the law taxing all U.S. citizens on their U.S. source income, even if the income cannot be deemed to be from taxable sources, is dishonest in light of the construction of the statute. Since 26 CFR §§ 1.861-8 (f)(1) and -8T (d)(2)(iii) state plainly the taxable sources which a U.S. Citizen must have, to make income "Gross income" and thus "taxable income" (the latter being taxed in § 1). It is no wonder that the proper Form to be filed, pursuant to Section 1 of 26 U.S.C. and 26 CFR by a U.S. Citizen is the 2555 Foreign Earned Income form.

48. That 'Exempt Income' is defined:

26 CFR § 1.861-8T(d)(2)(ii)(A)

> **"In general. For purposes of this section, the term exempt income means any income that is in whole or in part, exempt, excluded, or eliminated for federal income tax purposes."**

49. That "Exclusion" is defined in Black's Law Dictionary, in part, as follows:

"Denial of entry or admittance."

50. That right after the Secretary stated this, he plainly listed income not exempt from taxation here as follows:

26 CFR § 1.861-8T(d)(2)(iii)

> **(iii) Income that is not considered tax exempt.**
>
> **The following items are not considered to be exempt, eliminated, or excluded income and, thus, may have expenses, losses, or other deductions allocated and apportioned to them:**
>
> **(A) In the case of a foreign taxpayer (including a foreign sales corporation (FSC)) computing its effectively connected income, gross income (whether domestic or foreign source) which is not effectively connected to the conduct of a United States trade or business;**
>
> **(B) In computing the combined taxable income of a DISC or FSC and its related supplier, the gross income of a DICS or a FSC;**
>
> **(C) For all purposes under subchapter N of the Code, including the computation of combined taxable income of a possessions corporation and its affiliates under section 936(h), the gross income of a possessions corporation for which a credit is allowed under section 936(a); and**
>
> **(D) Foreign earned income as defined in section 911 and the regulations thereunder (however, the rules of section 1.911-6 do not require the allocation and apportionment of certain deductions, including home mortgage interest, to foreign earned income for purposes of determining the deductions disallowed under section 911(d)(6)).**

51. That the only income listed in item 50. related to U.S. Citizens is (D)

52. That the definition of "wages" in § 3401(a) to be withheld from in

accordance with § 3402, excludes all remuneration paid to U.S. Citizens by employers, except income which is deemed to be gross income under § 911, or other income related to foreign and U.S. possession sources.

53. That this law confirms our position, in simple terms according to Black's Law Dictionary, that if the income in question comes from a source "excluded" from the law, and thus not mentioned within the law as being taxable, it cannot then meet the source requirements of § 861, its regulations, and thus section 61(a) to be "Gross income", and is by definition EXEMPT.

54. That what is not within a law is just as important as what is!

55. That the entire the topic of the 'Income Tax' and the statutes regarding it are built on the foundation of 'Gross Income' as defined in § 61 of the Internal Revenue Code, and that the laws mean exactly what they say.

56. That compensation for labour and exercise of the Right to labour are personal property, and such personal property correctly comes under the authority of the Constitution for the United States of America, Article One, Section Two, Clause Three, and Article One, Section Nine, Clause Four, and are, therefore, not taxable by the Federal Government as a graduated tax. Be advised: compensation earned and exercising the Right to Labour is excluded from "Gross Income" and is exempt from taxation under Title 26 of the United States Code, under the authority of Title 26, Code of Federal Regulations (1939), Section 9.22(b)-1, as follows:

26 Code of Federal Regulations (1939) Section 9.22(b)-1 Exclusions from gross income -- The following shall not be included in gross income and shall be exempt from taxation under this title: (b)-1 Exceptions; exclusions from gross income. Certain items of income ... are exempt from tax and may be excluded from gross income ... those items of income which are under the Constitution, not taxable by the Federal Government.

57. That the so-called Sixteenth Amendment to the Constitution for the united States of America was not ever properly ratified by the States of the union according to the conditions required by the Constitution for the united States of America for ratification and adoption of Amendments to the Constitution for the united States of America. That even if the so-called Sixteenth Amendment to the Constitution for the united States of America had been properly ratified the so-called Sixteenth Amendment to the Constitution for the united States would be limited in application only to indirect taxes.

58. That the income tax is an excise tax. (United States Supreme Court in Brushaber vs. Union Pacific Railroad Company)

59. That compensation for the Affiant's labour is the Affiant's personal property, and therefore, is not taxable by the Federal Government except by rule of apportionment.

60. That an excise tax CANNOT be imposed upon a natural-born Man or Woman upon the Land, Citizen measured by his/her compensation for labour because such a tax would be a direct capitation tax, subject to the rule of apportionment privilege.

61. That the requirement to pay an excise tax involves the exercise of a privilege.

62. That the Affiant and Affiant's lawful wife are not exercising any taxable privileges.

63. That the Affiant provides for the Affiant's and his families existence by labouring in a non-taxable craft of common Right, to wit:

The Citizen, unlike the corporation, can not be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the Citizen's Right to live and own property are Natural Rights for the enjoyment of which an excise can not be imposed ... We believe that the conclusion is well justified that a tax laid directly upon income or property, real or personal may well be regarded as a tax upon the property which produces the income. Redfield v. Fisher, 292 Oregon Supreme Court, 813 at 817, 819 (1939)

64. That the Affiant's compensation for labour constitutes the fruits the Affiant's labour, and as such is the Affiant's substance and personal property, of which the Federal Government may not deprive the Affiant of any portion by appropriating said property against the Affiant's will.

65. That the Victory Tax Act of 1942 [56 Statutes at Large, Chapter 619 page 884. Oct. 21, 1941] which implemented "withholding" and 1040 Returns requirements, stated: Section 476 "The taxes imposed by this subchapter shall not apply with respect to any taxable year after the date of cession of hostilities in the present War, i.e., World War II."

66. That the Victory Tax Act and its provision for withholding was repealed pursuant to 58 Statutes at Large, Chapter 210, Section 6(a), page 235.

67. That there are only four things that can possibly be the subject matter of any tax whether it's local, state or federal:

(1) People (capitation, "head" and poll taxes - a direct tax)

(2) Property by reason of ownership (real and personal property taxes - a direct tax)

(3) Revenue taxable activities (such as the manufacture, sale or distribution of alcohol, tobacco or firearms - an indirect tax)

(4) A grant of privilege (for example, state registered corporate charters granting permission to do business - is a privilege by the state's definition - an indirect tax)

68. That taxes on the first two types are called direct taxes while the third and fourth types are known as indirect taxes. This definition is not derived from what the tax is popularly or formally named nor from how the tax is measured. This definition can only come from its "subject."

69. That there has never been a "head" tax since the Constitution was instituted because capitation taxes are expressly forbidden by Article 1, Section 9, paragraph 4. This type of tax is "outlawed" at all levels. That while property taxes are legal in nearly all state and local jurisdictions, they are not legal on the federal level. That the federal government must restrict itself to the indirect class of taxes, duties, imposts and excises.

"The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax; it is the basis for determining the amount of tax." House Congressional Record, March 27, 1943, pg. 2580

70. That the courts have clearly established that the misleadingly named "income tax" is an excise tax and, therefore, is an indirect tax. The Supreme Court case, Russell v. U.S., 369 U.S. 749, at 765 (1962), states that: "'Taxable income' can only be derived from revenue taxable activities. Statements alleging some sort of taxable activity must be made in order to support the legal conclusion that the accused had 'taxable income,' etc., or the indictment is invalid and the court does not have authority to hold a trial."

71. That the Supreme Court's unanimous rulings in the following cases have never been reversed or overturned: Brushaber v. Union Pacific R. R. Co., 240

U.S. 1; Stanton v. Baltic Mining Co., 240 U.S. 103; and Flint v. Stone Tracy Co., 220 U.S. 107 The Court in Brushaber and Stanton held that the Sixteenth Amendment (the "income tax" amendment), as correctly interpreted, and the "income tax" itself WHEN CORRECTLY APPLIED, are constitutional because they are restricted to indirect taxes.

72. That in Flint, the Court held that indirect taxes are never upon any kind of property, money or otherwise, but only upon particular activities, in which the resulting income is used to measure the tax on the taxable activity. "Income taxes" are only named such because the income connected with the activity is used as the standard or yardstick by which the tax upon the activity is measured. Under the Internal Revenue Code, an activity must be taxable for revenue purposes as opposed to strictly regulatory purposes. "[Excise taxes are] taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges." Cooley, Constitutional Limitations, 7th Ed., p.680 as cited in Flint, supra, 151.

73. That facts regarding the exercise of a revenue taxable privilege or activity must exist in order to support the legal position that a person had "taxable income," or was "obligated to pay", or was "required by law to file tax returns," or is even to be considered a "taxpayer".

74. That there is a distinct class officially recognized as "non-taxpayers" who are not subject to the jurisdiction of Internal Revenue statutes. "Jurisdiction is essentially the authority conferred by Congress to decide a given type of case one way or another." Hagans v Levine, 415 U.S. 533 (1974).

"Once jurisdiction is challenged, it must be proven." Hagins v Lavine, supra note 3 "No sanction can be imposed absent proof of jurisdiction." Standard v Olson, 74 S.Ct. 768 "It has also been held that jurisdiction must be affirmatively shown and will not be presumed." Special Indem. Fund v Prewitt, 205 F2d 306, 201 OK. 308.

75. That the IRS, in order to define Affiant and/or Affiant's lawful wife as a "taxpayer", must assert jurisdiction.which Affiant refutes. The IRS must prove that Affiant falls under its jurisdictional influence.

76. That should the Internal Revenue Service violate Affiant's and Affiant's lawful wife's rights under color of law and, with the complicity of the courts, forcing jurisdiction upon Affiant, they still cannot prevail; first, because of the lack of implementing regulations, second, because Affiant is not engaged in any

revenue taxable activities and, third, through the emphatic assertion of Affiant's correct and proper legal status.

77. That in law the legal definition is the only authoritative one. About eighty court decisions and Treasury decisions have used the terms "includes" and "including" in a restrictive sense meaning that when they are used the terms denote ONLY those items that follow it. Further, Black's Law Dictionary, the "handbook" of legal definition defines "include" as follows:

"Include. (Lat. Inclaudere, to shut in, keep within) To confine within, hold as an enclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrase, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. 'Including' within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. " Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227,228."

78. That Black's Law Dictionary says when the term "include" is used it expands to take in all of the items that are listed but only those items and no others. The importance of this limiting sense of the term is apparent when you look at many of the Internal Revenue Code definitions.

Section 7701 (a) (9) : UNITED STATES. - The term "United States" when used in a geographic sense includes only the States and the District of Columbia.

79. That in the very next definition the Code defines the term "State."

Section 7701 (a) (10) : STATE. - The term 'State' shall be construed to include the District of Columbia, where such construction is necessary to carry out the provisions of this title. Based on the legal definition of the term "include," then "State" means ONLY the District of Columbia. If we substitute this in the definition of "United States" then the code is limited in its jurisdiction to only the District of Columbia.

80. That to show that the IRS knows precisely what it's saying and is very specific in its application of these definitions, the Code follows form when it defines "State, United States, and Citizen" in Chapter 21 - Federal Insurance Contributions Act or FICA.

Section 3121 (e) : STATE, UNITED STATES, AND CITIZEN. - For the purposes of this chapter (1) STATE. - The term 'State' includes the District of

Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Somoa. (2) UNITED STATES. - The term 'United States' when used in the geographic sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Somoa. The IRS insists the Code is absolutely correct so this is exactly what it must mean. Therefore, the provisions of Title 26 apply only to the District of Columbia and the federal territories.

81. That the Code defines 'employer' in Chapter 24 - COLLECTION OF INCOME TAX AT SOURCE ON WAGES.

Section 3401 (d) : EMPLOYER. - For purposes of this chapter, the term 'employer' means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person....

82. That if you have an 'employee' then you are an employer. There is a conspicuous absence of the term "include" in this definition?

Section 3401 (c) : EMPLOYEE. - For purposes of this chapter, the term 'employee' includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes the officer of a corporation.

83. That to be an "employee" you must work for the government or be an officer of a corporation. The term "include" shows up here and again, if we substitute this idea into the definition of 'employer' a company is most likely NOT an employer because none of the people working for companies are employees of the government.

Section 7701 (a) (3) : CORPORATION. - The term 'corporation' includes associations, joint-stock companies, and insurance companies.

84. That further investigation shows that the corporation must be formed in, be doing business in, or receiving income from the District of Columbia or be classified as a "foreign corporation." Those who are not incorporated are covered in the Code as well.

Section 7701 (a) : TRADE OR BUSINESS. - The term 'trade or business' includes the performance of the functions of a public office.

85. That the Courts have drawn a distinct line between "income" and "wages." "Income, within the meaning of the 16th Amendment and the Revenue Act, means gain ... and, in such connection, gain means profit ...

proceeding from property severed from capital, however invested or employed and coming in, received or drawn by the taxpayer for his separate use, benefit and disposal....

86. That income is neither a wage nor compensation for any type of labor." Stapler v. U.S., 21 F. Supp. 737, at 739. "There is a clear distinction between 'profit' and "wages", or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word "profit", as ordinarily used, means the gain made upon any business or investment -- a different thing altogether from the mere compensation for labor." Oliver v. Halstead, 86 S.E. Rep 2nd 85e9 (1955) "...[W]hatever may constitute income, therefore, must have the essential feature of gain to the recipient.... If there is not gain there is not income.... Congress has taxed income not compensation." Connor v. U.S., 303 F. Supp. 1187 (1969)

87. That each time a company and/or its executives turns over "employee" money to the IRS under a Notice of Levy they are unwittingly aiding and abetting the IRS in the performance of an illegal act. To understand why we need to look to the Code provisions relating to Levy and Distraint. Specifically, Subchapter D - Seizure of Property for Collection of Taxes. Under Section 6331 - Levy and Distraint is the following:

Section 6331 (a) AUTHORITY OF SECRETARY. - If any person liable to pay any tax neglects or refuses to pay the same within 10 days after the notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such a tax...

Section 6331 (a) cont'd AUTHORITY OF SECRETARY. - ...Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or District of Columbia, by serving a notice of levy on the employer (as defined in 3401 (d)) of such officer, employee, or elected official....

88. That when we take the time to look closely at this "power" we see from the first part of it that the Secretary's power is delimited and confined to those who are "liable to pay any tax." As further evidence of the limited power of the Secretary to issue Notices of Levy, the second part of sec. 6331(a) is clearly aimed at government employees and is actually the only part of the section that

even mentions the filing of a notice. Since the IRS adamantly asserts that the Code is completely correct in its script Affiant can only conclude that the power to issue a Notice of Levy applies only to government employees and therefore, as a "foreign corporation", by Code definition, no one else is charged with any responsibility for the perfection of such overextended, misapplied powers and bogus jurisdictional claims.

"As in our intercourse with our fellow-men certain principles of morality are assumed to exist, without which society would be impossible, so certain inherent rights lie at the foundation of all action, and upon a recognition of them alone can free institutions be maintained. These inherent rights have never been more happily expressed than in the Declaration of Independence, that evangel of liberty to the people: 'We hold these truths to be self-evident' - that is, so plain that their truth is recognized upon their mere statement 'that all men are endowed' not by edicts of emperors, or decrees of Parliament, or acts of Congress, but 'by their Creator with certain unalienable rights' that is, rights which cannot be bartered away, or given away, or taken away except in punishment of crime 'and that among these are life, liberty, and the pursuit of happiness, and to secure these' not grant them but secure them 'governments are instituted among men, deriving their just powers from the consent of the governed.

"Among these unalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment.

"The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must, therefore, be free in this country to all alike upon the same conditions. The right to pursue them, without let or hindrance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright.

"...The property which every man has is his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most

sacred property." Butcher's Union Co. v. Crescent City Co., 111 U.S. 746, (1883)

89. That in two other cases, the Supreme Court said: "Included in the right of personal liberty and the right of private property - partaking of the nature of each - is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and others services are exchanged for money or other forms of property." Coppage v. Kansas, 236 U.S. 1, at 14 (1915) ". . . Every man has a natural right to the fruits of his own labor, as generally admitted; and that no other person can rightfully deprive him of those fruits, and appropriate them against his will . . ." Antelope, 23 U.S. 66, at 120

90. That in 1913, four years after Congress first introduced the income tax amendment, Philander Knox, a Pittsburgh attorney and then Secretary of State, declared the 16th Amendment duly ratified, despite the protests and subsequent research which reveals proof to the contrary. Congress intended that somebody should pay a tax. Congress has the Constitutional authority to tax, but only through specific types of taxes.

91. That therefore, since Congress and the Courts have defined it as an excise tax, Affiant has no argument with the tax itself and does not protest against the income tax. However, it is one thing to protest a tax and another thing entirely to protest extortion committed under the guise, pretext, sham, or subterfuge of the unlawful unconstitutional misapplication of the revenue laws against Affiant who is neither subject to nor liable for such indirect taxes. This type of extortion is prohibited by the 5th amendment "due process of law" clause, and the extortion clause of the Internal Revenue Code in Section 7214.

92. That Affiant and Affiant's lawful wife are NOT tax protesters. That Affiant and Affiant's lawful wife are protesting against the unconstitutional and unlawful MISAPPLICATION of the revenue laws and are not protesting the tax itself in its proper and lawful application as an excise tax levyed upon "those made liable" who are engaged in taxable activities and privileges deriving "gross income" from the specific "sources" named by the Secretary of the Department of the Treasury.

93. That the IRS was not created by Congress. It is not an organization found under the Department of the Treasury in Title 31 United States Code with the other agencies of Treasury. One of the organizations known as the IRS was created as a trust in the Philippines ("Bureau of Internal Revenue," Trust fund #1, Philippine special fund; 31 USC 1321) under the Department of

Finance and Justice. Another trust fund, Trust fund #62, Puerto Rico special fund, was created for "Internal Revenue." Title 26 United States Code (Internal Revenue Code) specifically defines the jurisdiction under which it is effective as only pertaining to the District of Columbia and its territories and possessions.

94. That an agency's failure to publish any document (regardless of how named by the agency) which is designed to implement or prescribe law is a "rule" which is void and unenforceable.

95. That within an agency, "instructions" may be promulgated and distributed to agency officers and employees informing them as to the manner and method of implementing and enforcing any particular law. If by chance these "instructions" likewise meet the definition of a "rule" as defined by § 551, and if the same be "substantive" as prescribed by § 552, they must be published in the Federal Register. Several cases have found such "instructions" to agency employees void for non-publication.

Case authority clearly shows that "instructions" given to agency personnel which command the performance of an act by a member of the public or which limit entitlement to statutory benefits are subject to the publication requirement. If such "rules" found in agency instructions to agency personnel must be published, then likewise similar "instructions" given directly by the agency to the public must also be published on the grounds that the same similarly are "rules."

96. That it is essential for a federal employee to possess delegated authority to perform any particular act; the absence of delegated authority means that the act in question was beyond the scope of the employee's duties, and therefore unlawful.

The necessity for a federal employee to have delegated authority to act not only is shown in the above cases, it also manifests itself in cases under the Federal Torts Claims Act (herein "FTCA"), 28 U.S.C., §1346(b). Under this law, the United States is liable for torts committed by its employees if so committed within the scope of their employment. If the act in question was not committed in the scope of employment, the employee is liable and the United States is not.

A variety of cases deciding FTCA claims show instances where the United States is held not liable for its employees torts. In *Paly v. United States*, 125 F.Supp. 798 (D.Md. 1954), a soldier detailed as a military funeral escort was driving his own car to a funeral and was involved in an accident. Since the

soldier lacked express orders to do so, his tort was held to be outside the scope of his employment and the United States was not liable. In *Jones v. F.B.I.*, 139 F.Supp. 38, 42 (D.Md. 1956), it was alleged that certain FBI agents had stolen or converted property belonging to the plaintiff. The court held that if such were true, the agents "were not 'acting within the scope of [their] office or employment'," and the United States could not be liable in tort. In *James v. United States*, 467 F.2d 832 (4th Cir. 1972), a reservist was involved in a car accident on his return from an annual field training exercise; since this travel was not within the scope of his employment, the government was held not liable for damages. In another accident case involving an Army truck, *White v. Hardy*, 678 F.2d 485, 487 (4th Cir. 1982), the driver was found to have no authority to drive the truck when the accident happened, thus his acts were beyond the scope of his employment and the United States was not liable ("There was substantial evidence that Sergeant Hardy was not given the requisite express authority to use the government vehicle involved in the collision"). In *Hughes v. United States*, 662 F.2d 219 (4th Cir. 1981), the United States was held not liable for child molestation committed by one of its employees, a postal worker. In *Trerice v. Summons*, 755 F.2d 1081 (4th Cir. 1985), the United States was held not liable for the wrongful death of one serviceman committed by another. And in *Thigpen v. United States*, 800 F.2d 393 (4th Cir. 1986), the court held the government not liable under the FTCA for the sexual assault of some girls by one of its employees.

Cases from other jurisdictions also demonstrate that for an act to be within the government employee's scope of employment, it must have been authorized by a regulation or some other written document. For example, in *Mider v. United States*, 322 F.2d 193 (6th Cir. 1963), a FTCA claim was being asserted against the United States for damages arising from an accident involving a drunken Air Force serviceman. To define the serviceman's authority, written regulations were consulted to determine whether the act of driving the government's car was authorized. Finding that the regulations did not permit use of the vehicle on this occasion, the serviceman was found not to be acting within the scope of his employment. In *Bettis v. United States*, 635 F.2d 1144 (5th Cir. 1981), a soldier drove a truck off a military base without authority and was involved in an accident; his act was held to be beyond his authority and thus the United States was not liable in tort. In *Turner v. United States*, 595 F.Supp. 708 (W.D.La. 1984), a recruiter conducted an unclothed physical examination of some potential females enlistees, which caused them to sue under the FTCA. In finding that there were no regulations either permitting or requiring such examinations, the United States was found not liable. See also

Doggett v. United States, 858 F.2d 555 (9th Cir. 1988), and *Lutz v. United States*, 685 F.2d 1178 (9th Cir. 1982).

Thus the above cases adequately demonstrate that a government employee must have some specific delegated authority, based upon statutes, regulations or delegation orders, in order to be authorized to act in the premises. The absence of such authority, when challenged, therefore requires a holding that the employee's acts were unauthorized and thus beyond the scope of his employment.

97. That a plain reading of §7608 reveals that the section itself conveys authority to nobody other than the Secretary; the Secretary, in turn, must authorize agents and this calls for the issuance of delegation orders. Under the repealed regulation 301.7608-1, it is obvious that some type of authority had been conveyed to the Commissioner, but here even he had to issue delegation orders appointing agents. Thus, to follow the flow of authority under §7608, it is essential to consult Treasury Department Orders and Commissioner's Delegation Orders.

In 1946, the Administrative Procedure Act was adopted and the same required federal agencies to publish in the Federal Register statements of their central and field organizational structures as well as the methods by which their functions were channeled (delegation orders); see 5 U.S.C., §552. It is acknowledged by both Treasury and I.R.S. that these items must be so published; see 31 C.F.R. §1.3(a), and 26 C.F.R., §601.702(a). In fact, it is acknowledged that anything concerning or affecting the American public must be published. In 1953, Revenue Ruling 2 (1953-1 CB 484) was issued and it required all divisions or units of the I.R.S. to publish in the Federal Register any item of concern to the public. This was more clearly expressed in Rev. Proc. 55-1 (1955-2 CB 897) as follows:

> "It shall be the policy to publish for public information all statements of practice and procedure issued primarily for internal use, and, hence, appearing in internal management documents, which affect rights or duties of taxpayers or other members of the public under the Internal Revenue Code and related statutes."

That which is expressed above currently manifests itself within 26 C.F.R., § 601.601(d)(2)(b), which reads as follows:

> "A 'Revenue Procedure' is a statement of procedure that affects the rights or duties of taxpayers or other members of the public

under the Code and related statutes or information that, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge."

Before commencing with a review of "modern" TDOs, it might perhaps be useful to examine older delegation orders and TDOs issued before and during the time of the '39 Code; by doing so, it may be seen how authority from the President and Secretary has been delegated. For example, Executive Order 6166, dated June 10, 1933, stated as follows:

> **"All functions now exercised by the Bureau of Prohibition of the Department of Justice with respect to the granting of permits under the national prohibition laws are transferred to the Division of Internal Revenue in the Treasury Department.**
>
> **"The Bureaus of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue."**

Executive Order No. 6639, dated March 10, 1934, stated as follows:

> **"1.(a) The Bureau of Industrial Alcohol and the Office of Commissioner of Industrial Alcohol are abolished, and the authority, rights, privileges, powers and duties conferred and imposed by law upon the Commissioner of Industrial Alcohol are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury."**

And TDO No. 143, dated December 6, 1951, provided as follows:

> **"By virtue of the authority vested in me as Secretary of the Treasury by Reorganization Plan No. 26 of 1950, there are hereby transferred to the Commissioner of Internal Revenue the functions and duties now performed by collectors of Internal Revenue in connection with tobacco and other taxes imposed under Chapter 15 of the Internal Revenue Code.**
>
> **"The functions and duties herein transferred to the Commissioner of Internal Revenue may, at his discretion, be delegated to subordinates in the Bureau of Internal Revenue service in such**

manner as the Commissioner shall from time to time direct."

Thus each delegation order must be examined to determine the authority conveyed therein.

In 1949, Congress enacted a law authorizing the President to reorganize the executive departments; see 63 Stat. 203, chap. 226, codified at 5 U.S.C., §901, et seq. Pursuant to this authority, the President promulgated Reorganization Plan No. 26 of 1950 (15 Fed. Reg. 4935, 64 Stat. 1280), which restructured the entire Treasury Department via the following:

> "[T]here are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department."

By this reorganization plan, all statutory and delegated authority of anyone in the Treasury Department was immediately divested and placed into the hands of the Secretary. Thereafter, Reorganization Plan No. 1 of 1952 (17 Fed. Reg. 2243, 66 Stat. 823) reorganized the Bureau of Internal Revenue, the name of which was changed to the Internal Revenue Service the following year; see T.D. 6038, 1953-2 CB 443.

Based upon the above reorganization plans, on March 15, 1952, the Secretary issued TDO No. 150, which authorized the continued performance of functions by Treasury officers and agents until changed by subsequent order. This order established a series of later orders, all of which deal with and concern administration of the internal revenue laws.

A separate file on this webpage lists the TDOs issued since the reorganization plan which are in 150 series; citation as to where each order is published is also provided. A review of these TDOs discloses that most of them concern only organizational changes made to the I.R.S. Insofar as authority granted pursuant to §7608 is concerned, of those which were published, only TDO No. 150-42 could possibly embody the criminal enforcement powers to which §7608 relates. It is also possible that one of the unpublished orders delegated this authority. Because the Commissioner and Secretary in the past promulgated regulation 301.7608-1, it is assumed for purposes of this memo that some type of delegation under §7608 was granted by the Secretary to the Commissioner.

Based upon the above assumption, the process of determining what agent has been delegated §7608 authority thus requires examination of all published

CDOs issued by the Commissioner. A list enumerating every published CDO from 1954 to the present is contained in a separate file on this webpage; by review of these various CDOs, it is possible to trace the authority which is the subject of §7608.

The only possible CDOs which could delegate §7608 authority are numbered 31, 33 and 34. On April 30, 1956, CDO No. 31 was issued delegating to the Assistant Commissioner and the Director of the Alcohol and Tobacco Tax Division the authority to administer and enforce chapters 51, 52 and 53 of the Code (the "ATF" chapters), in addition to a few other functions. A few months later, CDOs No. 33 and 34 were issued and these orders also related to alcohol and tobacco taxes. Once these units of the I.R.S. had been delegated these enforcement responsibilities, Congress thereafter in 1958 created §7608, and the regulation at 301.7608-1 was promulgated in 1959. Below is a list containing the cites where these and subsequent revisions of these orders were published.

CDO No. 31:

(a) Original, 21 Fed. Reg. 3083, 1956-1 CB 1015.

(b) Rev. 1, 34 Fed. Reg. 87, 1969-1 CB 379.

(c) Rev. 2, 35 Fed. Reg. 16808, 1970-2 CB 487.

(d) Rev. 3, 36 Fed. Reg. 18678, 1971-2 CB 524.

(e) Rev. 4, 36 Fed. Reg. 22607, 1971-2 CB 525.

CDO No. 33:

(a) Original, 21 Fed. Reg. 4415, 1956-2 CB 1375.

CDO No. 34:

(a) Original, 21 Fed. Reg. 5851, 1956-2 CB 1375.

(b) Revoked, 38 Fed. Reg. 33407, 1973-2 CB 462.

As can be seen from these orders, the same allowed for the seizure and forfeiture of property and the enforcement of the criminal laws. Logically, it is these orders which permitted the promulgation of the regulation at 301.7608-1.

The ATF Division of the I.R.S. was the unit which was responsible for the administration and enforcement of the laws which were the subject of CDOs

No. 31, 33 and 34. This ended with the creation of the Bureau of Alcohol, Tobacco and Firearms via TDO No. 221 on June 6, 1972; see 37 Fed. Reg. 116696, 1972-1 CB 777. Among other administration and enforcement functions transferred to BATF via this order were the following:

> **"(a) Chapters 51, 52 and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;**
>
> **"(b) Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to the activities administered and enforced with respect to chapters 51, 52 and 53."**

About 2 1/2 years later, the Secretary issued TDO No. 221-3 (40 Fed. Reg. 1084, 1975-1 CB 758) which delegated to the BATF the authority to administer and enforce "chapter 35 and chapter 40 and 61 through 80, inclusive, of the Internal Revenue Code of 1954 insofar as they relate to activities administered and enforced with respect to chapter 35." Chapter 35 deals with wagering taxes and chapter 40 concerns occupational taxes related to wagering. Some 1 1/2 years later, TDO No. 221-3 (Rev. 1) was issued. The only real, detectable distinction between the former and latter orders was the inclusion of the following phrase in the latter:

> **"The Commissioner may call upon the Director for assistance when it is necessary to exercise any of the enforcement authority described in section 7608 of the Internal Revenue Code."**

But, on January 14, 1977, the Secretary transferred back to the I.R.S. the enforcement duties relating to wagering via TDO No. 221-3 (Rev. 2). Thereafter, the authority of BATF encompassed chapters 40, 51, 52 and 53 of the 1954 Code in addition to the authority to enforce other non-Code laws. It is of great significance that the repeal of regulation 301.7608-1 occurred shortly after the creation of the BATF. The authority of BATF agents to exercise the functions under §7608 is today found in 27 C.F.R., §70.28.

In summary, §7608 requires delegations from the Secretary to enforcement agents. In reference to §7608(a), it has been shown above that this "ATF" authority has flowed through the ATF unit within I.R.S., ultimately to be passed onto the BATF. But, in the search for authority under §7608(b), a review of all published TDOs and CDOs reveals that there appears to have been no such delegation. Thus, if a Special Agent is conducting any investigation pursuant to the authority of §7608, that investigation

encompasses violations only of the alcohol, tobacco and firearms tax laws, and there is no apparent authority to conduct any federal income tax investigation which is possessed by a Special Agent.

98. That Affiant filed FOIA requests asking the IRS for specific documents which gave the IRS the authority to conduct an investigation of a Citizen of Arizona. The IRS could not, and did not, produce any such documentation. We noticed Special Agent Shupnik and Assistant U.S. Attorney Winerip to produce their credentials and documentation of their authority to conduct such an investigation; they refused because they could not as no such documents exists.

99. That of all the circuits, the Ninth Circuit has addressed jurisdictional issues more than any of the rest. In *United States v. Bateman*, 34 F. 86 (N.D.Cal. 1888), it was determined that the United States did not have jurisdiction to prosecute for a murder committed at the Presidio because California had never ceded jurisdiction; see also *United States v. Tully*, 140 F. 899 (D.Mon. 1905). But later, California ceded jurisdiction for the Presidio to the United States, and it was held in *United States v. Watkins*, 22 F.2d 437 (N.D.Cal. 1927), that this enabled the U.S. to maintain a murder prosecution. See also *United States v. Holt*, 168 F. 141 (W.D.Wash. 1909), *United States v. Lewis*, 253 F. 469 (S.D.Cal. 1918), and *United States v. Wurtzbarger*, 276 F. 753 (D.Or. 1921). Because the U.S. owned and had a state cession of jurisdiction for Fort Douglas in Utah, it was held that the U.S. had jurisdiction for a rape prosecution in *Rogers v. Squier*, 157 F.2d 948 (9th Cir. 1946). But, without a cession, the U.S. has no jurisdiction; see *Arizona v. Manypenny*, 445 F.Supp. 1123 (D.Ariz. 1977).

The above cases from the U.S. Supreme Court and federal appellate courts set forth the rule that in criminal prosecutions, the government, as the party seeking to establish the existence of federal jurisdiction, must prove U.S. ownership of the property in question and a state cession of jurisdiction. This same rule manifests itself in state cases. State courts are courts of general jurisdiction and in a state criminal prosecution, the state must only prove that the offense was committed within the state and a county thereof. If a defendant contends that only the federal government has jurisdiction over the offense, he, as proponent for the existence of federal jurisdiction, must likewise prove U.S. ownership of the property where the crime was committed and state cession of jurisdiction.

Examples of the operation of this principle are numerous. In Arizona, the State has jurisdiction over federal lands in the public domain, the state not having

ceded jurisdiction of that property to the U.S.; see *State v. Dykes*, 114 Ariz. 592, 562 P.2d 1090 (1977). In California, if it is not proved by a defendant in a state prosecution that the state has ceded jurisdiction, it is presumed the state does have jurisdiction over a criminal offense; see *People v. Brown*, 69 Cal. App.2d 602, 159 P.2d 686 (1945). If the cession exists, the state has no jurisdiction; see *People v. Mouse*, 203 Cal. 782, 265 P. 944 (1928). In Montana, the state has jurisdiction over property if it is not proved there is a state cession of jurisdiction to the U.S.; see *State ex rel Parker v. District Court*, 147 Mon. 151, 410 P.2d 459 (1966); the existence of a state cession of jurisdiction to the U.S. ousts the state of jurisdiction; see *State v. Tully*, 31 Mont. 365, 78 P. 760 (1904). The same applies in Nevada; see *State v. Mack*, 23 Nev. 359, 47 P. 763 (1897), and *Pendleton v. State*, 734 P.2d 693 (Nev. 1987); it applies in Oregon (see *State v. Chin Ping*, 91 Or. 593, 176 P. 188 (1918), and *State v. Aguilar*, 85 Or.App. 410, 736 P.2d 620 (1987)); and in Washington (see *State v. Williams*, 23 Wash.App. 694, 598 P.2d 731 (1979)).

In *People v. Hammond*, 1 Ill.2d 65, 115 N.E.2d 331 (1953), a burglary of an IRS office was held to be within state jurisdiction, the court holding that the defendant was required to prove existence of federal jurisdiction by U.S. ownership of the property and state cession of jurisdiction. In two cases from Michigan, larcenies committed at U.S. post offices which were rented were held to be within state jurisdiction; see *People v. Burke*, 161 Mich. 397, 126 N.W. 446 (1910), and *People v. Van Dyke*, 276 Mich. 32, 267 N.W. 778 (1936). See also *In re Kelly*, 311 Mich. 596, 19 N.W.2d 218 (1945). In *Kansas City v. Garner*, 430 S.W.2d 630 (Mo.App. 1968), state jurisdiction over a theft offense occurring in a federal building was upheld, and the court stated that a defendant had to show federal jurisdiction by proving U.S. ownership of the building and a cession of jurisdiction from the state to the United States. A similar holding was made for a theft at a U.S. missile site in *State v. Rindall*, 146 Mon. 64, 404 P.2d 327 (1965). In *Pendleton v. State*, 734 P.2d 693 (Nev. 1987), the state court was held to have jurisdiction over a D.U.I. committed on federal lands, the defendant having failed to show U.S. ownership and state cession of jurisdiction.

In *People v. Gerald*, 40 Misc.2d 819, 243 N.Y.S.2d 1001 (1963), the state was held to have jurisdiction of an assault at a U.S. post office since the defendant did not meet his burden of showing presence of federal jurisdiction; and because a defendant failed to prove title and jurisdiction in the United States for an offense committed at a customs station, state jurisdiction was upheld in *People v. Fisher*, 97 A.D.2d 651, 469 N.Y.S.2d 187 (A.D. 3 Dept. 1983). The proper method of showing federal jurisdiction in state court is demonstrated

by the decision in *People v. Williams*, 136 Misc.2d 294, 518 N.Y.S.2d 751 (1987). This rule was likewise enunciated in *State v. Burger*, 33 Ohio App.3d 231, 515 N.E.2d 640 (1986), a case involving a D.U.I. offense committed on a road near a federal arsenal.

In *Kuerschner v. State*, 493 P.2d 1402 (Okl.Cr.App. 1972), the state was held to have jurisdiction of a drug sales offense occurring at an Air Force Base, the defendant not having attempted to prove federal jurisdiction by showing title and jurisdiction of the property in question in the United States; see also *Towry v. State*, 540 P.2d 597 (Okl.Cr.App. 1975). Similar holdings for murders committed at U.S. post offices were made in *State v. Chin Ping*, 91 Or. 593, 176 P. 188 (1918), and in *United States v. Pate*, 393 F.2d 44 (7th Cir. 1968). Another Oregon case, *State v. Aguilar*, 85 Or.App. 410, 736 P.2d 620 (1987), demonstrates this rule. Finally, in *Curry v. State*, 111 Tex. Cr. 264, 12 S.W.2d 796 (1928), it was held that, in the absence of proof that the state had ceded jurisdiction of a place to the United States, the state courts had jurisdiction over an offense.

100. That in federal criminal prosecutions involving jurisdictional type crimes, the government must prove the existence of federal jurisdiction by showing U.S. ownership of the place where the crime was committed and state cession of jurisdiction. If the government contends for the power to criminally prosecute for an offense committed outside "its jurisdiction," it must prove an extra-territorial application of the statute in question as well as a constitutional foundation supporting the same. Absent this showing, no federal prosecution can be commenced for offenses committed outside "its jurisdiction."

"Once jurisdiction is challenged, it must be proven." Hagins v Lavine, supra note 3 "No sanction can be imposed absent proof of jurisdiction." Standard v Olson, 74 S.Ct. 768 "It has also been held that jurisdiction must be affirmatively shown and will not be presumed." Special Indem. Fund v Prewitt, 205 F2d 306, 201 OK. 308.

101. That a citizen or resident alien making a living within one of the 50 states of the Union, has never been made liable by Congress for the payment of the income tax under title 26, Subtitle A. Affiant and Affiant's lawful wife have NO liability under the law to file or pay the so-called income tax. The so-called income tax is unlawful and unconstitutional as applied to the Citizens and others Domiciled within the territorial boundaries of the Union States who earn a living within the Union States and are not engaged in excise taxable activities.

102. That there are three sections of the IRC that address the making or filing of returns or statements: Sections 6001, 6011(a) and 6012(a):

Section 6001

This section states, in relevant part ;

"Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns ..."

-- and

"Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records..."

Therefore, Section 6001 clearly does not create a requirement for every person to file, but only specific individuals (i.e., those made liable). This section does not, however, establish the liability but merely presumes it

Section 6011(a)

This section states, in relevant part,

"When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement ..."

-- and

"Every person required to make a return or statement shall include therein the information required by such forms or regulations."

Similar to Section 6001, 6011(a) applies only to certain individuals and a liability is not established but presumed in this section.

Section 6012(a)

This section states, in relevant part,

"Returns with respect to income taxes under subtitle A shall be made by the following: (1)(A) Every individual having for the taxable year gross income ..."

Under this section, an "individual" is required to file under specific circumstances with respect to subtitle A, and the liability for any tax under subtitle A is established elsewhere in the IRC (see below). In other words, the Section 6012(a) requirement for returns to be made applies only to those who are made liable under subtitle A.

Therefore, it is clear from this section, as well as those previously cited, that the requirement to file is not an all-encompassing one, but is directly related to an explicit liability for a tax.

103. That the sections of the IRC which actually establish a liability for a tax are as follows:

... Under Subtitle A (Income Taxes)

a. Section 402(d)(1)(D) makes liable for a separate tax the recipient of lump sum distributions from employee benefit plans.

Affiant and Affiant's lawful wife are not a recipient of a lump sum distribution from any employee benefit plan.

b. Section 1461 makes liable every person required to deduct and withhold any tax under Subchapter B.

Affiant and Affiant's lawful wife do not deduct and withhold any tax under Subchapter B.

... Under Subtitle B (Estate and Gift Taxes)

c. Section 3405(d)(1) makes liable the payor of a designated distribution from a pension or annuity.

Affiant and Affiant's lawful wife are not a payor of a distribution from any pension or annuity.

d. Section 3505(a) and (b) make liable a lender, surety, or other person that pays wages directly to an employee and that is withholding.

Affiant and Affiant's wife do not pay wages to any employees.

... Under Subtitle D (Miscellaneous Excise Taxes)

e. Section 4401(c) makes liable each person who is engaged in the business of accepting wagers.

Affiant and Affiant's lawful wife are not engaged in the business of accepting wagers.

f. Section 4980(b) makes liable an employer maintaining a qualified plan.

Affiant and Affiant's lawful wife are not an employer maintaining a qualified plan.

... Under Subtitle E (Alcohol, Tobacco, and Certain Other Excise Taxes)

g. Section 5005 makes liable the distiller or importer of distilled spirits.

Affiant and Affiant's lawful wife are not a distiller nor an importer of distilled spirits.

h. Section 5703 makes liable the manufacturer or importer of tobacco products and cigarette papers and tubes.

Affiant and Affiant's lawful wife do not manufacture or import tobacco products, cigarette papers or tubes.

Case Authority

"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen." -- Gould v. Gould, 245 U.S. 151

"Liability for taxation must clearly appear from statute imposing tax." -- Highly v. Commissioner of Internal Revenue, 69 F. 2d 160

"...the taxpayer must be liable for the income tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability." -- Bothke v. Fluor Engineers & Contractors, 713 F. 2d 1405

104. There is only one section (Section 6020) of the IRC covering the preparation of returns by the Internal Revenue Service on a persons behalf. This section states, in relevant part:

"6020(a) -- If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary

may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person."

-- and

"6020(b)(1) -- If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return..."

Therefore, it is clear from this section that the IRS may prepare or execute returns on a person's behalf only when that person has a clearly established requirement to make a return AND with such person's consent to provide the necessary information. Section 6020 does not establish a requirement to make a return, however, but merely presumes it. Furthermore, Section 6020 clearly declares that any return prepared by the IRS on a person's behalf must be signed by that person. This is confirmed by the enforcing regulation, 26CFR301.6020-1 which states, in relevant part:

"(a) Preparation of returns -- (1) In general. If any person required by the Code or by the regulations prescribed thereunder to make a return fails to make such return, it may be prepared by the district director or other authorized internal revenue officer or employee provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the district director as the return of such person."

105. That if the Internal Revenue Service wishes to prepare a return on Affiant's and Affiant's lawful wife's behalf, please provide the:

(1) Code or Regulation that requires Affiant or Affiant's lawful wife to make statements, keep records, or file returns; or

(2) Proper notice served upon Affiant or Affiant's lawful wife by the Secretary or delegated authority requiring me to make statements, keep records, or file returns;

(3) Code and Regulation that makes Affiant or Affiant's lawful wife liable for a tax; and

(4) Specific sources of gross income upon which a tax is imposed.

106. Affiant and Affiant's lawful wife would be most happy to complete any returns required of Affiant or Affiant's lawful wife by law, if Affiant and/or

Affiant's lawful wife have a tax liability and upon service of proper notice.

107. Affiant and Affiant's lawful wife hereby rebut the presumption of a requirement where none actually exists under law via this sworn affidavit, thereby shifting the burden of proof to the agency (Secretary of the Treasury/IRS), which must then disprove Affiant's and Affiant's lawful wife's statements and cannot.

108. That on June 18, 1998 a United States Marshall came to Affiant's Domicile in Eagar, Arizona to serve a summons for criminal trial in U.S. District Court in Phoenix Arizona on the "legal fictions" WILLIAM COOPER and ANNIE MORDHORST.

109. That Affiant noticed the U.S. Marshall that Affiant is NOT the legal fictions named in the summons and ordered him off the property.

110. That Affiant noticed the U.S. Marshall that he was trespassing.

111. That Affiant noticed the U.S. Marshall that he has no federal jurisdiction or authority within the territorial boundaries of the state of Arizona.

112. That the U.S. Marshall did not serve the summons.

113. That the U.S. Marshall obeyed Affiant's demand and notice to vacate the property due to unlawful trespass.

114. That Affiant and Affiant's lawful wife are not the legal fictions WILLIAM COOPER and/or ANNIE MORDHORST or any other fiction named in the summons signed by United States District Court Judge Irwin.

115. That NO summons has ever been served upon the Affiant or Affiant's lawful wife at any time whatsoever by anyone whomsoever.

116. That any summons issued by a federal Judge of a federal Court upon Citizens of any State domiciled within the territorial boundaries of that State is unconstitutional and unlawful when jurisdiction is challenged unless and until the United States first prove their jurisdiction over such, land, property, business, and Citizens.

117. That any arrest warrant issued by any federal Judge of any federal Court due to failure to appear in any federal Court against a summons which was NEVER SERVED is unconstitutional and unlawful and is void upon its inception.

118. That any arrest warrant issued by any Judge of any federal Court against any Citizens of any State domiciled within the territorial boundaries of any Union State is unconstitutional and unlawful when jurisdiction of the United States is challenged unless and until the United States first prove their jurisdiction over such land, property, business, and Citizens.

119. On July 1, 1998, U. S. District Court Judge Irwin unconstitutionally and unlawfully stepped outside the jurisdiction and authority of the United States when he issued a bench warrant for the arrest of the legal fictions known as WILLIAM COOPER and ANNIE MORDHORST, mistaking them for William Cooper and Annie Cooper, for not appearing in "his" court on an unconstitutional and unlawful summons which was NEVER SERVED. The United States has no jurisdiction or venue within the territorial boundaries of the State of Arizona except over land that was ceded to the United States by the State Legislature.

120. That the federal income tax is VOID because the administrative and enforcement powers are unconstitutional.

Supreme Court ruling in:

240 U.S. 1, 36 S.Ct. 236, 60 L.Ed. 493 FRANK R. BRUSHABER, Appt.,v,UNION PACIFIC RAILROAD COMPANY. No. 140. Argued October 14 and 15, 1915.Decided January 24, 1916. Affirmed

Supreme Court ruled: "We have not referred to a contention that because certain administrative powers to enforce the act were conferred by the statute upon the Secretary of the Treasury, therefore it was void as unwarrantedly delegating legislative authority, because we think to state the proposition is to answer it."

Supreme Court Cited:

Marshall Field & Co. v. Clark, 143 U. S. 649,36 L. ed. 294, 12 Sup. Ct. Rep. 495; Buttfield v. Stranahan, 192U. S. 470, 496, 48 L. ed. 525, 535, 24 Sup. Ct. Rep. 349; Oceanic SteamNav. Co. v. Stranahan, 214 U. S. 320, 53 L. ed. 1013, 29Sup. Ct. Rep. 671.

Note! The Supreme Court not only referred to the contention but stated it and thus answered it citing case precedent. In answering the contention in the ruling of the Court the Supreme Court Justices have rendered the federal income tax VOID. Since no one else to my knowledge has ever cited this fact

the Courts may not honor the ruling. Nevertheless it is a factual statement under the Law that the Congress cannot delegate its powers to anyone, or anything, or any entity. Another factual statement in the Law is that the Congress cannot breach the balance of power between branches of government by giving its legislative power to the executive or judicial branches of governement. Both of these statements are set in stone. For either one or both of those reasons the federal income tax AND the Internal Revenue Service are unconstitutional. The first time this contention is brought before the Supreme Court the income tax must be struck down.

121. That between the years 1970 and 1973, while a member of the Intelligence Briefing Team, Petty Officer of the Watch in the Command Center, and SPECAT Operator of the KL-47 for Admiral Bernard Clarey Commander in Chief of the Pacific Fleet Affiant witnessed the MAJESTYTWELVE plan to disarm the American People, destroy the United States of America, and institute world totalitarian socialist government. The plan included a statement that the so-called income tax is the unconstitutional implementation of the graduated income tax required as Plank #2 of Karl Marx and Engles' Communist Manifesto.

122. That Affiant has never knowingly or intentionally defrauded any "bank". All contracts have been honored and all loans repaid on time and in full except for one which loan is current and paid up to date according to contract.

123. That Affiant has not obtained a loan of any kind from any "bank" in over seventeen years.

124. That Affiant's lawful wife has obtained five loans from a "bank," individual, or lending institution as a single woman.

125. That in each instance of obtaining a loan from a "bank," individual, or lending institution Affiant and Affiant's lawful wife have without fail informed the "bank," individual, or lending institution of our married status.

126. That in each instance of obtaining a loan from a "bank," individual, or lending institution Affiant and Affiant's lawful wife have asked the representative of the "bank," individual, or lending institution to make the loan to Affiant's lawful wife as "a single woman" because of the immediate danger that Affiant might be killed due to his status as an enemy of the socialist subversives operating within the United States government.

127. That in each instance of obtaining a loan from a "bank," individual, or

lending institution Affiant and Affiant's lawful wife have followed the instructions of the representative of the lending institution, individual, or "bank". That all letters delivered, forms filled out, or forms signed by Affiant or Affiant's wife were at the instruction of the representative of the "bank", individual, or lending institution for the purpose of facilitating the loan(s) to Affiant's lawful wife as a "single woman".

128. That following the instructions of the lending representative of any "bank," individual, or lending institution after having given full disclosure of our marital status is NOT fraud.

129. That as all letters delivered, forms filled out, or forms signed by Affiant or Affiant's wife were at the instruction of the lending representative of the "bank", individual, or lending institution for the purpose of facilitating the loan(s) to Affiant's lawful wife as a "single woman" there can be NO fraud.

130. That all monetary figures given to any representative of a "bank," individual, or lending institution as moneys earned by Affiant and/or Affiant's lawful wife were always much LOWER than actual moneys earned during any period of time requested. Stating a lower figure always makes it more difficult to obtain a loan and is NOT fraud.

131. That it is much more difficult for a "single woman" with children to obtain a loan than a "married woman". Making it more difficult upon oneself to obtain a loan is NOT fraud.

132. That "fraud" requires intent to "defraud" and NO such intent has ever been present in any of Affiant's or Affiant's lawful wife's dealings with any "bank," individual, or lending institution. Affiant's intent was to protect his lawful wife and children against the possibility of Affiant's murder by a despotic government. All contracts have been honored and all loans repaid on time and in full except for one which loan is current and paid up to date according to contract.

133. That the only outstanding loan is on the Headquarters of a Constitutional Contractural Pure Trust for which Affiant and Affiant's wife are the Trustees. The transfer of title is registered with the Apache County Recorder in St. Johns, Arizona. The lending institution has accepted all payments by check drawn on the Trust account. The property has been legally and lawfully transferred from Affiant's wife to the Trust even though the loan remains in the name of Affiant's wife. According to Law Affiant's wife holds title in Trust as "Trustee".

134. That all applications for loans by Affiant's lawful wife were accepted and signed by the representative of the "bank," individual, or lending institution as "true and correct", "approved", and "accepted".

135. That any representative who attests to anything other than what is sworn to in this affidavit is acting only to protect his or her job and to cover his or her own actions in advising us in the particular manner dictated to us in order that Affiant's wife could obtain the loan or loans as a "single woman". Any loan obtained in this manner cannot be, and is NOT fraud.

136. That Affiant is a member of the Constitutional and Lawfully constituted unorganized Militia of the State of Arizona and of the united States of America.

137. That the Affiant and the Militia have the Right guaranteed by the Constitution for the united Statesof America and the Constitution of the State of Arizona to keep and bear arms in defense of Affiant, Affiant's property, the State of Arizona, and the Constitution for the united States of America. That if the United States will not enforce the Laws of the Union it is the Right and the Duty of the Militia to enforce the Laws of the Union.

138. That Affiant and the Militia have the Right and the duty to stand and fight the United States governments despotic and tyrannical unconstitutional and unlawful usurpation of power and jurisdiction with all the means at Affiant's and the Militia's disposal, including the force of arms, any assault which may be mounted upon Affiant, Affiant's family, Affiant's property, and any other property for which Affiant may be responsible.

139. Affiant and or Affiant's wife are not anti-government, radical, fundamentalist, crazy, suicidal, criminal, child molesters, bank robbers, child abusers, tax protesters, wife beater, husband beater, drug users, drug dealers, drug growers, drug stockpilers, revolutionaries, subversives, terrorists, white supremacist, racists, anti-Semitic, or any other demonizing label that may be applied. Affiant and Affiant's wife do not have illegal weapons, hand grenades, bombs, missiles, tanks, machine guns, anti-tank rockets, anti-aircraft weapons or any other demonized instrument of any type whatsoever. The Trust Headquarters and domicile of Affiant and Affiant's wife as Trustees is NOT a compound.

140. Affiant demands that the Internal Revenue Service disclose and CANCEL any and all agreements, contracts, adhesions, laws, regulations, codes, statutes, or treaties which the United States believes bring Affiant under the jurisdiction

of the United States and/or make Affiant liable to file and/or pay the so-called income tax. Affiant demands the Internal Revenue Service disclose the true nature of the fictions WILLIAM COOPER and ANNIE MORDHORST or any other fictions upon which the Internal Revenue Service is attempting to levy the so-called income tax and upon whom the federal Court has issued summons and arrest warrants.

141. The Affiant has always acted, and is acting in good faith and with reasonable cause in accordance with 26 CFR Section 1.6661-6(b)

142. The Affiant and Affiant's lawful wife are permitted to amend and/or correct any records in possession of, or maintained by, any governmental authority, which is inconsistent herewith, in accordance with Title 26 of the United States Code, Section 552a.

143. The Affiant knows that if any government employee, agent, representative, or official, to whom these letters become known, fails to state a rebuttal, said government employee, agent, representative, or official is forever estopped so to do by the maxim of law, "he who remains silent, consents."

144. The Affiant hereby gives the government agents, to whom this Contract and Declaration of Citizenship/Affidavit of Truth is directed, twenty (20) calendar days from the date that this Contract and Declaration of Citizenship/Affidavit of Fact is received by said government agents to respond to this Contract and Declaration of Citizenship/Affidavit of Truth.

145. Any statements or claims made by the Affiant in this Affidavit of Truth, properly rubutted by facts of Law, or by overriding Constitution for the United States of America, Article Three, Supreme Court rulings, shall not prejudice the Lawful validity of other claims not properly rebutted or invalidated by facts of Law.

146. All responses to this affidavit must be designated for delivery EXACTLY as prescribed below, without omitting any parentheses. Otherwise, any attempted correspondence with the Affiant will be returned to the sender, "Refused".

William, Cooper

(c/o Harvest Trust, c/o P.O. Box 1970, Eagar, (de jure, union state of Arizona) non-assumpsit to the venue of "AZ" (these united states of America) non-

domestic, i.e., non-government mail delivery non-assumpsit to the venue of (85925)

The Affiant now affixes the Affiant's signature to all of the above affirmations with explicit reservation of all of Affiant's unalienable Rights without prejudice to any of those Rights.

I William, Cooper declare under penalty of perjury under the laws of the 1787 Constitution for the United States of America that the foregoing Contract and Declaration of Citizenship/Affidavit of Truth and Summary thereof is, to the best of William, Cooper's Knowledge, belief, understanding and information, true, correct certain and complete.

Further the Affiant sayeth naught.

William, Cooper - Affiant

All Rights Reserved

(c/o Harvest Trust, c/o P.O. Box 1970, Eagar, (de jure, union state of Arizona) non-assumpsit to the venue of "AZ" (these united states of America) non-domestic, i.e., non-government mail delivery non-assumpsit to the venue of (85925)

I do attest and certify by my signature below that William, Cooper the Affiant is known to me and that I personally witnessed William, Cooper the Affiant affix his signature to this Demand, Declaration, and Affidavit and that the signature affixed above is the true and correct signature of William, Cooper the Affiant.

John Doyel, Shamley

All Rights Reserved

(c/o 21176 Avenue 144, Porterville, (de jure, union state of California) non-assumpsit to the venue of "CA" (these united states of America) non-domestic, i.e., non-government mail delivery non-assumpsit to the venue of (93257)

Annie, Cooper

(c/o P.O. Box 1420, Show Low, (de jure, union state of Arizona) non-assumpsit to the venue of "AZ" (these united states of America) non-domestic, i.e., non-government mail delivery non-assumpsit to the venue of (85901)

June 30, 1998

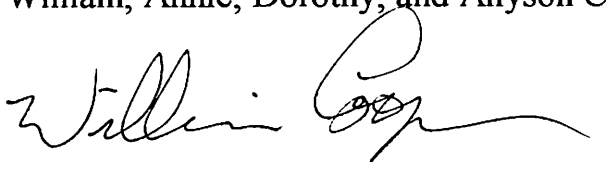
To Whom it may concern;

Receipt constitutes NOTICE SERVED upon you according to federal rules of civil procedure and attending State rules.

The attached document was placed in the United States mail on June 30, 1998 and is NOTICE SERVED upon United States District Court Judge Irwin, United States Attorney General Janet Reno, United States Attorney Janet Napolitano, District Director United States Internal Revenue Service, and other interested parties.

Please read all of the attached document. Your due dilligence and complete knowledge of this matter could be instrumental in preventing the catastrophic loss of life of Citizens in your community and of federal law enforcement personnel should the we be forced to defend ourselves against a despotic federal government operating under the color of law outside its jurisdiction .

William, Annie, Dorothy, and Allyson Cooper



District Court Judge Irwin
United States District Court
230 North 1st Avenue
Phoenix, Arizona 85025

You are NOTICED and Affiant DEMANDS:

Notice, Contract, Declaration of Citizenship, Affidavit, and Demand

Know all Men and Women by these presents

de jure, union state) of Arizona))ss. Affidavit of Fact) Apache County)

Whereas: The Eternal and Unchanging Principles of the Laws of commerce are:

1. A matter must be expressed to be resolved.

2. In commerce, Truth is Sovereign.

3. Truth is expressed in the form of an Affidavit

4. An undisputed Affidavit stands as Truth in Commerce.

5. An undisputed Affidavit becomes the judgment in commerce.

6. An Affidavit of Fact, under Commercial Law, can only be satisfied:

I. through a Rebuttal Affidavit of Fact, point for point;
II. by payment;
III. by agreement;
IV. by resolution by a jury according to the rules of Common Law;

7. A worker is worthy of his hire;

8. All are equal under the Law.

The foundation of Commercial Law is based upon certain eternally just, valid, moral precepts and truth, which have remained unchanged for at least six thousand (6,000) years, having its roots in Mosaic Law. Said Commercial Law forms the underpinnings of Western Civilization, if not all Nations, Law and Commerce in this world. Commercial Law is non-judicial and is prior and superior to the basis of and cannot be set aside or overruled by the statutes of any governments, Legislatures, Quasi-Governmental Agencies, Courts, Judges, and Law Enforcement Agencies, which are under an inherent obligation to uphold said Commercial Law.
Know all Men that Milton William, Cooper hereinafter, "the Affiant", certifies in this Affidavit of Fact that the following facts are true, correct, certain and complete to the best of the Affiant's knowledge, belief and information.

I, Milton William, Cooper a sui juris, Free, Good and Lawful, Christian, Man upon the Land, who was natural-born on the sixth day of the fifth month of the year of our Lord, nineteen hundred and forty-three in the de jure Los Angeles county of the De jure, union state of California, who is currently a Free Inhabitant, Citizen of the de jure Apache county, of the de jure union state of Arizona in addition to Citizen of the union state of California, and whose mailing location is: All Rights Reserved, (c/o Harvest Trust, P.O. Box 1970, Eagar, de jure, union state of Arizona) non-assumpsit to the venue of "AZ" (these united states of America) non-domestic, i.e., non-government mail delivery, non-assumpsit to the venue of (85925), does solemnly affirm, declare, attest and depose:

1. That the Affiant is of Lawful age to make this Affidavit.

2. That the Affiant is competent to make this Affidavit.

3. That the Affiant has personal knowledge of the facts as stated herein.

4. That the Affiant is not under the Lawful guardianship or disability of another.

5. That the Affiant makes this Affidavit of Fact as a matter of record of the Affiant's own Right,
sui juris, in the Affiant's own proper self, in propria persona.

6. That the Affiant was natural-born a Citizen of the de jure union state of California in the de jure Los Angeles county on the sixth day of the fifth month of the year of our Lord, nineteen hundred and forty-three.

7. That as a natural-born, de jure, preamble Citizen of the de jure, union state of California, the Affiant declares the Affiant's sovereignty extended to the Affiant by All Mighty GOD.

8. That the de jure, union states of Arizona and California are of the freely associated, compact states of the American union.

9. That the Affiant is a Citizen under the 1776, Unanimous Declaration of the thirteen united States of America (also known as the Declaration of Independence); the 1777 Articles of Confederation; the 1787 Constitution for the United States of America; the Bill of Rights ratified in 1791, and precedent decisions of the Constitution for the United States of America, Article III justice Courts of Law.

10. That the Affiant is possessed of unalienable, GOD-given Rights from Affiant's creator.

11. That Affiant's unalienable Rights are memorialized in and secured by the 1787 Constitution for the United States of America and the 1791 Bill of Rights.

12. That the Affiant has not ever, does not now, and will not ever knowingly, willingly, voluntarily or intentionally waive any of the Affiant's Rights.

13. That the government of the United States may not assume any power over the Citizens of the de jure union states which is not specifically delegated to the United States by the creators of the United States, that is, the Citizens of the de jure, union states.

14. That the Affiant does not owe his Citizenship to the so-called Fourteenth Amendment to the Constitution of the United States.

15. That the Affiant is not liable for the Title 26 United States Code/Internal Revenue Code, Subtitle-A, Section One graduated income taxes for reasons of the Affiant's alienage to the State of the forum of United States Tax Laws.

16. That the Affiant was not born in a territory over which the United States is sovereign.

17. That the Affiant is not a citizen subject to the jurisdiction of the United States, as defined in
(26 Code of Federal Regulations 1.1-1(c)); to wit:

(c)Who is a citizen: Every person born or naturalized in the United States and subject to its jurisdiction is a citizen.

3A American Jurisprudence 1420, Aliens and Citizens. A person is born subject to the jurisdiction of the United States, for purposes of acquiring citizenship at birth, If this birth occurs in a territory over which the United States is sovereign. ...

18. That the Affiant is "non-resident to" and "not a dweller within" the jurisdiction of the "State of the Forum" of Article One, Section Eight, Clause Seventeen, and Article Four, Section Three, Clause Two of the Constitution for the United States of America, in which the United States Congress "exercises exclusive Legislation in; all Cases whatsoever; over said District not exceeding ten Miles square." beyond the seat of Government of places legally ceded by the union states for the erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings, or any other territories or properties "belonging to" the United States. Consequently, the Affiant is not liable for the (Title 26 United States Code, Subtitle-A, Section One), graduated income tax for reasons of the Affiant's non-residence to such State of Forum.

19. That "It is a well-established principle of law that all federal legislation applies only within the territorial jurisdiction of the United States unless a contrary intent appears." Foley Brothers v. Filardo, 336 U.S. 281.

20. That the Affiant is not a "resident of", "inhabitant of", "franchise of", "subject of", "ward of", "chattel of", or "subject to the jurisdiction of" the State of the forum of any United States, the corporate State, corporate County, or corporate City, Municipal, body politics created under the primary authority of Article one, Section Eight, Clause seventeen, and Article Four, Section Three, Clause Two of the Constitution for the United States of America, therefore, the Affiant is not subject to any legislation created by such authorities; is not subject to the jurisdiction of any employees, officers or agents deriving

the authority thereof; is not subject to Administrative, Constitution for the United States of America, Article One courts, and is not bound by precedents of such courts:

Legislation enacted by Congress applicable to the inferior federal courts in the exercise of power under Article III of the Constitution cannot be affected by legislation enacted by congress under Article 1, Section 8, Clause 17 of the Constitution. D.C. Code, Title 11, at page thirteen

21. That as a sovereign Citizen of one of the union states, under the constitution for the United States of America and Law, only Constitution for the United States of America, Article Three, Justice Courts of law decisions are applicable to the Affiant.

22. That the reader is hereby w a r n e d to TAKE NOTICE that through the Contract and Declaration of Citizenship/Affidavit of Fact, presently before the reader, the Affiant hereby C A N C E L S any and all presumed election(s) made by the United States government or by any agency or department thereof, that has assumed that the Affiant is or ever has been a citizen or resident of any territory, possession, instrumentality, or enclave under the sovereignty or exclusive jurisdiction of the united states as defined and limited to the United States in Article One, Section Eight, Clause Seventeen and Article Four Section Three, Clause Two of the Constitution for the United States of America, and furthermore, the Affiant hereby C A N C E L S any presumption that the Affiant ever knowingly, willingly, voluntarily or intentionally elected to be treated as such a citizen or resident.

23. That the reader is hereby w a r n e d to TAKE NOTICE that through the Contract and Declaration of Citizenship/Affidavit of Fact, presently before the reader, the Affiant; hereby; a) R E S C I N D S all endorsements, subscriptions or presumed signatures attributed to the hand of the Affiant, on any form or document whatsoever, which may be construed or has been construed to give the International Monetary Fund; the United Nations; any entity that claims to have a treaty, compact, contract, agreement or understanding with the United States government; the Internal Revenue Service; the Social Security Administration; or any agency or entity of the United States government created under the authority of the Constitution for the United States or America, Article One, Section Eight, Clause Seventeen and Article Four, Section Three, Clause Two; or any other government - whether said government be de jure, de facto, foreign, domestic, local, state, national, international, hemispheric, global, secular or one which maintains the trappings, vestments and appearance of a true ecclesiastical organization - whatsoever, any authority or jurisdiction over the Affiant; through inadvertence, fraud (see 1 at bottom of page) or mistake; b) R E S C I N D S and makes V 0 I D ab initio, all powers of attorney, in fact, in presumption, or otherwise, endorsed or subscribed by the Affiant or which bear a presumed signature attributed to the hand of the Affiant, or signed by someone or some thing else, without the Affiant's prior, knowing, willing, voluntary and intentional consent, as such power of attorney pertains to the Affiant, but not limited to, any and all quasi-colourable, corporate governmental entities, private or public, on the grounds of constructive fraud and non-disclosure.

24. That the Affiant is not now, and will not ever, knowingly, willingly, voluntarily or intentionally be an officer, employee, elected official or chattel of the United States; the

District of Columbia; or an agency, franchise or instrumentality of the United States, the District of Columbia, the Royal Family of Great Britain, or the Vatican.

25. That the Affiant is not an officer of a corporation under a duty to withhold.

26. That the Affiant is not an "employee" as that "term" is defined in Law and in the Internal Revenue Code, Federal Register, Tuesday, September 7, 1943, section 404.104, page 12267, to wit:

Employee: The term "employee" specifically includes officers and employees whether elected or appointed of the United States, a State, territory, or political subdivision thereof or of the District or Columbia or any agency instrumentality or any one or more of the foregoing.
Section 3401(c) EMPLOYEE For purposes of this chapter, the term employee Includes an officer, employee or elected official of the United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term also includes an officer of a corporation.
1 United States v. Throckmorton, 98 U.S. 65-66

27. That, because the Affiant is NOT an "employee", the Affiant does not earn "wages" as such terms are defined in the Internal Revenue Code, to wit:

Section 3401(a) Wages...the term "wages' means all remuneration...for services performed by an employee for his employer... .

28. That, pursuant to the Public Salary Tax Act of 1939, Title One, Section One, the Affiant does not earn "gross income" as such term is defined therein. The Public Salary Tax Act of 1939, Title 1 - Section 1, Section 22(a) of the Internal Revenue Code relating to the definition of "gross income" (is amended after the words "compensation for personal service") includes [only] personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing.

29. That the Affiant is not involved in any type of "revenue taxable activities" including but not limited to the manufacture, sale or distribution of alcohol, tobacco, or firearms; any wagering activities; or any other regulated industry, trade or profession.

30. That the Affiant does not reside in or obtain income from any source within the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam or any other territory, insular possession, possession, enclave, franchise or instrumentality of the United States, the District of Columbia, the British Commonwealth, or the Vatican.

31. That the Affiant is not a United States Person; United States Resident; United States Individual; United States Corporation "citizen subject to it's jurisdiction", or subject of the Royal Family of Great Britain, as such "words of art" are defined in the Internal Revenue Code and other applicable United States Codes or treaties.

32. That the so-called Sixteenth Amendment to the Constitution of the United States did not repeal the Constitutional apportionment restrictions imposed on direct taxes by the Constitution for the United States of America, Article One, Section Two, Clause Three, and Article One, Section Nine, Clause Four, thus, taxes on personal property are direct taxes, not taxable by the federal government unless apportioned according to the census of the union states.

33. That compensation for labour and exercise of the Right to labour are personal property, and such personal property correctly comes under the authority of the Constitution for the United States of America, Article One, Section Two, Clause Three, and Article One, Section Nine, Clause Four, and are, therefore, not taxable by the Federal Government as a graduated tax. Be advised: compensation earned and exercising the Right to Labour is excluded from "Gross Income" and is exempt from taxation under Title 26 of the United States Code, under the authority of Title 26, Code of Federal Regulations (1939), Section 9.22(b)-1, as follows:
26 Code of Federal Regulations (1939) Section 9.22(b)-1 Exclusions from gross income -- The following shall not be included in gross income and shall be exempt from taxation under this title: (b)-1 Exceptions; exclusions from gross income. Certain items of income ... are exempt from tax and may be excluded from gross income ... those items of income which are under the Constitution, not taxable by the Federal Government.

34. That the so-called Sixteenth Amendment to the Constitution of the United States of America was not ever properly ratified by the States of the union according to the conditions required by the Constitution of the United States of America for ratification and adoption of Amendments to the Constitution of the United States of America. That even if the so-called Sixteenth Amendment to the Constitution of the United States of America had been properly ratified the so-called Sixteenth Amendment to the Constitution of the United States would be limited in application only to indirect taxes.

35. That the income tax is an excise tax. (United States Supreme Court in Brushaber vs. Union Pacific Railroad Company)

36. That compensation for the Affiant's labour is the Affiant's personal property, and therefore, is not taxable by the Federal Government except by rule of apportionment.

37. That an excise tax CANNOT be imposed upon a natural-born Man or Woman upon the Land, Citizen measured by his/her compensation for labour because such a tax would be a direct capitation tax, subject to the rule of apportionment privilege.

38. That the requirement to pay an excise tax involves the exercise of a privilege.

39. That the Affiant is not exercising any taxable privileges.

40. That the Affiant provides for the Affiant's existence by labouring in a non-taxable craft of common Right, to wit:

The Citizen, unlike the corporation, can not be taxed for the mere privilege of existing.

The corporation is an artificial entity which owes its existence and charter powers to the state; but the Citizen's Right to live and own property are Natural Rights for the enjoyment of which an excise can not be imposed ... We believe that the conclusion is well justified that a tax laid directly upon income or property, real or personal may well be regarded as a tax upon the property which produces the income. Redfield v. Fisher, 292 Oregon Supreme Court, 813 at 817, 819 (1939)

41. That the Affiant's compensation for labour constitutes the fruits the Affiant's labour, and as such is the Affiant's substance and personal property, of which the Federal Government may not deprive the Affiant of any portion by appropriating said property against the Affiant's will.

42. That the Victory Tax Act of 1942 [56 Statutes at Large, Chapter 619 page 884. Oct. 21, 1941] which implemented "withholding" and 1040 Returns requirements, stated: Section 476 "The taxes imposed by this subchapter shall not apply with respect to any taxable year after the date of cession of hostilities in the present War, i.e., World War II."

43. That the Victory Tax Act and its provision for withholding was repealed pursuant to 58 Statutes at Large, Chapter 210, Section 6(a), page 235.

44. That there are only four things that can possibly be the subject matter of any tax whether it's local, state or federal:

(1) People (capitation, "head" and poll taxes - a direct tax)
(2) Property by reason of ownership (real and personal property taxes - a direct tax)
(3) Revenue taxable activities (such as the manufacture, sale or distribution of alcohol, tobacco or firearms - an indirect tax)
(4) A grant of privilege (for example, state registered corporate charters granting permission to do business - is a privilege by the state's definition - an indirect tax)

That taxes on the first two types are called direct taxes while the third and fourth types are known as indirect taxes. This definition is not derived from what the tax is popularly or formally named nor from how the tax is measured. This definition can only come from its "subject."

That there has never been a "head" tax since the Constitution was instituted because capitation taxes are expressly forbidden by Article 1, Section 9, paragraph 4. This type of tax is "outlawed" at all levels. That while property taxes are legal in nearly all state and local jurisdictions, they are not legal on the federal level. That the federal government must restrict itself to the indirect class of taxes, duties, imposts and excises.

"The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax; it is the basis for determining the amount of tax." House Congressional Record, March 27, 1943, pg. 2580

That the courts have clearly established that the misleadingly named "income tax" is an

excise tax and, therefore, is an indirect tax. The Supreme Court case, Russell v. U.S., 369 U.S. 749, at 765 (1962), states that: "'Taxable income' can only be derived from revenue taxable activities. Statements alleging some sort of taxable activity must be made in order to support the legal conclusion that the accused had 'taxable income,' etc., or the indictment is invalid and the court does not have authority to hold a trial."

That the Supreme Court's unanimous rulings in the following cases have never been reversed or overturned: Brushaber v. Union Pacific R. R. Co., 240 U.S. 1; Stanton v. Baltic Mining Co., 240 U.S. 103; and Flint v. Stone Tracy Co., 220 U.S. 107 The Court in Brushaber and Stanton held that the Sixteenth Amendment (the "income tax" amendment), as correctly interpreted, and the "income tax" itself when correctly applied, are constitutional because they are restricted to indirect taxes.

That in Flint, the Court held that indirect taxes are never upon any kind of property, money or otherwise, but only upon particular activities, in which the resulting income is used to measure the tax on the taxable activity. "Income taxes" are only named such because the income connected with the activity is used as the standard or yardstick by which the tax upon the activity is measured. Under the Internal Revenue Code, an activity must be taxable for revenue purposes as opposed to strictly regulatory purposes. "[Excise taxes are] taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges." Cooley, Constitutional Limitations, 7th Ed., p.680 as cited in Flint, supra, 151.

That facts regarding the exercise of a revenue taxable privilege or activity must exist in order to support the legal position that a person had "taxable income," or was "obligated to pay", or was "required by law to file tax returns," or is even to be considered a "taxpayer".
That there is a distinct class officially recognized as "non-taxpayers" who are not subject to the jurisdiction of Internal Revenue statutes. "Jurisdiction is essentially the authority conferred by Congress to decide a given type of case one way or another." Hagans v Levine, 415 U.S. 533 (1974).

"Once jurisdiction is challenged, it must be proven." Hagins v Lavine, supra note 3 "No sanction can be imposed absent proof of jurisdiction." Standard v Olson, 74 S.Ct. 768 "It has also been held that jurisdiction must be affirmatively shown and will not be presumed." Special Indem. Fund v Prewitt, 205 F2d 306, 201 OK. 308.

That the IRS, in order to define Affiant as a "taxpayer", must assert jurisdiction.which Affiant refutes. The IRS must prove that Affiant falls under its jurisdictional influence.

That should the Internal Revenue Service violate Affiant's rights under color of law and, with the complicity of the courts, forcing jurisdiction upon Affiant, they still cannot prevail; first, because of the lack of implementing regulations, second, because Affiant is not engaged in any revenue taxable activities and, third, through the emphatic assertion of Affiants correct and proper legal status.

That in law the legal definition is the only authoritative one. About eighty court decisions

and Treasury decisions have used the terms "includes" and "including" in a restrictive sense meaning that when they are used the terms denote ONLY those items that follow it. Further, Black's Law Dictionary, the "handbook" of legal definition defines "include" as follows:

"Include. (Lat. Inclaudere, to shut in, keep within) To confine within, hold as an enclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrase, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. 'Including' within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. " Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227,228."

That Black's Law Dictionary says when the term "include" is used it expands to take in all of the items that are listed but only those items and no others. The importance of this limiting sense of the term is apparent when you look at many of the Internal Revenue Code definitions.

Section 7701 (a) (9) : UNITED STATES. - The term "United States" when used in a geographic sense includes only the States and the District of Columbia.
That in the very next definition the Code defines the term "State."

Section 7701 (a) (10) : STATE. - The term 'State' shall be construed to include the District of Columbia, where such construction is necessary to carry out the provisions of this title. Based on the legal definition of the term "include," then "State" means ONLY the District of Columbia. If we substitute this in the definition of "United States" then the code is limited in its jurisdiction to only the District of Columbia.

That to show that the IRS knows precisely what it's saying and is very specific in its application of these definitions, the Code follows form when it defines "State, United States, and Citizen" in Chapter 21 - Federal Insurance Contributions Act or FICA.

Section 3121 (e) : STATE, UNITED STATES, AND CITIZEN. - For the purposes of this chapter (1) STATE. - The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Somoa. (2) UNITED STATES. - The term 'United States' when used in the geographic sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Somoa. The IRS insists the Code is absolutely correct so this is exactly what it must mean. Therefore, the provisions of Title 26 apply only to the District of Columbia and the federal territories.

That the Code defines 'employer' in Chapter 24 - COLLECTION OF INCOME TAX AT SOURCE ON WAGES.

Section 3401 (d) : EMPLOYER. - For purposes of this chapter, the term 'employer' means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person....

That if you have an 'employee' then you are an employer. There is a conspicuous absence of the term "include" in this definition?

Section 3401 (c) : EMPLOYEE. - For purposes of this chapter, the term 'employee' includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes the officer of a corporation.

That to be an "employee" you've must work for the government or be an officer of a corporation. The term "include" shows up here and again, if we substitute this idea into the definition of 'employer' a company is most likely NOT an employer because none of the people working for companies are employees of the government.

Section 7701 (a) (3) : CORPORATION. - The term 'corporation' includes associations, joint-stock companies, and insurance companies.

That further investigation shows that the corporation must be formed in, be doing business in, or receiving income from the District of Columbia or be classified as a "foreign corporation." Those who are not incorporated are covered in the Code as well.

Section 7701 (a) : TRADE OR BUSINESS. - The term 'trade or business' includes the performance of the functions of a public office.

That the Courts have drawn a distinct line between "income" and "wages." "Income, within the meaning of the 16th Amendment and the Revenue Act, means gain ... and, in such connection, gain means profit ... proceeding from property severed from capital, however invested or employed and coming in, received or drawn by the taxpayer for his separate use, benefit and disposal....

That income is neither a wage nor compensation for any type of labor." Stapler v. U.S., 21 F. Supp. 737, at 739. "There is a clear distinction between 'profit' and "wages", or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word "profit", as ordinarily used, means the gain made upon any business or investment -- a different thing altogether from the mere compensation for labor." Oliver v. Halstead, 86 S.E. Rep 2nd 85e9 (1955) "...[W]hatever may constitute income, therefore, must have the essential feature of gain to the recipient.... If there is not gain there is not income.... Congress has taxed income not compensation." Connor v. U.S., 303 F. Supp. 1187 (1969)

That each time a company and/or its executives turns over "employee" money to the IRS under a Notice of Levy they are unwittingly aiding and abetting the IRS in the performance of an illegal act. To understand why we need to look to the Code provisions relating to Levy and Distraint. Specifically, Subchapter D - Seizure of Property for Collection of Taxes. Under Section 6331 - Levy and Distraint is the following:

Section 6331 (a) AUTHORITY OF SECRETARY. - If any person liable to pay any tax

neglects or refuses to pay the same within 10 days after the notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such a tax...

Section 6331 (a) cont'd AUTHORITY OF SECRETARY. - ...Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or District of Columbia, by serving a notice of levy on the employer (as defined in 3401 (d)) of such officer, employee, or elected official....

That when we take the time to look closely at this "power" we see from the first part of it that the Secretary's power is delimited and confined to those who are "liable to pay any tax." As further evidence of the limited power of the Secretary to issue Notices of Levy, the second part of sec. 6331(a) is clearly aimed at government employees and is actually the only part of the section that even mentions the filing of a notice. Since the IRS adamantly asserts that the Code is completely correct in its script Affiant can only conclude that the power to issue a Notice of Levy applies only to government employees and therefore, as a "foreign corporation", by Code definition, no one else is charged with any responsibility for the perfection of such overextended, misapplied powers and bogus jurisdictional claims.

"As in our intercourse with our fellow-men certain principles of morality are assumed to exist, without which society would be impossible, so certain inherent rights lie at the foundation of all action, and upon a recognition of them alone can free institutions be maintained. These inherent rights have never been more happily expressed than in the Declaration of Independence, that evangel of liberty to the people: 'We hold these truths to be self-evident' - that is, so plain that their truth is recognized upon their mere statement 'that all men are endowed' not by edicts of emperors, or decrees of Parliament, or acts of Congress, but 'by their Creator with certain inalienable rights' that is, rights which cannot be bartered away, or given away, or taken away except in punishment of crime 'and that among these are life, liberty, and the pursuit of happiness, and to secure these' not grant them but secure them 'governments are instituted among men, deriving their just powers from the consent of the governed.

"Among these inalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment.

"The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must, therefore, be free in this country to all alike upon the same conditions. The right to pursue them, without let or hindrance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright.

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"...The property which every man has is his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property." Butcher's Union Co. v. Crescent City Co., 111 U.S. 746, (1883)

That in two other cases, the Supreme Court said: "Included in the right of personal liberty and the right of private property - partaking of the nature of each - is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and others services are exchanged for money or other forms of property." Coppage v. Kansas, 236 U.S. 1, at 14 (1915) ". . . Every man has a natural right to the fruits of his own labor, as generally admitted; and that no other person can rightfully deprive him of those fruits, and appropriate them against his will . . ." Antelope, 23 U.S. 66, at 120

That in 1913, four years after Congress first introduced the income tax amendment, Philander Knox, a Pittsburgh attorney and then Secretary of State, declared the 16th Amendment duly ratified, despite the protests and subsequent research which reveals proof to the contrary. Congress intended that somebody should pay a tax. Congress has the Constitutional authority to tax, but only through specific types of taxes.

That therefore, since Congress and the Courts have defined it as an excise tax, Affiant has no argument with the tax itself and does not protest against the income tax. However, it is one thing to protest a tax and another thing entirely to protest extortion committed under the guise, pretext, sham, or subterfuge of the unlawful unconstitutional misapplication of the revenue laws against Affiant who is neither subject to nor liable for such indirect taxes. This type of extortion is prohibited by the 5th amendment "due process of law" clause, and the extortion clause of the Internal Revenue Code in Section 7214.

That Affiant is protesting against the unconstitutional and unlawful MISAPPLICATION of the revenue laws and is not protesting the tax itself in its proper and lawful application as an excise tax levyed upon taxable activities and priviliges.

That Affiant is not a tax protester. Let the Internal Revenue Code "serve" those for whom it was specifically intended: Government employees, taxable privileges, such as the corporate form of doing business; and Revenue taxable activities, such as the manufacture, distribution, and sales of alcohol, and tobacco.

In Summary

A. The Affiant is not an "employee" earning "wages" and has no "gross income" as such "terms" are defined in the Internal Revenue Code; the Public Salary Tax of 1939; and in Law

B. The Affiant is exercising NO taxable privileges, and Affiant earns no "income" upon which a direct excise tax may be imposed. The Brushaber Court and other United States

Supreme Courts have ruled that the "taxation on income is in it's nature an excise." In Flint v. Stone Tracy Co., 220 U.S. 10, the United States Supreme Court ruled that, "the requirement to pay Excise taxes involves the exercise of a privilege." Furthermore, in the case of Peck V. Lowe, 247 U.S. 165. the United States Supreme Court ruled that a tax sustained upon a (natural) Citizen would be a "capitation" tax (subject to apportionment) and not an excise tax. (NOTE: the so-called 16th Amendment to the Constitution of the United States does not extend the power of taxation to new or excepted subjects, but merely removes occasion for apportioning taxes on income among the States.")

C. The Affiant is not a "citizen subject to it's jurisdiction" as defined in 26 Code of Federal Regulations, Section 1.1-l(c) upon whom a Subtitle-A, Section One, Graduated Income Tax is imposed.

D. The Affiant is not a subject of the Royal Family of Great Britain as defined in Internal Revenue Service file 6209; U.S.- U.K. treaties; or Internal Revenue Service law enforcement manual, therefore, the Affiant owes no tribute to the Royal Family of Great Britain pursuant to Title 31, Section 3124 of the United States Code.

E. The Affiant to the best of his knowledge and memory has not incurred a tax liability pursuant to 26 United States Code 871(a) or Section 871(b), and the Affiant does not anticipate that the Affiant will incur a tax liability from said sections in the future. However, if the Affiant does receive "income" subject to taxation under those sections in the future, the Affiant will file the appropriate forms.

F. The Affiant is not; a) required to pay the income tax; b) "liable for" or "made liable for" the income tax; c) "subject to" the income tax; and d) required by regulation to file a 1040 tax form.

G. Affiant demands that the Internal Revenue Service disclose any and all CANCELLED agreements, contracts, adhesions, laws, regulations, codes, statutes, or treaties which bring Affiant under the jurisdiction of the United States and/or make Affiant liable to file and/or pay the so-called income tax. Affiant demands the Internal Revenue Service disclose the true nature of the fiction upon which the Internal Revenue Service is attempting to levy the so-called income tax. Affiant

H. The Affiant has always acted, and is acting in good faith and with reasonable cause in accordance with 26 CFR Section 1.6661-6(b)

I. The Affiant is permitted to amend and/or correct any records in possession of, or maintained by, any governmental authority, which is inconsistent herewith, in accordance with Title 26 of the United States Code, Section 552a.

J. The Affiant knows that if any government employee, agent, representative, or official, to whom these letters become known, fails to state a rebuttal, said government employee, agent, representative, or official is forever estopped so to do by the maxim of law, "he who remains silent, consents."

K. The Affiant hereby gives the government agents, to whom this Contract and Declaration of Citizenship/Affidavit of Truth is directed, twenty (20) calendar days from the date that this Contract and Declaration of Citizenship/Affidavit of Fact is received by said government agents to respond to this Contract and Declaration of Citizenship/Affidavit of Truth.

L. All responses to this affidavit must be designated for delivery EXACTLY as prescribed below, without omitting any parentheses. Otherwise, any attempted correspondence with the Affiant will be returned to the sender, "Refused for Fraud."

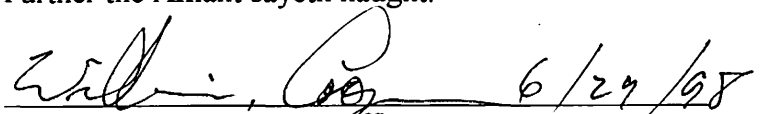
Milton William, Cooper
All Rights Reserved
(c/o Harvest Trust, P.O. Box 1970, Eagar, (de jure, union state of Arizona) non-assumpsit to the venue of "AZ" (these united states of America) non-domestic, i.e., non-government mail delivery non-assumpsit to the venue of (85925)

Note

Any statements or claims made by the Affiant in this Affidavit of Truth, properly rubutted by facts of Law, or by overriding Constitution for the United States of America, Article Three, Supreme Court rulings, shall not prejudice the Lawful validity of other claims not properly rebutted or invalidated by facts of Law.

The Affiant now affixes the Affiant's signature to all of the above affirmations with explicit reservation of all of Affiant's unalienable Rights without prejudice to any of those Rights.

I Milton William, Cooper declare under penalty of perjury under the laws of the 1787 Constitution for the United States of America that the foregoing Contract and Declaration of Citizenship/Affidavit of Truth and Summary thereof is, to the best of Milton William, Cooper's Knowledge, belief, understanding and information, true, correct certain and complete.
Further the Affiant sayeth naught.



Milton William, Cooper - Affiant
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I do attest and certify by my signature below that Milton William, Cooper the Affiant is known to me and that I personally witnessed Milton William, Cooper the Affiant affixe his signature to this Demand, Declaration, and Affidavit and that the signature affixed above

is the true and correct signature of Milton William, Cooper the Affiant.

John Doyel Shamley 29 June 98

John Doyel, Shamley
All Rights Reserved
(c/o 21176 Avenue 144, Porterville, (de jure, union state of California) non-assumpsit to the venue of "CA" (these united states of America) non-domestic, i.e., non-government mail delivery non-assumpsit to the venue of (93257)

Annie Cooper 6-29-98

Annie, Cooper
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CIRCUIT JURISDICTION CASES:

FIRST CIRCUIT:

1. United States v. Travers, 28 Fed. Cas. 204, No. 16,537 (C.C.D. Mass. 1814): Sailor in U.S. Navy yard had completed his Naval service and was discharged, but committed murder of an officer in a fight before leaving. This "opinion" is the jury instructions in the case, with the court holding that the yard was within U.S. jurisdiction.

2. United States v. Davis, 25 Fed. Cas. 781, No. 14,930 (C.C.D. Mass. 1829): Federal indictment for larceny at a Marine Hospital in Massachusetts, and defendant challenged jurisdiction. Justice Story held that the U.S. had jurisdiction over the offense via state cession and that Assimilative Crimes Act applied.

3. United States v. Ames, 24 Fed. Cas. 784, No. 14,441 (C.C.D. Mass. 1845): Ames built a dam on his land which caused flooding on U.S. lands; U.S. sued for trespass. The question in the case was whether state law and its damage remedy applied. Court held that property was within U.S. jurisdiction, thus state law did not apply.

4. Kelly v. United States, 27 F. 616 (D.Me. 1885):
Defendant charged with manslaughter committed at Fort Popham in U.S. jurisdiction; defense contended that state never ceded jurisdiction. In upholding federal court's jurisdiction, court cited Maine's cession statute and opinion in *State* v. Kelly, 76 Me. 331.

5. Pothier v. Rodman, 291 F. 311 (1st Cir. 1923):
Pothier indicted for murder in federal court in Washington for offense occurring at Camp Lewis; he was arrested in Rhode Island. Challenge via habe to jurisdiction on extradition was on grounds that Camp Lewis was still within state's jurisdiction, and appellate court agreed. Reversed, Rodman v. Pothier, 264 U.S. 299, 44 S.Ct. 360 (1924).

6. City of Springfield v. United States, 99 F.2d 860 (1st Cir. 1938):
US Post office ceased operation in 1933 and property was thereafter leased to private interest and then sold. City sought to impose real estate tax in 1937 because U.S. was not using the property. Court held that, even though the city and state had jurisdiction over the property, no tax which interfered with the sale could be imposed.

7. City of Franklin v. Coleman Bros. Corp., 152 F.2d 527 (1st Cir. 1945):
The U.S. bought property for dam project and state ceded jurisdiction. The

corporation contracted with U.S. to build dam and city imposed personal property tax. Held, city had no jurisdiction to impose the tax.

8. Berube v. White Plains Iron Works, Inc., 211 F.Supp. 457 (D.Me. 1962):
Both parties involved in auto accident at Loring Air Force Base, defendant being engaged there in construction. Berube apparently sued in state court and attempted long arm service, and suit was removed. Court dismissed suit, finding that defendant did not conduct business in Maine.

9. Economic Development and Industrial Corp. of Boston v. United States, 546 F.Supp. 1204 (D. Mass. 1982):
State deeded title and jurisdiction of tract in question to U.S., but reserved an interest in event U.S. ceased using land as naval grounds. Thereafter, state enacted law requiring recording of instruments to protect reversion, a failure resulting in loss. Here, state did not record instrument regarding its above reversion. In contest over whether development corporation could still claim reversion, it prevailed by the "skin of its teeth."

SECOND CIRCUIT:

1. United States v. Knapp, 26 Fed. Cas. 792, No. 15,538 (S.D.N.Y. 1849):
Federal prosecution for theft occurring at West Point, with defendant challenging jurisdiction. Finding that the state had ceded jurisdiction to the U.S., court upheld federal jurisdiction.

2. United States v. Barney, 24 Fed. Cas. 1011, No. 14,524 (C.C.S.D.N.Y. 1866):
Defendant charged with forging and uttering false bond for revenue purposes relating to export of distilled spirits; defendant challenged jurisdiction which was based on a strained argument built on Assimilative Crimes Act. Court held that New York laws, repealed prior to date state ceded jurisdiction of property to U.S., did not apply to the property in question.

3. Middleton v. La Compagnie Generale Transatlantique, 100 F. 866 (2nd Cir. 1900):
Deceased engaged in "mine work" in N.Y. harbor in small boat; wake of another swamped and drowned deceased. Widow sued, and question was related to place of accident, alleged within state of NY. Court held that Sandy Hook, an island near scene of accident in U.S. jurisdiction, had no effect on jurisdiction over the waters. State law was applied.

4. United States v. City of Buffalo, 54 F.2d 471 (2nd Cir. 1931):
Property of U.S. was bought in 1920, and used until 1923, when U.S. entered contract to sell property. This action involved contention of whether taxes since

1920 could be collected. Held, no taxes could be imposed during time of U.S. ownership.

5. Quadrini v. Sikorsky Aircraft Division, United Aircraft Corp., 425 F.Supp. 81 (D.Conn. 1977):
Helicopter with two Marines aboard crashed in federal enclave in North Carolina. Case deals with McGlinn rule.

6. Sylvane v. Whelan, 506 F.Supp. 1355 (E.D.N.Y. 1981):
Action to abate as nuisance public nude bathing occurring in federal park. The court, noting impliedly the McGlinn rule via Sadrakula, was troubled by lack of explicit state law and fact that U.S. only had concurrent jurisdiction; complaint was dismissed.

7. Vasina v. Grumman Corp., 644 F.2d 112 (2nd Cir. 1981):
Navy pilot killed in plane crash occurring at Boardman Bombing Range in Oregon; widow sued aircraft manufacturer and recovered large award. On appeal, Grumman argued for application of Oregon law at time U.S. acquired jurisdiction, but appellate court applied present Oregon law via federal statute.

THIRD CIRCUIT:

1. United States v. Andem, 158 F. 996 (D.N.J. 1908):
Prosecution for forging corporate seal to a pleading filed in federal court, located in a building within U.S. jurisdiction. Prosecution used Assimilative Crimes Act and relied on state statute. Defendant challenged federal court's jurisdiction, but the court found U.S. ownership of lands and state cession; motion was denied.

2. United States v. Mayor and Council of City of Hoboken, 29 F.2d 932 (D.N.J. 1928):
City sought to tax piers owned by U.S.; U.S. sought and obtained, injunction regarding taxes. Court entered injunction for one year only, and taxes for subsequent years were to be adjudicated between parties pursuant to state law.

3. Capetola v. Barclay White Co., 139 F.2d 556 (3rd Cir. 1943):
Plaintiff injured while working at Philadelphia Navy Yard, and he obtained workmen's comp. benefits under state law. He then sued to recover further on grounds that the state statute was inapplicable in the federal enclave. Court held that, by act of Congress, the state law applied in the enclave, thus plaintiff had recovered all allowed by law.

4. United States v. City of Chester, 144 F.2d 415 (3rd Cir. 1944):
The U.S. filed suit against city which was attempting to apply its building code to housing being built on U.S. property. Notwithstanding presence of U.S.

jurisdiction, court held that city's building code did not apply because of language of federal statute.

5. Ackerly v. Commercial Credit Co., 111 F.Supp. 92 (D.N.J. 1953):
Suit for damages for death caused by explosion at South Amboy. One defendant challenged process on grounds that it wasn't doing business in New Jersey; it argued that most of its business was within a U.S. enclave, and very little in the state. But, court disagreed and held it was doing business in state.

6. Application of Thompson, 157 F.Supp. 93 (E.D.Pa. 1957):
Petitioner resided in New Jersey but worked at Philadelphia Navy Shipyard, a federal enclave. City imposed income tax pursuant to Buck Act, and defendant failed to pay and was arrested. Court upheld tax nonetheless. Affirmed, United States ex rel. Thompson v. Lennox, 258 F.2d 320 (3rd Cir. 1958).

7. United States v. Lewisburg Area School District, 539 F.2d 301 (3rd Cir. 1976):
School district and county sought to impose per capita tax and occupation tax on residents of federal penitentiary, within U.S. jurisdiction. The U.S. sued to enjoin such effort. Court held that the Buck Act permitted the occupation tax but not the per capita tax.

8. Water Isle Hotel and Beach Club, Ltd. v. Kon Tiki St. Thomas, Inc., 795 F.2d 325 (3rd Cir. 1986):
The U.S. owned an island in Virgin Islands and leased to Beach Club. Virgin Islands had an open shore law, exploited by Kon Tiki, which brought people to the U.S. island to use beach. Beach Club sought to enjoin Kon Tiki's use of the beach, but Court held that the U.S. had only a proprietary interest in the island, and that open shore law applied and permitted Kon Tiki's use.

FOURTH CIRCUIT:

1. Ex parte Tatem, 23 Fed. Cas. 708, No. 13,759 (E.D.Va. 1877):
Federal prosecution for murder committed at Navy yard in Virginia; defendant released on bail. Defendant filed habe when state arrested and incarcerated him for state offense. Because the U.S. owned the lands in question and state had ceded jurisdiction, court held State had no jurisdiction of offense and granted the habe.

2. United States v. Penn, 48 F. 669 (E.D.Va. 1880):
U.S. found not to have jurisdiction to prosecute for petit larceny at Arlington Cemetery.

3. Crook, Horner & Co. v. Old Point Comfort Hotel Co., 54 F. 604 (E.D.Va. 1893):
The Chamberlin Hotel was under construction on U.S. property, Fortress Monroe, in U.S. jurisdiction. Mortgage and other liens were filed of record in county of the

state, and question involved was that of priority of the liens. The Virginia cession statute provided for reversion of title to state in event of abandonment. The court found that the U.S. had abandoned military use of the hotel cite, thus the state laws regarding liens had application.

4. United States v. Cordy, 58 F.2d 1013 (D.Md. 1932):
State gasoline tax held inapplicable to sales made at Fort Meade, within U.S. jurisdiction.

5. Mannix v. United States, 140 F.2d 250 (4th Cir. 1944):
Defendant charged with attempted rape at U.S. Public Health Service office on U.S. property. Court held that this fact gave the court jurisdiction.

6. United States v. Watson, 80 F.Supp. 649 (E.D.Va. 1948):
Defendant charged with several traffic offenses occurring on road near Quantico; his attack on jurisdiction was sustained and court stated:

> "Without proof of the requisite ownership or possession of the United States, the crime has not been made out."

7. Markham v. United States, 215 F.2d 56 (4th Cir. 1954):
Petitioner, convicted of murder committed at Old Army Base in Norfolk, sought a 2255 vacation of his sentence on jurisdictional grounds. Besides the presence of several indicators of federal jurisdiction, the court concluded this issue could not be raised via a 2255.

8. United States v. Dreos, 156 F.Supp. 200 (D.Md. 1957):
Lawyer tagged for speeding on Balto-Washington Parkway, and he challenged jurisdiction and radar guns. Jurisdictional challenge denied on grounds that the U.S. had concurrent jurisdiction over this parkway, and on basis of property clause.

9. Stokes v. Adair, 265 F.2d 662 (4th Cir. 1959):
Auto accident occurring at Fort Leavenworth, Kansas; Virginia citizen then sued Virginia citizen in federal court, but suit was dismissed for alleged lack of diversity. Court held, however, that McGlinn rule made state law federal and action was valid based on federal law.

10. United States v. Gray Line Water Tours of Charleston, 311 F.2d 779 (4th Cir. 1962):
Tour company was landing visitors at pier to Fort Sumter and U.S. brought action to enjoin. In upholding injunction, court upheld grant of concession to tour company's competitor on property clause grounds.

11. United States v. Schuster, 220 F.Supp. 61 (E.D.Va. 1963):
Prosecution for unauthorized use of auto under state law via Assimilative Crimes Act; car was taken from lot rented to U.S., adjoining a base. State law granted concurrent jurisdiction to U.S. for leased property so the court upheld federal jurisdiction.

12. United States v. Lovely, 319 F.2d 673 (4th Cir. 1963):
Lovely convicted of rape committed at New Fort Jackson in South Carolina; he thereafter sought release via a 2255 on jurisdictional grounds. On appeal of denial of motion, court stated that an old state cession statute requiring the U.S. to record evidence of title, if still effective, would prevent U.S. having jurisdiction here because the U.S. failed to record. But another state cession statute didn't require such recording, so the court concluded federal jurisdiction existed.

13. Bartsch v. Washington Metro. Area Transit Comm., 357 F.2d 923 (4th Cir. 1966):
Taxicab owner sought review of agency order; court held that National Airport was in U.S. jurisdiction.

14. Cornman v. Dawson, 295 F.Supp. 654 (D.Md. 1969):
Residents of federal enclave sought right to vote in state elections. Because of federal legislation permitting the state to exercise jurisdiction in federal enclaves, and because state law granted many rights to enclave residents, court held they were entitled to vote. Affirmed, Evans v. Cornman, 398 U.S. 419, 90 S.Ct. 1753 (1970).

15. Board of Supervisors of Fairfax County, Va. v. United States, 408 F.Supp. 556 (E.D.Va. 1976):
County brought action to enjoin a public nuisance, which was a reformatory owned and operated by the U.S. County wanted the U.S. to curtail use of the place as a prison. This decision was simply on a motion to dismiss, and court discussed McGlinn rule that state nuisance laws at time of cession would be applicable.

16. United States v. Holmes, 414 F.Supp. 831 (D.Md. 1976):
Defendant entered Aberdeen Proving Grounds by wading into the water and was arrested by U.S. officers. She attacked jurisdiction by alleging that the waters around Aberdeen were in state jurisdiction. Court found, however, that the U.S. had jurisdiction of the waters.

17. Pratt v. Kelly, 585 F.2d 692 (4th Cir. 1978):
Action concerning auto accident on Blue Ridge Parkway commenced in federal court but dismissed on lack of subject matter jurisdiction. Court affirmed, holding that the state in cession reserved jurisdiction over civil matters.

18. United States v. South Carolina, 578 F.Supp. 549 (D.S.C. 1983):
The U.S. sought injunction against state law requiring military installations to buy alcoholic beverages only from state licensed dealers. Court held state law unconstitutional as to these federal enclaves and ruled that state statute was pre-empted via regulations.

FIFTH CIRCUIT:

1. United States v. Hopkins, 26 Fed. Cas. 371, No. 15,387a (C.C.D.Ga. 1830):
State cession statue applied only to federal forts; in federal murder prosecution arising from a duel at an arsenal, court held that U.S. had no jurisdiction.

2. United States v. Meagher, 37 F. 875 (W.D.Tex. 1888):
Defendant indicted for murder committed at Fort Clark and this case is the jury instructions given. Court held that the state had ceded jurisdiction of the fort to the U.S.

3. United States v. Lewis, 111 F. 630 (W.D.Tex. 1901):
Defendant indicted for murder committed at Fort Sam Houston, and this case was the jury instructions given. Court instructed regarding necessity of state cession, here proven, to give the court jurisdiction.

4. Pundt v. Pendleton, 167 F. 997 (N.D.Ga. 1909):
A teamster employed and residing at Fort Oglethorpe was alleged to be subject to state road and repair duty; when he failed to appear, he was jailed and this was a habe to get him out. The court found him not liable for road duty on grounds that the state law interfered with the fort.

5. Brown v. United States, 257 F. 46 (5th Cir. 1919):
Defendant, a contractor at post office site, murdered another, but challenged court's jurisdiction. The court found ownership and cession and upheld jurisdiction as well as indictment's pleading of jurisdiction.

6. England v. United States, 174 F.2d 466 (5th Cir. 1949):
Defendant, in the Army, took a check from Fort Sam Houston and was prosecuted for larceny. His challenge to the information on jurisdictional grounds was not upheld.

7. United States v. Nebo Oil Co., 90 F.Supp. 73 (W.D.La. 1950):
The inevitable collision between mineral and surface owner, with the U.S. here being surface owner. The opinion is long, deals extensively with minerals and applies jurisdictional rules. (Of interest: U.S. is not "within jurisdiction" of state).

8. Mater v. Holley, 200 F.2d 123 (5th Cir. 1952):
Personal injury action for events occurring at Fort McPherson; district court

dismissed for lack of jurisdiction in absence of diversity. Court found that U.S. was owner of property and had jurisdiction; state torts law pursuant to McGlinn rule applied in enclave and were federal laws, hence the action was good.

9. *City of Bir*mingham v. Thompson, 200 F.2d 505 (5th Cir. 1952):
City sought building permit from contractor of Veteran's Hospital. Finding ownership and cession of jurisdiction with no reservation in state concerning building permits, court found that city had no jurisdiction to impose permit requirement.

10. Hudspeth v. United States, 223 F.2d 848 (5th Cir. 1955):
Jurisdictional challenge was not upheld, as place was within U.S. jurisdiction.

11. Krull v. United States, 240 F.2d 122 (5th Cir. 1957):
In rape prosecution, jurisdiction upheld, court finding ownership and cession.

12. Stockwell v. Page Aircraft Maintenance, 212 F.Supp. 102 (M.D.Ala. 1962):
Service of process for corporation at Fort Rucker; held that the fort was within Alabama as state never ceded jurisdiction.

13. Gainey v. United States, 324 F.2d 731 (5th Cir. 1963):
Manslaughter conviction for event occurring at U.S. Penitentiary; held the pen was an area over which the U.S. had legislative jurisdiction.

14. Halpert v. Udall, 231 F.Supp. 574 (S.D.Fla. 1964):
U.S. acquired land for Everglades and state ceded jurisdiction. Private land owner in park challenged closing of road and regulation he contended affected value of his property; claims were dismissed.

15. Fountain v. New Orleans Public Service, Inc., 265 F.Supp. 630 (E.D.La. 1967):
Wrongful death action for events occurring in Foreign Trade Zone at Port of New Orleans. Plaintiff claimed the zone to be "under the jurisdiction of the U.S."; however, court dismissed complaint because the U.S. did not own or lease the land and state had never ceded jurisdiction.

16. Dekalb County, Ga. v. Henry C. Beck Co., 382 F.2d 992 (5th Cir. 1967):
Action by county to collect permit fee from contractor building a hospital on U.S. lands at Emory. Summary judgment against county was reversed on appeal, the court finding that the U.S. never accepted jurisdiction, and that record was devoid of facts necessary to make a supremacy clause finding regarding county's building code.

17. Mississippi River Fuel Corp. v. Cocreham, 382 F.2d 929 (5th Cir. 1967):
The U.S. owned and had state cession for Barksdale A.F.B., upon which the

corporation was producing oil and gas for which state sought to impose severance tax. Court held that severance tax could not be imposed in this place outside the jurisdiction of the state.

18. Graham v. Brewer, 295 F.Supp. 1140 (N.D.Ala. 1968):
Plaintiff was arrested for possession of liquor in dry county, when liquor was bought in a wet county. One arrest occurred at Wilson Dam, alleged to be in U.S. jurisdiction. This declaratory judgment action was dismissed, court finding no proof of U.S. jurisdiction.

19. United States v. Townsend, 474 F.2d 209 (5th Cir. 1973):
Townsend convicted of receiving stolen property taken from Reese A.F.B., in U.S. jurisdiction. His conviction was reversed when court reviewed the record and determined that there was no evidence showing receipt of the stolen property within U.S. jurisdiction.

20. United States v. Benson, 495 F.2d 475 (5th Cir. 1974):
Robbery committed at Fort Rucker, within U.S. jurisdiction; defendant convicted and challenged jurisdiction. In affirming conviction, court held:

> "It is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction therefor."

Court took judicial notice regarding Fort Rocker.

21. Leonard v. United States, 500 F.2d 673 (5th Cir. 1974):
Defendant charged with rape, the abduction occurring at Maxwell A.F.B., but completed off-base. Court held that the U.S. had jurisdiction over offense.

22. Vincent v. General Dynamics Corp., 427 F.Supp. 786 (N.D.Tex. 1977):
Employees challenged collective bargaining agreements to federal enclave, an air force plant, arguing the applicability of Texas "right to work" law. Court held that the right to work law did not apply in this federal enclave.

23. United States v. Gliatta, 580 F.2d 156 (5th Cir. 1978):
Dispute over parking at post office facility resulted in defendant being charged for violating regulations. On appeal from conviction, defendant attacked jurisdiction. The court found that the U.S. had no cession, but upheld convictions on property clause basis.

24. Lord v. Local Union No. 2088, I.B.E.W., 646 F.2d 1057 (5th Cir. 1981):
Challenge to collective bargaining agreement as to two federal enclaves, Patrick A.F.B. and Cape Canaveral A.F.B., based on state "right to work" law. Court held that state law was pre-empted by the federal and did not apply within enclave.

25. Bonner v. Chevron U.S.A., 668 F.2d 817 (5th Cir. 1982):
Bonner sued Chevron for injuries received at oil platform on continental shelf; court held that act of Congress made state law applicable.

SIXTH CIRCUIT:

1. United States v. Tierney, 28 Fed. Cas. 159, No. 16,517 (C.C.S.D. Ohio 1864):
Federal prosecution for theft of mule from Camp Hurtt, which was leased property. Defendant's challenge to jurisdiction was sustained because leased lands were subject to state jurisdiction.

2. United States v. Tucker, 122 F. 518 (W.D.Ky. 1903):
Defendant indicted for assault with intent to murder committed at a federal dam in U.S. jurisdiction. Court found U.S. ownership and state cession and upheld jurisdiction.

3. Falls City Brewing Co. v. Reeves, 40 F.Supp. 35 (W.D.Ky. 1941):
Brewing company sold liquor to post exchange at Fort Knox; it filed suit against state officer who contended that permit was needed to sell at exchange on basis of Buck Act. Held, under facts, Buck Act did not apply and state had no taxing authority at Fort Knox.

4. First Hardin National Bank v. Fort Knox National Bank, 361 F.2d 276 (6th Cir. 1966):
Fort Knox Bank sought to establish a branch in adjoining town and local banks challenged the attempt as unlawful. Court disagreed and permitted the branch.

5. United States v. Blunt, 558 F.2d 1245 (6th Cir. 1977):
Inmate at F.C.I. in Lexington was convicted of assault with deadly weapon and challenged jurisdiction. Court took judicial notice that the prison was within U.S. territorial jurisdiction.

6. United States v. McGee, 432 F.Supp. 557 (S.D. Ohio 1977):
Dayton sought to annex Wright-Patterson A.F.B. to city and U.S. sued for injunction, which was granted. Court held that, when U.S. opposed annexation on grounds of interference, court would prevent annexation. Affirmed, 611 F.2d 375 (6th Cir. 1979).

7. United States v. McGee, 714 F.2d 607 (6th Cir. 1983):
Second attempt by Dayton to annex Wright-Patterson enjoined.

SEVENTH CIRCUIT:

1. United States v. Railroad Bridge Co., 27 Fed. Cas. 686, No. 16,114 (C.C.N.D. Ill. 1855):

Rock Island, in the Mississippi River, had at one time been a federal fort, but fort was abandoned and island was in the public domain. Illinois legislature chartered railroad and gave it eminent domain powers and railroad took land on island for bridge. Since the U.S. has no jurisdiction over property, it was subject to state jurisdiction and federal property could be taken via eminent domain. This case had good discussion of proprietorial lands of U.S.

2. World's Columbian Exposition v. United States, 56 F. 654 (7th Cir. 1893):
The U.S. sought to enjoin opening of exposition on Sunday, contrary to its desires and statute. But, since U.S. had no property interest in the exposition, injunction denied; the U.S. did not own property or have a cession.

3. In re Kelly, 71 F. 545 (E.D.Wis. 1895):
Kelly was charged with assault with deadly weapon at National Soldier's Home, property being owned by corporation. Court held there was no federal jurisdiction, on grounds that cession act of state could not be construed as conveying exclusive jurisdiction.

4. Bennett v. Ahrens, 57 F.2d 948 (7th Cir. 1932):
Lawyer charged via state indictment with attempted murder and was arrested on grounds of federal building in East St. Louis. Court held arrest as validly executed on federal property.

5. United States v. Gill, 204 F.2d 740 (7th Cir. 1953):
Various federal assault charges were filed against defendant, the facts arising from a boat trip across Lake Michigan near Indiana. Court held there was federal jurisdiction.

6. Williams v. United States, 145 F.Supp. 4 (W.D.Wis. 1956):
Lady fell at post office and was severely injured; she filed tort claim against U.S. contending that the absence of handrails at the post office was negligence and same was required by state law. Court dismissed claim, finding state law didn't apply.

7. United States v. Pate, 393 F.2d 44 (7th Cir. 1968):
Pate was convicted in state court for murder at Post Office; court held that Post Office was within state's jurisdiction, the U.S. not having accepted jurisdiction.

8. United States v. Johnson, 426 F.2d 1112 (7th Cir. 1970):
Defendant convicted of burglary at Veteran's Hospital, in U.S. jurisdiction. Finding the U.S. owned the land prior to 1940, court held there was federal jurisdiction.

9. United States v. Tanner, 471 F.2d 128 (7th Cir. 1972):
Defendants convicted of transporting explosives in interstate commerce and other

charges stemming from scheme to blow up ships. Most convictions were affirmed, except for that involving destruction of ships within admiralty jurisdiction of U.S. Here, the facts were that the ship blown up was at Calumet Harbor, a place within Illinois jurisdiction; these convictions were reversed.

EIGHTH CIRCUIT:

1. Martin v. House, 39 F. 694 (E.D.Ark. 1888):
State court can't execute on property in U.S. jurisdiction.

2. Bannon v. Burnes, 39 F. 892 (W.D.Mo. 1889):
Ceded property not subject to taxation.

3. In re Ladd, 74 F. 31 (D.Neb. 1896):
State arrested Ladd, an officer running post exchange at Fort Robinson, for unlawful sale of liquor without state license. Ladd sought habeas corpus and court granted it holding that state law did not apply at Fort Robinson.

4. Hollister v. United States, 145 F. 773 (8th Cir. 1906):
Another charged with larceny on Indian lands and Hollister posted bond, which was forfeited. Issue involved jurisdiction over Indian lands, and the same was upheld.

5. Robbins v. United States, 284 F. 39 (8th Cir. 1922):
Defendant was transporting for hire within National Park without permission from director, and the U.S. sought and obtained injunction. Court held that regulations requiring permit were valid under property clause.

6. Williams v. Arlington Hotel Co., 22 F.2d 669 (8th Cir. 1927):
Hotel, in U.S. jurisdiction, destroyed by fire and action brought for property damage. Court held that McGlinn rules applied to the property.

7. St. Louis-San Francisco Ry. Co. v. Satterfield, 27 F.2d 586 (8th Cir. 1928):
Railroad challenged state's authority to tax its property located at Fort Sill. Court held that state cession statute reserved right to tax so the tax was valid.

8. United States v. Unzeuta, 35 F.2d 750 (8th Cir. 1929):
Court held that U.S. had no jurisdiction over murder committed in freight car inside Fort Robinson; reversed, 281 U.S. 138, 50 S.Ct. 284 (1930).

9. Hill v. Ring Const. Co., 19 F.Supp. 434 (W.D.Mo. 1937):
This case is an anomaly regarding the McGlinn rule; it deals with cubic yards.

10. Coffman v. Cleveland Wrecking Co. of Cincinnati, 24 F.Supp. 581 (W.D.Mo. 1938):
Held, that McGlinn rule made state law so incorporated federal.

11. Jewell v. Cleveland Wrecking Co., 28 F.Supp. 364 (W.D.Mo. 1938):
State case involving personal injuries on federal property removed to federal court; held, state court had jurisdiction.

12. Olsen v. McPartlin, 105 F.Supp. 561 (D.Minn. 1952):
Suit based on accident occurring at Fort Snelling held sustainable in federal court on grounds of federal question, the court following the McGlinn rule.

13. *United* States v. Heard, 270 F.Supp. 198 (W.D.Mo. 1967):
Defendant charged with carrying concealed weapon at Jobs Corps Center, within U.S. jurisdiction. Finding both U.S. ownership and state cession, defendant's challenge to jurisdiction was denied.

14. United States v. City of Bellevue, Neb., 474 F.2d 473 (8th Cir. 1973):
City's effort to annex SAC base denied and subjected to injunction; such would interfere with base.

15. United States v. Redstone, 488 F.2d 300 (8th Cir. 1973):
Defendant convicted of assault with dangerous weapon, event occurring at Fort Lincoln Military Reservation. Court found U.S. ownership and state cession and upheld jurisdiction.

16. United States v. Goings, 504 F.2d 809 (8th Cir. 1974):
Assault prosecution for event occurring on land owned by corporation. On appeal from dismissal of case, court held that U.S. had at one time owned and had jurisdiction over the property; but when it conveyed lands to corporation, the United Tribes, it lost jurisdiction.

17. United States v. Consolidated Wounded Knee Cases, 389 F.Supp. 235 (D.Neb. 1975):
Some 65 Indians charged for acts committed near Wounded Knee, S.D., on Pine Ridge Indian Reservation; these defendants challenged jurisdiction arguing that the Sioux Indians were separate nation. But, the court found it had jurisdiction, but the fact of U.S. ownership of lands does not appear in opinion.

18. United States v. Brown, 552 F.2d 817 (8th Cir. 1977):
Defendant convicted of hunting in violation of regulations for National Park. His challenge to jurisdiction was denied based on property clause.

19. Minnesota by Alexander v. Block, 660 F.2d 1240 (8th Cir. 1981):
State and many others challenged federal act's application to land not owned by U.S. Court held that act could control activity on non-federal lands under property clause.

20. Black Hills Power & Light Co. v. Weinberger, 808 F.2d 665 (8th Cir. 1987):
Held, state could not dictate which electric company would supply power to Ellsworth A.F.B.

21. United States v. Parker, 622 F.2d 298 (8th Cir. 1980):
Murder case with victim being hit over head off of Fort Leonard Wood; victim left at isolated spot on base. Court held that if murder occurred off base, there would be no federal jurisdiction.

NINTH CIRCUIT:

1. Ex parte Sloan, 22 Fed. Cas. 324, No. 12,994 (D. Nev. 1877):
After Nevada was admitted into Union, the U.S. reserved title to Moapa Indian reservation, which was place of murder of government employee. Defendants challenged federal murder indictment on jurisdictional grounds by filing habe. Court granted habe on basis that Nevada and not the U.S. had jurisdiction over the crime. Defendants were released to state custody.

2. Sharon v. Hill, 24 F. 726 (D.Cal. 1885):
During a deposition, defendant drew a pistol and made threats, such offense occurring in courthouse. This opinion was made to give notice that carrying guns in the courthouse was thereafter to be considered an offense against the United States, since the courthouse was within exclusive jurisdiction of the U.S.

3. United States v. Bateman, 34 F. 86, 89 (N.D.Cal. 1888):
Defendant indicted for murder committed at Presidio, and attacked court's jurisdiction on grounds that the U.S. did not have jurisdiction there. The Court agreed, dismissed the indictment and held:

> "The United States were both proprietors and sovereigns of the Presidio lands till the admission of the State of California into the Union. By the act of admission, reserving only their proprietary right over these lands, they relinquished to the state their governmental or local sovereign right, and jurisdiction, and were thenceforth only proprietors in the sense that any natural person owning land is a proprietor. Having so relinquished their sovereign rights, that condition remains to this day, unless the state has in some way, either directly or by implication, receded to the United States its sovereign jurisdiction. This could be done by direct cession, or by consenting through its legislature to the purchase of land for such governmental purposes, and a purchase for such purposes in pursuance of such consent. Neither has been done in this instance."

4. United States v. San Francisco Bridge Co., 88 F. 891, 894 (N.D. Cal. 1898):
Defendant company was engaged in building a federal post office in San

Francisco; contrary to law of U.S., it required or permitted laborers to work more than 8 hours a day. Conviction of company upheld, notwithstanding challenge to jurisdiction, the U.S. here not having any. Conviction was upheld impliedly on property clause and the control of Congress over public works of the U.S., matters outside state jurisdiction. But, court did state:

> "Upon this state of facts, it must be held that the state of California retains complete and exclusive political jurisdiction over such land, and, this being so, there can be no question that person there committing murder, or any other offense denounced by its laws, would be subject to trial and punishment by the courts of the state."

5. United States v. Tully, 140 F. 899 (D.Mon. 1905):
Defendant charged with murder committed at Fort Missoula, a place within U.S. jurisdiction. However, crime was committed in area of fort subject to state jurisdiction, and defendant's challenge to jurisdiction of the U.S. was upheld, the court holding that the lands where the crime was committed was within state jurisdiction.

6. United States v. Holt, 168 F. 141 (W.D.Wash. 1909):
Defendant convicted of a murder committed at Fort Worden, in U.S. jurisdiction. Defendant challenged the court's jurisdiction post-trial, but the same was upheld, the court finding that the U.S. owned the land and the state had ceded jurisdiction. Affirmed, Holt v. United States, 218 U.S. 245, 31 S.Ct. 2 (1910).

7. United States v. Pierce County, 193 F. 529, 531 (W.D.Wash. 1912):
The U.S. acquired several lots for erection of post office and courthouse; after acquisition and state cession, a tax was imposed on such property. Court invalidated the tax, stating:

> "In the case of lands acquired by the United States for needful public buildings, with the consent of the state legislature, as is the situation here, the national Constitution withdraws such 'places' entirely from the jurisdiction of the state immediately upon their purchase by the general government."

8. Steele v. Halligan, 229 F. 1011 (W.D.Wash. 1916):
Action for personal injuries to inmate in federal prison which was removed to federal court. Here, U.S. owned prison lands and had state cession of jurisdiction. In challenge to removal petition, court held that laws of state regarding private rights in existence at time of cession become the law of federal enclave, until conflicting legislation is passed by Congress.

9. United States v. Lewis, 253 F. 469 (S.D.Cal. 1918):
To an indictment charging an Indian with murder of another Indian, a plea to the court's jurisdiction was made. Land in question was public domain lands subject to

homestead, and U.S. held title in trust for Indians. Finding that California had not ceded jurisdiction of this land to the U.S., court dismissed indictment.

10. United States v. Wurtzbarger, 276 F. 753 (D.Or. 1921):
Defendant indicted for murder occurring at Indian school and challenged the court's jurisdiction. Finding U.S. ownership and state cession, the motion was denied.

11. United States v. Hunt, 19 F.2d 634 (D.Az. 1927):
The U.S. sued to enjoin state officials who were attempting to stop U.S. from killing deer on its lands in violation of state gaming law. On property clause basis, injunction was issued. Affirmed, Hunt v. United States, 278 U.S. 96, 49 S.Ct. 38 (1928).

12. United States v. Watkins, 22 F.2d 437 (N.D.Cal. 1927):
Defendant indicted for murder committed at the Presido and moved to dismiss on grounds that the court had no jurisdiction. Court found a cession of jurisdiction and denied defendant's motion.

13. Yellowstone Park Trans. Co. v. Gallatin County, 31 F.2d 644 (9th Cir. 1929):
Park company instituted suit to challenge taxes imposed by county on its property located within the park, a place within U.S. jurisdiction. The court voided the taxes as being imposed outside of the county and state jurisdiction.

14. Six Companies, Inc. v. DeVinney, 2 F.Supp. 693 (D.Nev. 1933):
Corp. working at Boulder Canyon Project Federal Reservation sought to enjoin imposition of county taxes on grounds that the land in question was within U.S. jurisdiction. Land had been previously within public domain of U.S. and was merely set aside for this federal project. U.S. officials attempted to claim jurisdiction pursuant to state laws granting jurisdiction, but the Nevada governor denied such assertion. Court held that setting aside public domain lands for this dam construction project was not a purpose for which U.S. could obtain jurisdiction under the state cession statute. Finding state jurisdiction, the tax was upheld.

15. Rainier Nat. Park Co. v. Martin, 23 F.Supp. 60 (W.D. Wash. 1937):
Company operating in national park challenged imposition of state taxes. Finding that state cession statute reserved right of taxation in enclave, and finding act of Congress permitting taxation, the tax was upheld.

16. Yosemite Park & Curry Co. v. Collins, 20 F.Supp. 1009 (N.D.Cal. 1937):
Court held state law imposing fees on liquor sales did not fall within reservation in state act ceding jurisdiction to U.S. for park; reversed, Collins v. Yosemite Park & Curry Co., 304 U.S. 518, 58 S.Ct. 1009 (1938).

17. United States v. McGowan, 89 F.2d 201 (9th Cir. 1937):
The U.S. sought to forfeit two cars which possessed whisky in "Indian country." District court and 9th Circuit held that mere ownership of U.S. lands, in trust for Indians, did not create federal jurisdiction. Reversed, United States v. McGowan, 302 U.S. 535, 58 S.Ct. 286 (1938).

18. United States ex rel. Bowen v. Johnston, 58 F.Supp. 208 (N.D. Cal. 1944):
The continuing saga of Bowen's challenge to his imprisonment on jurisdictional grounds. His contention that the U.S. never accepted jurisdiction over Chickamauga National Park was not upheld.

19. United States v. Aho, 68 F.Supp. 358 (D.Or. 1944):
Drainage district, costs of which were born by land owners in the district, opposed acquisition of land in district by U.S. via eminent domain, the district contending it likewise was entitled to compensation. Court held that U.S. could not acquire the land without compensating the district.

20. Rogers v. Squier, 157 F.2d 948 (9th Cir. 1946):
Defendant convicted of rape committed at Fort Douglas in Utah sought habeas corpus on jurisdictional grounds. He argued that state reserved criminal jurisdiction over the fort in two separate cession statutes. Court found that the acts did confer jurisdiction to the U.S. and denied relief.

21. Petersen v. United States, 191 F.2d 154 (9th Cir. 1951):
The U.S. acquired lands for Kings Canyon National Park, but within park were some privately owned lands. California ceded jurisdiction for all lands inside the park and the question at issue was whether the private lands were likewise in U.S. jurisdiction. Private landowners obtained state permit to sell liquors and U.S. sought injunction. Court held that the state could cede jurisdiction to privately owned lands inside the park.

22. United States v. Fallbrook Public Utility District, 108 F.Supp. 72 (S.D.Cal. 1952):
Question involving water rights to Santa Margarita River.

23. State of California v. United States, 235 F.2d 647 (9th Cir. 1956):
Long case dealing with water rights of all parties; involves jurisdictional principles.

24. United States v. Warne, 190 F.Supp. 645 (N.D.Cal. 1960):
California's milk control law was challenged by U.S. insofar as it applied to military bases. The law regulated milk prices and imposed penalties. The court analyzed the title to each military base and the state cession statute applicable to

each, as well as U.S. acceptance of jurisdiction. Court held California law inapplicable on jurisdiction and supremacy clause grounds.

25. United States v. Packard, 236 F.Supp. 585 (N.D.Cal. 1964):
Defendant was duly convicted of refusing to leave naval reservation.

26. Swanson Painting Co. v. Painters Local Union No. 260, 391 F.2d 523 (9th Cir. 1968):
Company working at Malmstrom A.F.B., in U.S. jurisdiction, held to be doing business in state for "long arm" service process.

27. Macomber v. Bose, 401 F.2d 545 (9th Cir. 1968):
Water rights dispute concerning private lands inside Glacier National Park, and question was whether the case involved a federal question. Court held that state cession, incorporating law regarding private rights, made this dispute one involving a federal question, the privately owned lands being in U.S. jurisdiction.

28. Arizona v. Manypenny, 445 F.Supp. 1123 (D.Az. 1977):
Immigration officer shot Mexican on U.S. property. Held, the state had jurisdiction of the criminal offense and state law applied, even though the case was removed to federal court.

29. United States v. 319.88 Acres of Land, 498 F.Supp. 763 (D.Nev. 1980):
U.S. sought to condemn private lands located inside Lake Mead National Recreation Area, and question of gambling was crucial to determination of compensation. A Park Service regulation prevented gambling on federally or privately owned property inside parks. Court found that the state had ceded concurrent jurisdiction of the property, even though privately owned, to the U.S., thus the regulation applied to the property and prevented gambling as a use.

30. Bilderback v. United States, 558 F.Supp. 903 (D.Or. 1982):
A Forest Service pack horse got loose, entered highway and was hit, causing damage and injuries; this was a tort claim against U.S. The U.S. argued for application of Oregon's open range law permitting animals to run free. Although the state held open a cession of jurisdiction of this property, the U.S. never accepted. But, under the property clause, regulations prohibiting free roaming existed, and court held these regulations applicable here.

31. United States v. Jenkins, 734 F.2d 1322 (9th Cir. 1983):
Defendant got into fight while attempting to enter Camp Pendleton military base and was charged with assault. After conviction, defendant's appeal challenged the lack of Article III status of U.S. magistrates. Court held that within U.S. jurisdiction, trial by magistrate was valid.

32. City of Alameda v. Todd Shipyards Corp., 635 F.Supp. 1447 (N.D.Cal. 1986):
City sold land to U.S., and U.S. sold to the corporation. The question involved the rights to land below watermark on tidelands. Case deals with jurisdictional principles.

33. United States v. Leavitt, 608 F.2d 1290 (9th Cir. 1979):
Leavitt convicted of careless driving in Olympic National Park; court held this was within U.S. jurisdiction.

34. Morgan v. United States, 709 F.2d 580 (9th Cir. 1983):
Wrongful death action for accident, electrocution, occurring at Grand Coulee Dam Recreation Area. Held, state law applied because of federal law.

35. Hildeband v. United States, 261 F.2d 354 (9th Cir. 1958):
Non-Indian defendant plead guilty to second degree murder committed on Indian reservation; on habe, defendant released: "The federal courts do not have jurisdiction of Washington intra-reservation crimes involving non-Indians," at 356. Indictment was dismissed.

TENTH CIRCUIT:

1. United States v. Stahl, 27 Fed. Cas. 1288, No. 16,373 (C.C.D. Kan. 1868):
Held, that murder committed at Fort Harker was subject to state jurisdiction and not that of U.S. because state had not ceded jurisdiction.

2. Ex parte Hebard, 11 Fed. Cas. 1010, No. 6313 (C.C.D. Kan. 1877):
In 1875, Kansas ceded jurisdiction of Fort Leavenworth to the U.S. Here, Hebard was federally prosecuted for larceny committed at the fort. On challenge to jurisdiction, court held that the mere state cession of jurisdiction for property owned by U.S. was sufficient to confer jurisdiction; habe denied.

3. Danielson v. Donmopray, 57 F.2d 565 (D.Wy. 1932):
Deceased killed in car accident at Fort Francis E. Warren in Wyoming. State wrongful death action filed and then removed. Court followed McGlinn rule.

4. Dyhre v. Hudspeth, 106 F.2d 286 (10th Cir. 1939):
Mail fraud case; on habe, defendant discharged because use of the U.S. Mails, the jurisdictional basis for the case, was not a part of the fraud scheme.

5. Johnson v. Yellow Cab Transit Co., 137 F.2d 274 (10th Cir. 1943):
Officers Club at Fort Sill ordered liquor, which was seized by the state. Transit company sued and obtained injunction. Court held state liquor laws inapplicable to fort. Affirmed, 321 U.S. 383, 64 S.Ct. 622 (1974).

6. United States v. Chicago, R. I. & P. Ry. Co., 171 F.2d 377 (10th Cir. 1948):
Workmen's foot injured while train passed through Fort Sill. Company paid claim and instituted tort claim against U.S. Recovery based on state law permitted.

7. Murphy v. Love, 249 F.2d 783 (10th Cir. 1957):
Love was transporting liquors to Fort Leavenworth and obtained injunction prohibiting interference. Affirmed since state had no jurisdiction and tax on liquor was inapplicable via Buck Act.

8. Hayes v. United States, 367 F.2d 216 (10th Cir. 1966):
Prisoner convicted of murder committed at Leavenworth Prison challenged jurisdiction. Same was denied.

9. Hall v. United States, 404 F.2d 1367 (10th Cir. 1969):
Defendant's challenge that Fort Sill, place where he stole an automobile, was not within U.S. jurisdiction was denied.

10. United States v. Carter, 430 F.2d 1278 (10th Cir. 1970):
Defendant was convicted of assault with deadly weapon which occurred at Lowry A.F.B. Held, court could take judicial notice that property was within U.S. jurisdiction.

11. McQueary v. Laird, 449 F.2d 608 (10th Cir. 1971):
The U.S. stored chemical agents at Rocky Mountain Arsenal and residents of area complained. Court dismissed suit, but discussed jurisdictional principles.

12. United States v. City of Leavenworth, 443 F.Supp. 274 (D.Kan. 1977):
Kansas power company had imposed on it exactions relating to providing power to customers, including the U.S. penitentiary at Fort Leavenworth. The U.S. objected, but court held fees could be applied, as it was not impermissible tax on U.S. property.

13. United States v. Cassidy, 571 F.2d 534 (10th Cir. 1978):
Defendant, inmate at F.C.I. in Englewood, attempted escape and was prosecuted. His jurisdictional challenge was not upheld, the court finding U.S. ownership and state cession; acceptance was not required for this property bought in 1938.

14. United States v. Seward, 687 F.2d 1270 (10th Cir. 1983):
Defendant convicted of trespass at U.S. nuclear power plant; court upheld convictions on property clause grounds.

ELEVENTH CIRCUIT:

The Fifth Circuit cases have precedence in the Eleventh Circuit.